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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray.

Lord, thank You for this day and for the countless gifts You have showered upon us. You give us love and laughter, faith and fulfillment, hope and happiness, provisions and peace. May we use these blessings to serve You and to bring glory to Your Name.

Almighty God, bless the Senators, staffs, and pages as they strive to do Your will. Give them the wisdom to hear Your voice and the courage to carry out Your commands. Keep them from weariness, doubts, and despair, and give them an abundant harvest in due season.

Finally, Lord, watch over America's youth. Teach them to love the goodness and justice of Your law. Remind them to do justly, to love mercy, and to walk humbly with You. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 24, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CASEY 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. REID. Mr. President, the Senate will conduct a period of morning business for the next hour, with Republicans controlling the first half. Following that, we will resume consideration of the immigration legislation.

Mr. President, I walked by the President's Room today and said hello to a bunch of Senators in there. They were in there working on the immigration bill, Democrats and Republicans. We don't see enough of that. It was really, for me, a good scene. They were in there and had stacks of papers. They are trying to figure out a way to get through the immigration bill.

We all acknowledge that the immigration system in our country is broken and needs to be fixed. I am not foolish enough to think we are going to make it perfect with this bill, if we can get it out of the Senate. We need to try. We have an obligation to try. That is what is happening on a bipartisan basis.

I want Senators to keep working and see what we can do. There are certain issues, they have told me, they think will give Democrats heartburn and other issues that will give Republicans heartburn. Therefore, they are trying to get an agreement on some amendments, to have a 60-vote margin. That is the way it should be. We should not be in a posture where somebody is filibustering something they don't like. I hope people will be reasonable and continue to work as they have.

I spoke to the distinguished Republican leader late last night, and we talked briefly this morning. We are looking forward to, when the House finishes the emergency supplemental, moving to that as soon as we can. It is an important issue. We have struggled on this now for months. Emotions are high. I think it is time to move on and see what we can do to fund the troops in an appropriate way. So we will keep Members informed. I have told the distinguished Republican leader that I will keep him informed on any word I get from the House.

I have gotten calls, and people are upset that some of their things are not in this piece of legislation. It is very difficult—the President's Chief of Staff, in the first meeting Senator MCCONNELL and I had with Josh Bolten, said: On this issue, I speak for the President. He said: If I don't have authority to speak for the President, I will go back to the President. When he called me, as he has on a number of occasions, and said: I am telling you that if this provision is in the bill, the President is going to veto it, we worked through some of these. We had to take certain things out of the bill. It wasn't a pleasure to do that because Members are affected on both sides. We had some issues that only affected the Senate. The President was unhappy with that. I wish he would let us do what we wanted to do, but we are in a position where that cannot be done.

I hope the bill is in a position where we can fund the troops without a lot of animosity at this stage. People can make whatever statement they want regarding the war, and I am sure that will happen. I think we need to get to this as quickly as we can.

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

RECOGNITION OF THE REPUBLICAN LEADER

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

TROOP FUNDING

Mr. MCCONNELL. Mr. President, let me echo the remarks of the majority leader on the question of the troop funding bill. It appears as if it is now in a form that is satisfactory to the President and will, in fact, get the necessary funding to the troops for the mission through the end of September.

I share the view of the majority leader that we ought to wrap this matter up at the earliest possible time, as soon as we get it from the House of Representatives, which could even be later today. So I think we are in the same place on wrapping this bill up and getting it down to the President for signature at the earliest possible time.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and the first half of the time under the control of the Republicans and the second half of the time under the control of the majority.

The Senator from Tennessee is recognized.

ORDER OF PROCEDURE

Mr. ALEXANDER. Mr. President, Senator SALAZAR and I asked the leadership for 30 minutes this morning to discuss Iraq. I thank the leadership for giving us that time.

I ask unanimous consent that the time be allocated in the following way: 5 minutes each for, first, Senator PRYOR, then Senator BENNETT, then Senator CASEY, then Senator GREGG, then Senator ALEXANDER, and finally Senator SALAZAR. If the Chair would let each Senator know when 5 minutes has expired, I would appreciate that.

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

IRAQ

Mr. PRYOR. Mr. President, let me say that I am very honored today to join my friends, Senator SALAZAR of Colorado and Senator ALEXANDER of Tennessee, in their efforts to try to restore some nonpartisanship to our discussion on Iraq. I feel very strongly that we should never have a party-line vote on Iraq. We have 160,000 troops on the ground. It is just too important an issue for one party to take one side, the other party to take another side, and for the White House to do one thing and Congress to do another. In fact, we talk often in this Chamber about how there needs to be a political solution inside Baghdad. The truth is, there needs to be a political resolution inside of Washington, DC, when it comes to Iraq.

I am honored to lend my name today to this effort by Senator SALAZAR and Senator ALEXANDER.

One thing I have noticed in the last several weeks and months—maybe in the last year—when it comes to Iraq is that there is a lot of rhetoric. To be honest, that is not helpful. It is not bringing our troops home earlier. It is not providing more stability inside Iraq. It is not allowing Iraq to function as a sovereign nation. We need to tone down the rhetoric and roll up our sleeves and work through this together.

I also understand that Senator BENNETT, Senator GREGG, and Senator CASEY have all joined in this effort as well. It is an honor for me to be part of this bipartisan solution.

One of the things we are going to emphasize here is Iraqi accountability. We know that is something which needs to happen inside Iraq. The Iraqis need to take responsibility for their own country. The Iraq Study Group talked about this a lot in the pages of their report, where on page after page they talk about what they believe needs to happen inside Iraq.

So this bill which Senators SALAZAR and ALEXANDER will be filing in the coming weeks talks about diplomatic efforts, about securing Iraq's borders, promotes economic commerce and trade inside Iraq, political support, and it talks about a multilateral diplomatic effort. It talks about milestones and also about redeploying troops. After talking to so many people in my State and around the country, I think that is where America wants us to be. They want a stable Iraq.

It is a little bit like what Colin Powell said: It is the Pottery Barn principle; that is, if you break it, you own it. Well, we went into Iraq, and we have a lot of responsibility there. I think most Americans understand that. They don't like what they see on the front pages of the papers every day or on the evening news, but they do know we have a responsibility inside Iraq, and they want us, in the Senate, in the House, and also at the White House, to show leadership. This is a time for leadership, a time for us to come together on these principles which the Iraq Study Group laid out—not that every one of them is exactly right, but they laid out a lot of principles that I believe many people in this Chamber can rally around and hold on to. If we implement these and make that our national policy, then I think we can get better results on Iraq than we have had in the past.

I know General Petraeus has mentioned that we cannot rely on a purely military solution inside Iraq. I think he is exactly right; I think he is 100 percent right on that. It needs to be a multifronted effort—security, political, economic, and diplomatic. We need to do a lot to help Iraq get back on its feet and become a functioning nation again.

Mr. President, I am honored to join my colleagues in this effort. I invite other colleagues to look at the Salazar legislation and consider joining it as well in the coming weeks.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I am honored to join with my friends in this particular effort. I congratulate the occupant of the chair, Senator SALAZAR, and Senator ALEXANDER for putting this forward. We are seeing people come on board in equal numbers on both sides of the aisle to demonstrate that this is a bipartisan effort.

Some might say this is an attack on the President's plan. I do not see it in that fashion at all. I think this is a demonstration of bipartisan support for an American plan, to see what we can do to get a more stable Iraq.

When I go to Iraq and talk to the experts, they tell me the war is being fought on two fronts: It is being fought in Iraq and in Washington, DC. Al-Qaida has declared Iraq as the front line of their war on the ''great satan,'' which to them is the United States of America. The battle being fought in Washington, DC, has to do with America's resolve in standing up to al-Qaida. The word that is going out from Osama bin Laden in his audiotapes, and the letters that are being circulated, is that if we can just hold on long enough, the battle will be resolved in Washington, DC, as the Americans decide they no longer want to continue the fight.

By demonstrating in a bipartisan fashion that the Senators of the United States are willing to talk about long-term commitments and long-term solutions, we are making our contribution to winning the war in Washington. General Petraeus has been charged with the security portion of the war in Iraq. The Iraqi Parliament and the Iraqi Government themselves must deal with the political problems in Iraq. We must not let them down by partisan bickering in Washington that encourages al-Qaida to believe America will walk away from its responsibilities.

This piece of legislation is not about name calling or blaming for past mistakes. There is no question there have been past mistakes. We will let the historians sort that out. Our responsibility is to do today what is needed to bring about an eventual proper resolution.

In every war America has been in, there have been times of darkness,

times of despair. Think about Abraham Lincoln and what he faced with the continuing bad news from the front in his effort to keep the Union together. Think about World War II and the bad news that came out of the first encounters in North Africa and some of the other American efforts where we were repulsed. If we had all said we are going to turn our backs on this and walk away, we would not have the kind of world of peace we have received as a result of our efforts in those wars.

Now is the time for the Congress to say: Regardless of what may or may not have been a mistake in the past, we still have to stand together and move forward on the basis of intelligent analysis, and we are using as our starting point as that analysis the Iraqi Study Group. The President is not hostile to this. I think he is open to it, and I think it is incumbent upon the Congress to say to him: Look for new solutions, but base them on sound analysis, and if you will, we will be with you, we will move forward in a bipartisan manner to see to it America does not fail in Iraq.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I am honored today to join in a bipartisan initiative to introduce legislation based upon the recommendations of the Iraq Study Group. I proudly stand with my distinguished colleagues—you, Mr. President, as well as Senators ALEXANDER, BENNETT, PRYOR, and GREGG—in affirming that this bill will offer a new way forward for the United States in Iraq.

The detailed recommendations contained in this bill offer a comprehensive blueprint for renewed diplomacy, restructured economic assistance, and a redeployment of U.S. military forces in Iraq to emphasize training and equipping of Iraqi security forces, conducting limited counterterrorism missions, and protecting our own forces.

These recommendations were issued in December 2006, over 5 months ago, but, if anything, their utility is even more apparent today.

Our troops should not be refereeing a civil war. And so this Congress and the President must come together—must come together—to form and to forge a new path. The Iraq Study Group's final report is the only comprehensive plan on the table to do that.

I approach this bill from a slightly different perspective than some of my cosponsors. In fact, I cosponsored the Reid resolution to change our direction in Iraq, with a goal of completing that redeployment no later than March of 2008. That position has been reflected in the votes I have cast, the questions I have asked as a member of the Foreign Relations Committee at hearings, and the statements I have delivered on the Senate floor. I strongly opposed the President's decision to escalate the number of combat troops in Iraq. For that reason, I voted for the first supplemental bill sent to the President's desk which called for a more restricted U.S. military mission and a phased redeployment of our combat forces from Iraq.

A majority of Congress has made clear their desire to change course. Yet unless we achieve a more bipartisan consensus in the Congress that change is necessary, an impasse will continue and our troops will continue to pay the price. It is for that reason I believe the Iraq Study Group's prescribed course of action represents our best hope for a bipartisan consensus in an approach to wind down this combat role in Iraq and successfully transition our mission there.

The members of this Iraq Study Group included foreign policy and military experts, as well as other distinguished Americans with impressive experience in public service.

There is no challenge greater than determining how the United States can salvage our effort in Iraq in a manner that protects our core national interests, that does right by the Iraqi people, and enables our troops, who have accomplished every mission they have been given over the past 4 years, to come home finally.

After months of study and focused deliberations with almost 200 experts, including leading U.S. and Iraqi Government officials and regional scholars, the Iraq Study Group released last December a detailed report with 79 recommendations. This report prescribed a comprehensive diplomatic, political, and economic strategy that includes sustained engagement with regional neighbors and the international community in a collective effort to bring stability to Iraq.

There are a few recommendations in the Iraq Study Group report that I, in fact, disagree with personally. But the comprehensive plan put forth by the group, and particularly the elements emphasized in our bill, represents the best thinking we have on how to resolve the Iraq dilemma in the long run.

Time is running out to change course in Iraq. In Pennsylvania, 166 men and women have died. Yesterday we learned 9 Americans were killed in a series of attacks across Iraq. Meanwhile, we continue to search for two American soldiers taken hostage, and at the same time we hear the grim news that the body of a third missing U.S. soldier was identified yesterday.

It is time for a change, and I know of no more detailed proposal, no more exhaustively researched set of recommendations and findings and no more comprehensive solution than that offered by the Iraq Study Group. This bill, brought forward by a bipartisan group of Senators, with a diverse set of perspectives and opinions, transforms the recommendations of this group into the declared policy of the U.S. Government.

This bill offers our best chance to forge a change of direction at long last in Iraq and to do so in a fashion that, indeed, brings our Nation together.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I join my colleagues this morning especially in thanking and congratulating the Senator from Colorado and the Senator from Tennessee for bringing forward this approach. There is no question but that we are going to begin disengaging from Iraq. The question is: Is that disengagement going to be done in a manner which strengthens our security as a nation or is it going to be done in a manner which undermines our security as a nation? Are we going to leave an Iraq which is stable enough to govern itself and maintain its own security and have a government that functions or are we going to leave an Iraq which becomes divided into warring factions which may lead to literally a genocidal event with an element of the country which is a client state for Iraq, an element of the country which is a safe haven for al-Qaida, and an element of the country which is perceived as a threat to Turkey?

Clearly, we cannot precipitously abandon the people of Iraq or our own national interests in having a stable Iraq. So we need to look for a process which is going to allow us to proceed in an orderly way and in a way which, hopefully, can start to bring our own Nation together as we try to address this most difficult issue.

Looking to the proposal of the Iraq Study Group is, in my opinion, the appropriate way to proceed. It is interesting that today we are going to see, I believe, the passage of a supplemental bill which will fund our soldiers in the field, which we absolutely have an obligation to do, which, after a lot of pulling and tugging and different ideas being put on the table, has reached a position which, hopefully, will have a consensus vote and will represent a majority which will be able to pass that bill and, thus, fund the soldiers in the field in a manner which has both sides working together, the Democratic leader having endorsed the language and the President having endorsed the language.

But this agreement today which has in it the Warner language, which I supported, is a precursor to the next step, and the next step should be a broader coalition within our political process of developing a plan for disengagement from Iraq that assures the security of the United States and the stability of that country. Thus, I think the step which is being proposed today by the Senator from Colorado and the Senator from Tennessee and is supported by the Senator from Pennsylvania, the Senator from Arkansas, the Senator from Utah, and myself is an effort to set out a blueprint or a path which we can, hopefully, follow in a bipartisan way as we proceed down this road.

The Iraq Study Group did this country an enormous service—former Congressman Hamilton and former Secretary of State Baker—in extensively

studying the issue and coming back with very concrete and specific proposals as to how we can, hopefully, effectively deal with settling the Iraq situation.

I congratulate both of these Senators for this initiative. I am happy to join in it. I look forward to it being the template upon which we build a broader coalition which I hope will be bipartisan and which I hope can settle a little of the differences which are so dividing our Nation and which will give not only the Iraqi people the opportunity to have a surviving, stable government, but will give ourselves the direction we need to assure our safety as we move forward in this very perilous time confronting terrorists who wish to do us harm.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from New Hampshire. I can think of no two Senators on our side of the aisle whose words are listened to more carefully and more respectfully than the Senator from New Hampshire and the Senator from Utah. I salute the Senator from Pennsylvania for his statement and leadership, and the Senator from Arkansas, who spoke so constructively, and especially the Senator from Colorado, who is the principal sponsor of this legislation and whom I am proud to join.

Senator PRYOR is exactly right when he said this morning that it is time for us to stop having partisan votes on Iraq. If I were an American fighting in Iraq, I would be looking back at us and wondering: What are they doing in Washington, DC, arguing and sniping at each other while we are fighting and dying? I would be thinking: If they are going to send us to Iraq to do a job, at least they could agree on what the job is.

We owe it to our troops and to our country to find a bipartisan consensus to support where we go from here in Iraq. We need a political solution in Washington, DC, as much as we need a political solution in Baghdad.

The announcements today by four more Senators, each well respected—Senators PRYOR, BENNETT, CASEY, GREGG—suggests the recommendations of the Iraq Study Group is the way to do that. Three Republicans, three Democrats from the North, South, East, and West, some relatively new Senators, some who have been here a long time, fresh voices, a fresh approach for a fresh attitude for this debate. Before the end of the week, I believe there will be two more Senators—one Democrat, one Republican. Then in June when we return to Washington, the six or the eight of us intend to offer the legislation Senator SALAZAR and I have drafted to implement the recommendations of the bipartisan Iraq Study Group.

Today we are only six, perhaps eight—a modest beginning. But even we six or eight are a more promising bipartisan framework of support for a new direction in Iraq than we have seen for some time in the Senate. Those who know the Senate know we usually do our best and most constructive work when a handful of Senators cross party lines to take a fresh look at a problem, embrace a new strategy, and try to do what is right for our country.

We are not going to put hundreds of thousands of American troops into Iraq. We are not going to get out of Iraq tomorrow, and the current surge of troops in Baghdad, which we all hope is successful, is not by itself a strategy for tomorrow. The Iraq Study Group report is a strategy for tomorrow. It will get the United States out of the combat business in Iraq and into the support, equipment, and the training business in a prompt and honorable way. It will reduce the number of troops in Iraq. Those who stay will be less in harm's way—in more secure bases, embedded with Iraqi forces. Special forces will stay to counter al-Qaida. The report says this could—not must but could—happen in early 2008, depending on circumstances.

The report allows support for General Petraeus and his troops by specifically authorizing a surge, such as the current surge. Because there would still be a significant long-term presence in Iraq, it will signal to the rest of the Middle East to stay out of Iraq.

It aggressively encourages diplomatic efforts. The President of the United States has spoken well of this report recently, and embraced parts of it, but it is not his plan. The Democratic majority has borrowed parts of the Iraq Study Group report, but it is not the Democratic majority plan. That is why the report has a chance to work. It has the seeds of a bipartisan consensus.

We six or eight, or hopefully more, will introduce our legislation in June, making the recommendations of the Iraq Study Group the policy of our country and inviting the President to submit a plan based upon those recommendations. I hope President Bush will embrace this strategy. I hope more Senators will.

It is ironic for the oldest democracy, the United States, to be lecturing the youngest democracy, Iraq, about coming up with a political consensus when we, ourselves, can't come up with one. This is the foremost issue facing our country. The Iraq Study Group report is the most promising strategy for a solution: getting out of the combat business in Iraq and into the support, equipping, and training business in a prompt and honorable way.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. SALAZAR. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The majority has 20 minutes.

Mr. SALAZAR. Mr. President, I rise this morning, first of all, to congratulate my colleagues. Senator ALEXANDER has worked tirelessly with us in putting together the legislation on the implementation of the Iraq Study Group recommendations. He has been a key leader in trying to pull a group of us together to try to develop a new direction going forward in Iraq. I thank him for his leadership.

I also wish to thank both Senator PRYOR and Senator CASEY for joining us as cosponsors of this legislation. They are people who are trying to search for a solution on the Democratic side, and I very much appreciate their efforts. As for Senator GREGG and Senator BENNETT, I appreciate also their statements, their cosponsorship of this legislation, and their desire to come forward to a solution that might unite us in the Senate on a way forward.

Let me say at the outset that when we think about what it is we are trying to do with respect to Iraq at this point in time, we have a lot of people who are looking backward and saying there are lots of problems, lots of failures that have happened—from prewar intelligence, to decisions going into Iraq, to the prosecution of the war, et cetera—but the fact is we are there now. The fact is, we have 140,000 American troops on the ground in Iraq today. So the real question for us ought to be, as the Congress, how it is we are going to move forward together.

I think in the broadest sense there is not a disagreement on what it is we want. What is the end stake for us in Iraq? We want to bring our troops home. I think we all would like to have our troops back home, reunited with their families and out of harm's way. That is the goal we want to get to. The second goal we want to get to is a stable Iraq and a stable Middle East. The fact is, Iraq does not stand alone. It is in a sea of very difficult political turmoil at this point in time. So we want us to have success in Iraq.

There has been a lot of debate about what it is we ought to have been doing in Iraq over the last several years. But the only group that has taken a significant amount of time and thought through the best way forward in Iraq was the Iraq Study Group. It was this bipartisan group of leaders, led by former Secretary of State James Baker and Congressman Hamilton, as cochairs of a bipartisan commission of elder states men and women, that came up with the most thoughtful, comprehensive approach on the way forward.

The essence of what that report said is that the Iraqi Government has a responsibility to move forward and to meet the milestones that are set forth for success in that report. It says: If you do that, Iraqi Government, we, the United States, are going to be there to help you. On the other hand, if you don't do that, we, the United States, are going to reduce our help to you. It is an effort to put pressure on the Iraqi Government and the Iraqi people to

deal with the sectarian violence they have in place and to move forward in a fashion that will create stability in Iraq.

I am hopeful, as we move forward from this day, and by the time we come back from the Memorial Day break, that besides the six Senators who have joined as cosponsors of this legislation, we will have additional cosponsors. At the end of the day, it seems to me that we, as the Congress, have a responsibility to the men and women who are on the ground in Iraq to try to find a common way forward.

On the issue of war and peace, there should not be a Republican and Democratic divide. What we ought to be doing is trying to find a common way forward where we can bring Democrats and Republicans together to an understanding of how we will ultimately achieve success in Iraq and bring our troops home.

Mr. President, I yield the floor, and I thank my colleague from Tennessee, Senator ALEXANDER.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

HEALTH CARE

Mr. WHITEHOUSE. Mr. President, I return to the floor to continue my series of remarks on health care reform.

As I have said, I recognize the difficulty of figuring out a better way to finance our health care system, a better way than part employer insured, part Government insured, and part uninsured. I am committed to working to achieve universal coverage for all Americans, but we have to recognize also that the underlying health care system itself is broken. It is broken in the way it delivers and pays for care, it creates massive costs and poor health outcomes, and those massive costs and poor health outcomes make the financing and access problems actually harder to solve. So I wish to focus now on system reform to give us a better operating health care system.

We have to start by recognizing that America's health care information technology is decades behind where it could be. The Economist magazine has described it as the worst in any American industry except one—the mining industry. As a result, we are losing billions and billions of dollars to waste, to inefficiency, and to poor quality care. Ultimately, and tragically, lives are lost to preventable medical errors because health care providers do not have adequate decision support for their decisions on treatment, medication, and other care.

Let us stop on the financial question for a moment. Some pretty respectable groups have looked at health information technology to see what they think it would save in health care costs, and here is what they report: RAND Corporation, $81 billion, conservatively, every year; David Brailer, former National Coordinator for Health Information Technology, $100 billion every year; and the Center for Information Technology Leadership, $77 billion every year. If you average the three, you get $86 billion a year. For RAND, the number I quoted was a conservative number. Their high-end estimate was a savings of $346 billion a year. So there is a huge amount of money at stake.

The question is: Are we making the investments we need to capture these savings? Well, say you are a CEO, and one of your division heads comes to you with a proposed investment to reduce production costs in your facility by $81 billion a year. How much would you authorize her to spend to achieve those savings? I suspect it would be quite a lot of money. Well, here is what we authorized ONCHIT to spend this year—the Office of National Coordinator of Health Information Technology. This Congress authorized $118 million. That is about 14 hours' worth of the $81 billion in annual savings conservatively estimated by RAND. Would it not be worth spending more to capture those savings?

You say, well, maybe the private sector will spend it for us. But look at the way our complex health care sector is divided into doctors, hospitals, insurers, employers, nurses, patients, and more. Which group do you expect to make the decisions about a national health information technology system? And they are not homogenous groups. Whom within them do you expect to make decisions about a national health information technology system?

Go back to imagining that you are a CEO. You want to install an IT system in your corporation. Your corporation has five major operating divisions. Would you pursue your corporate IT solution by waiting for each division to try to build the entire corporate IT system, without even talking to each other? Of course not. It would be a ridiculous strategy. None of your divisions would want to go first. Each division would like to wait and be a free rider on the investment of another division. Each one would face what I call the ''Betamax risk,'' that they will invest in a technology that proves not to be the winning technology, and each would have to figure out how to pay for the system, the whole system, out of only its own share of the gains. The result is the capital would not flow efficiently.

This pretty well describes where we are in America on health information technology. So here, in Washington, we have a job to do. First, we have to set some ground rules. In the old days, when our Nation was building railroads, the Government had a simple job to do: It had to set the requirements for how far apart the rails were going to be. That way a boxcar loading in San Francisco could get to Providence, RI, and know it could travel the whole way on even rails. The development of the rail system would never have happened without those ground rules.

In health information technology, there are ground rules we need to decide on, too, to get this moving—rules for interoperability among systems, rules for confidentiality and security of data, rules for the content of an electronic health record. All of that is the job of Government to organize.

The second job is to get adequate capital into the market. Software costs money. Hardware costs money. Entering data costs money. Most important, the disruption to the work flow of hospitals and doctors costs time and money, and it takes time and attention away from patients. So developing adequate health information technology is not going to be easy or cheap. But for savings of $81 billion a year, maybe $346 billion a year, it is worth a big effort.

So how do we get that capital flowing? Well, one could argue the way to solve this is to treat the health information highway similar to the Federal highway system—a common good that we pay for with tax dollars because it is so valuable to the economy to get goods cheaply and reliably from point A to point B. So maybe we should pay for this through taxes, similar to the national highway system. But a highway is pretty simple technology. Because the health information network is so much more complex, and because I think we need a lot more market forces at work and a lot more initiative and profit motive than the Federal highway funding model provides, I looked around for another model, a model that provides the central decisionmaking that is required to get the boxcars rolling, a model that provides access to capital, and a model that captures the vibrancy of the private sector.

I found one. We have actually been here before, or pretty close anyway. There was, some time ago, a new technology. Similar to health information technology, it would transform an industry; similar to health information technology, it would lower costs and expand service; similar to health information technology, it was a win-win situation for business and for consumers.

But the technology was, like health information technology, stuck in a political and economic traffic jam.

Our President at the time came up with the solution. The technology was communications satellites. The President was John F. Kennedy. The solution was COMSAT.

The COMSAT legislation broke the logjam. The COMSAT legislation created a publicly chartered corporation with a private board that raised the capital, launched the satellites, was profitable and successful for decades, and eventually merged into Lockheed-Martin—a true public-private success story.

My proposal, in a nutshell, is to create a not-for-profit, modern COMSAT for health information technology. Because of the complexity of the health care information puzzle, legislation is

too blunt an instrument to drive the details. But an organization like this can be flexible enough to meet market demands and can maintain the expertise to develop the details as the plan develops. American leaders could be recruited from the private sector to lead this board—CEOs from the IT sector, America's top retailers, manufacturers, and service providers; the champions of health information technology in the medical community; enlightened consumers and labor representatives.

I ask my colleagues to think of the caliber of just a few of America's leaders who have spoken to them about this issue, or spoken out publicly: Andy Stern at SEIU, Jim Donald at Starbucks, John Chambers at Cisco, or Lee Scott at Wal-Mart.

In conclusion, enormous cost savings, new technological horizons, empowerment of patients, better quality of care, more convenience and efficiency, and lives saved by improved information, error reduction, and decision support—what a rich area this opens up for American technological companies, for American health care providers, for American patients, and for American manufacturers now drowning under health care costs, if only we can break the logjam blocking this future now.

I hope my colleagues will consider seriously my legislation, proposing a nonprofit, privately led corporation that will help open the doors to that future.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

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

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

HONORING OUR ARMED FORCES

Mr. LAUTENBERG. Mr. President, today is going to be a day of great importance to America. We are going to be voting on the supplemental bill to fund the surge and the number of soldiers on duty in Iraq and Afghanistan. But last night we learned the body of one of the missing soldiers in Iraq was found. Despite our prayers, he was dead. We were informed that the body of Joseph Anzack, Jr., was pulled from the Euphrates River south of Baghdad.

On May 12, he and two of his colleagues went missing after they were ambushed by insurgents. How did the capture of three Americans take place? Are we short of troops to back them up or is it so dangerous we just can't overcome the odds we face?

All of America is hoping and praying, as we keep these other two soldiers in our hearts and our minds, that they will be found alive by the troops searching for them.

One of the soldiers searching for their two colleagues said something to the Associated Press. I quote him here.

It just angers me that it's just another friend that I've got to lose and deal with, because I've already lost 13 friends since I've been here and I don't know if I can take it anymore.

Much of America feels the same way. Outside of my office in Washington we have a tribute called ''The Faces of the Fallen.'' Visitors from across the country have stopped by this memorial—pictures of those who perished. I encourage my colleagues to come and see these photographs displayed on placards on the third floor of the Hart Building.

Since the beginning of May, and we are now at the 24th of May, the Pentagon has announced the deaths of 75 of our troops in Iraq and Afghanistan coming from thirty-one different states. I want them to be remembered.

Today, I am going to read their names into the RECORD. As we listen to the names, the real cost of this war is being felt in many homes across this country.

These are the names: LCpl Benjamin D. Desilets, of Elmwood, IL; CPL Julian M. Woodall, of Tallahassee, FL; CPL Ryan D. Collins, of Vernon, TX; SGT Jason A. Schumann, of Hawley, MN; SSG Christopher Moore, of Alpaugh, CA; SGT Jean P. Medlin, of Pelham, AL; SPC David W. Behrle, of Tipton, IA; SPC Joseph A. Gilmore, of Webster, FL; PFC Travis F. Haslip, of Ooltewah, TN; PFC Alexander R. Varela, of Fernley, NV; SFC Jesse B. Albrecht, of Hager City, WI; SPC Coty J. Phelps, of Kingman, AZ; PFC Victor M. Fontanilla, of Stockton, CA; SGT Ryan J. Baum, of Aurora, CO; SGT Justin D. Wisniewski, of Standish, MI; SGT Anselmo Martinez III, of Robstown, TX; SPC Casey W. Nash, of Baltimore, MD; SPC Joshua G. Romero, of Crowley, TX; SFC Scott J. Brown, of Windsor, CO; SPC Marquis J. McCants, of San Antonio, TX; PFC Jonathan V. Hamm, of Baltimore, MD; SGT Steven M. Packer, of Clovis, CA; PFC Aaron D. Gautier, of Hampton, VA; SSG Joshua R. Whitaker, of Long Beach, CA; SGT Allen J. Dunckley, of Yardley, PA; SGT Christopher N. Gonzalez, of Winslow, AZ; SGT Thomas G. Wright, of Holly, MI; LCpl Jeffrey D. Walker, of Macon, GA; PFC Zachary R. Gullett, of Hillsboro, OH; MAJ Larry J. Bauguess Jr., of Moravian Falls, NC; PFC Nicholas S. Hartge, of Rome City, IN; SFC James D. Connell Jr., of Lake City, TN; PFC Daniel W. Courneya, of Nashville, MI; CPL Christopher E. Murphy, of Lynchburg, VA; SSG John T. Self, of Pontotoc, MS; SPC Rhys W. Klasno, of Riverside, CA; MAJ Douglas A. Zembiec, of Albuquerque, NM; PVT Anthony J. Sausto, of Lake Havasu City, AZ; 1LT Andrew J. Bacevich, of Walpole, MA; PFC William A. Farrar Jr., of Redlands, CA; SPC Michael K. Frank, of Great Falls, MT; PFC Roy L. Jones III, of Houston, TX; SGT Jason W. Vaughn, of Iuka, MS; SGT Blake C. Stephens, of Pocatello, ID; SPC Kyle A. Little, of West Boylston, MA; SGM Bradly D. Conner, of Coeur d'Alene, ID; LCpl Walter K. O'Haire, of Lynn, MA; SGT Timothy P. Padgett, of Defuniak Springs, FL; SPC Dan H. Nguyen, of Sugar Land, TX; SSG Vincenzo Romeo, of Lodi, NJ—my home State; SGT Jason R. Harkins, of Clarkesville, GA; SGT Joel W. Lewis, of Sandia Park, NM; CPL Matthew L. Alexander, of Gretna, NE; CPL Anthony M. Bradshaw, of San Antonio, TX; CPL Michael A. Pursel, of Clinton, UT; SSG Virgil C. Martinez, of West Valley, UT; SGT Sameer A. M. Rateb, of Absecon, NJ—my home State; COL James W. Harrison Jr., of Missouri; MSG Wilberto Sabalu Jr., of Chicago, IL; SSG Christopher N. Hamlin, of London, KY; PFC Larry I. Guyton, of Brenham, TX; SSG Christopher S. Kiernan, of Virginia Beach, VA; MSG Kenneth N. Mack, of Fort Worth, TX; CPL Charles O. Palmer II, of Manteca, CA; PFC Jerome J. Potter, of Tacoma, WA; SSG Coby G. Schwab, of Puyallup, WA; SPC Kelly B. Grothe, of Spokane, WA; SPC Andrew R. Weiss, of Lafayette, IN; SPC Matthew T. Bolar, of Montgomery, AL; LCpl Johnathan E. Kirk, of Belhaven, NC; PFC Joseph G. Harris, of Sugar Land, TX; 1LT Colby J. Umbrell, of Doylestown, PA; 1LT Ryan P. Jones, of Massachusetts; SPC Astor A. Sunsin-Pineda, of Long Beach, CA; PFC Katie M. Soenksen, of Davenport, IA.

Mr. President, as you heard, this list includes two brave men from New Jersey—I visited their families—SSG Vincent Vincenzo Romeo and SGT Sameer Rateb. Staff Sergeant Romeo was from Lodi, NJ, and Sergeant Rateb was from Absecon, NJ.

It also includes SGT Allen J. Dunckley. His funeral is taking place today at 10:30, 5 minutes from now. His family is from Glassboro, NJ. PVT Anthony J. Sausto lived in Hamilton Township, NJ.

We cannot forget these brave men and women. The Nation cannot afford to forget their sacrifice. We have to remember that these brave souls left behind parents and children, siblings, friends. Their sorrow will last forever. We want them to know the country thinks about them, and we make a pledge to preserve their memory with the dignity that those who served and paid this price deserve.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

SUPPLEMENTAL APPROPRIATIONS

Mr. FEINGOLD. Mr. President, I appreciate the remarks of the Senator from New Jersey.

I rise today to express my disappointment, both in the final version of the supplemental spending bill that we expect to consider today, and in the process that led to this badly flawed bill. Those two concerns are linked because the flawed procedure the Senate adopted when we passed a sham supplemental bill last week, without debate or amendments, helped grease the wheels for a final bill that contains no

binding language on redeployment. While our brave troops are stuck in the middle of a civil war in Iraq, we have a bill with political benchmarks that lack meaningful consequences if they are not reached.

Legislation as important as this funding bill should have been openly considered in this body. I am talking about an open and on-the-record debate with amendments offered and voted upon. That is the way the Senate is supposed to operate. I shared the desire of my colleagues to pass this important bill as quickly as possible, but that was no excuse for us avoiding our responsibilities as legislators. Unquestionably, it was easier and faster for us to send a place holder bill back to the House. By doing that, the real work could be done behind closed doors where all kinds of horse trading can occur and decisions are unknown until the final deal is sealed. That process makes it a lot easier for most Members of Congress to avoid responsibility for the final outcome—we didn't have to cast any votes or make any difficult decisions. In short, we didn't have to do any legislating.

Now that we face a badly flawed, take-it-or-leave-it bill, we can simply shrug, apparently, and tell our constituents we did the best we could. That is not good enough, not when we are talking about the most pressing issue facing this country.

In the 5 months we have been in control of Congress, a unified Democratic caucus, with the help of some Republicans, has made great strides toward changing the course in Iraq. We were able to pass the first supplemental bill, supported by a majority of the Senate, that required the phased redeployment of our troops to begin in 120 days.

Last week, a majority of Democrats supported ending the current open-ended mission by March 31, 2008. It has been almost 1 year since 13 Senators supported the proposal I offered with Senator KERRY that would have brought our troops out of Iraq by this summer. Now, 29 Senators support an even stronger measure, enforced by Congress's power of the purse, to safely redeploy our troops.

Unfortunately, after that strong vote, we are now moving backward. Instead of forcing the President to safely redeploy our troops, instead of coming up with a strategy providing assistance to a postredeployment Iraq, and instead of a renewed focus on the global fight against al-Qaida, we are faced with a spending bill that just kicks the can down the road and buys the administration time.

But why, I ask you, would we buy the administration more time? Why should we wait any longer? Since the war began in March 2003, we have lost more than 3,420 Americans, with over 71 killed since the beginning of this month. Last month, we lost over 100 Americans. Last weekend, the media reported that 24 bodies were found lying in the streets of Baghdad, all of whom had been killed execution style. Nineteen of them were found within parts of the city where the troops have ''surged.''

The administration's policy is clearly untenable. The American people know that, which is why they voted the way they did in November. They want us out of Iraq, and they want us out now. They don't want to give the so-called surge time. They don't want to pass this problem off to another President and another Congress. And they sure don't want another American servicemember to die or lose a limb while elected representatives put their own political comfort over the wishes of their constituents.

It was bad enough to have the President again disregard the American people by escalating our involvement in Iraq. Now, too, Congress seems to be ignoring the will of the American people. If the American people cannot count on the leaders they elected to listen to them and to act on their demands, then something is seriously wrong with our political institutions or with the people who currently occupy those institutions.

I urge my colleagues to reject the weak supplemental conference report and to stand strong as we tell the administration it is time to end the war that is draining our resources, straining our military, and undermining our national security.

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

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

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. 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. MENENDEZ. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The majority has 4 minutes left in morning business.

Mr. MENENDEZ. Mr. President, on behalf of the majority, I yield back the time.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1348, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1348) to provide for comprehensive immigration reform and for other purposes.

Pending:

Reid (For Kennedy/Specter) amendment No. 1150, in the nature of a substitute.

Grassley/DeMint amendment No. 1166 to amendment No. 1150, to establish a permanent bar for gang members, terrorists, and other criminals.

Cornyn amendment No. 1184 (to amendment No. 1150), to establish a permanent bar for gang members, terrorists, and other criminals.

Coleman/Bond amendment No. 1158 to amendment No. 1150, to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to facilitate information sharing between federal and local law enforcement officials related to an individual's immigration status.

Akaka amendment No. 1186 to amendment No. 1150, to exempt children of certain Filipino World War II veterans from the numerical limitations on immigrant visas.

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

AMENDMENT NO. 1158

Mr. MENENDEZ. Mr. President, I would like to start this morning's debate on immigration by speaking to two of the pending amendments that are before the Senate. First, I would like to speak toward the Coleman amendment.

Under Senator COLEMAN's amendment, he would, in essence, undermine the rights of States and local municipalities which have instructed their police, health, and safety workers from inquiring about the immigration status of those they serve in order to protect the health and safety and promote the general welfare of the community.

As Ronald Reagan said: Here we go again. Over the last several years, particularly in the House of Representatives, there have been different pieces of legislation and amendments offered and debated that would deputize State and local police to enforce what is, in essence, Federal civil immigration law. The Coleman-Bond amendment would effectively prohibit State and local Government policies that seek to encourage crime reporting and witness cooperation by reassuring immigrant victims that police and other government officials will not inquire into their status.

So the amendment would send a mandate from Washington that would end State and local policies that prevent their employees, including police and health and safety workers, from inquiring about the immigration status of those they serve if there is ''probable cause''—probable cause; exactly what standard we are going to use for that is still, in my mind, not quite defined—to believe the individual being questioned is undocumented.

Now, I have talked to some of the toughest law enforcement people across the country. Many cities, counties, and police departments around the country have decided that it is a matter of public health and safety not to ask, not to ask about the immigration status of people when they report crimes or have been the victims of domestic abuse or go to the hospital seeking emergency medical care.

Currently, scores of cities and States across the Nation have such confidentiality policies in place, some upwards of 20 years of having such policies in place. The point of these policies is to make sure immigrants report crimes and information to police and do not stay silent for fear that their immigrant status or that of a loved one could come under scrutiny if they contact the authorities.

Information is one of the most powerful tools law enforcement has to prosecute individuals in the course of a crime, to know who the perpetrator was, to know who was in the gang activity, to know who is the drug dealer. Think of the potential chilling effect this amendment could have on the willingness and ability of immigrant crime victims and witnesses, those who have been victims of domestic abuse, and those who may need emergency health care to turn for assistance if they feared that deportation rather than receiving assistance would result. That is why cities and States have passed local laws and set policies limiting when police and city and county employees can ask people to prove their immigration status.

States and local police have long sought to separate their activities from those of the Federal immigration agents in order to enhance public safety. Now, why do States and local law enforcement entities do that? Why is that? Because when immigrant community residents begin to see State and local police as deportation agents, they stop reporting crimes and assisting in investigations. It undermines the trust and cooperation with immigrant communities that are essential elements of community-oriented policing.

There are numerous examples of police opposing such efforts. In fact, in 2005, Princeton, NJ, police chief Anthony Federico said:

> Local police agencies depend on the cooperation of immigrants, legal and illegal, in solving all sorts of crimes and in the maintenance of public order. Without assurances that they will not be subject to an immigration investigation and possible deportation, many immigrants with critical information would not come forward, even when heinous crimes are committed against them or their families.

So those who are entrusted to protect us understand that the relationship of trust built with the immigrant community would be ruined overnight if this provision becomes law.

This amendment would also cause millions of people in this country, not just immigrants—not just immigrants—to think twice about getting the medical treatment they need. Why would we discourage individuals from receiving medical care? Let's think about the possible consequences for a second. You are rolled into an emergency room, and you do not have insurance. Would there be ''probable cause'' to be asked whether you are here legally in the United States?

Assume I get rolled into an emergency room ''Mr. Menendez'' or maybe someone who might even be described as more characteristically Hispanic or maybe Asian or some other group, and I do not happen to have insurance, as, unfortunately, 40 million Americans who are here as U.S. citizens do not have, and in that moment, I am asked whether I am an American citizen. That would be shameful. You would not ask any other citizen that. But what you create under these sets of circumstances is the opportunity for law enforcement, for health officials, for emergency management officials to begin to ask the questions. And under what probable cause? The way someone looks? The accent with which they speak? The surname? Under what probable cause? Under what probable cause? The misfortune of not having health insurance? Is that an indicator that you are likely not here in a documented fashion, those who look a certain way?

This amendment can clearly also encourage racial profiling. People who look or sound foreign would be the ones whose citizenship or immigration status will be questioned. Under this amendment, we are asking public hospital workers, teachers, police, social workers, and all public employees to decide where there is probable cause to believe someone does not have lawful immigration status. That means treating anyone who looks or sounds foreign with suspicion. In my mind, that is just plain wrong.

One could argue that the Coleman amendment is a coercive action against any State, municipality, or other entity to say to that State, municipality, or other entity that they must do a series of things, such as obtaining information on a person's status, like my own, which I was born in this country. So much for States rights. So much for the local municipalities know best. For 15 years in the Congress, I have listened to my Republican colleagues speaking of States rights, of local rules, of States knowing best. But I guess they do not know best when it comes to the law enforcement of their own communities.

We don't need a provision such as this. Current law already provides ample opportunity—ample opportunity—for State and local police to assist Federal immigration agents in enforcing the laws against criminals and terrorists. What they cannot do is start asking everyone they come across for their ''papers.'' ''Let me see your papers.''

States and localities that do want to take on a broader role in immigration enforcement can enter into a memorandum of understanding with ICE, receive training in immigration law, and assist in enforcement operations under Immigration's supervision. That already exists in the law, and there are communities which have chosen to do that.

Mr. President, this amendment would create fear in entire communities, would inevitably deter not only undocumented immigrants but legal immigrants and citizens from not being subject to being prosecuted simply because of who they are, what they look like, how they sound, what their surname is, because God knows what the probable cause is.

Mr. KENNEDY. Would the Senator yield on that point?

Mr. MENENDEZ. I don't think that is the America we want.

I am happy to yield.

Mr. KENNEDY. I just wonder if the Senator would yield on this point because this is extremely important. This is about American citizens too. There are individuals who go to a hospital, people who take their children to school for vaccinations, and this has the language that if an official has probable cause to believe they are undocumented, they can question that individual.

Suppose they question them before they treat them? The way I look at it and read that, this could be an American who goes in, an American citizen goes in, and for some reason, some attendant says: Well, I have reason to believe this is undocumented, let's see all of your papers, while the person is either trying to be attended to, with a serious injury, or trying to get their child immunized to protect not only that child but other children in the classroom. How in the world are they going to be able to do that without opening up a whole system of profiling in this country?

I maintain that we have very strong border security and we have very strong provisions in here in terms of employment security, to try to make sure we are going to have the right people who are going to be able to work here and we are going to know who is going to be able to come into the United States. But this here really seems to me to be endangering American citizens in a very important way. I was just wondering if the Senator might comment on that.

Mr. MENENDEZ. Well, I appreciate the question and the Senator's observations. The Senator is absolutely right. Actually, this makes hospital workers enforcement workers. This makes your local volunteer ambulance corps an agent because a municipality may say: We don't want you to ask that question; we want you to deal with the lifesaving moment that is before your hands.

As a matter of fact, let's think about an outbreak of disease. We have an outbreak at a hospital. Do you not want that individual to be able to go and be treated and contain the outbreak? No, let's find out what their status is. If you happen to have a surname that is what we conceptualize as undocumented, or if you don't have command of the English language in a powerful way, we conceptualize that you must be undocumented. If you don't have insurance, that must be an indicator of probable cause, even though there are 40 million U.S. citizens who don't have

it. Clearly, this turns people who have professed to protect, to defend, and to provide health care into agents against their will. That is why municipalities and States have chosen a different course. They understand better. That is why I certainly urge a strong ''no'' vote on the Coleman amendment.

AMENDMENT NO. 1184

I wish to turn to another amendment pending before the Senate, the Cornyn amendment. I will talk about some elements of this to give our colleagues in the Senate a taste of what is here. This is far from a technical amendment. It has very substantive consequences, if it were to be adopted. It actually undermines the ''grand bargain'' that I understood was struck. Let me give one of the examples of how it undermines the ''grand bargain.'' A provision of the Cornyn amendment adds new grounds of deportability for convictions relating to Social Security account numbers or Social Security cards and relating to identity fraud. As with virtually all of the other provisions in his amendment, this suspension is retroactive. So upon passage of this bill, if it were to become law, these new offenses would go backward, would become retroactive, so that the acts that occurred before the date of enactment would become grounds for removal. If part of the goal is to bring those in the shadows into the light and to apply for a program, you would have huge numbers of people who would in essence be caught by this provision in a way that would never allow the earned legalization aspect of what is being offered as a real possibility for them. It would undermine the very essence of the ''grand bargain.'' Significantly, this provision would place individuals applying for legalization in a catch-22 situation. We want them to come forward and register because we want to know who is here pursuing the American dream versus who is here to destroy it. Yet if they admit to having used a false Social Security card to work in the United States, only to be prosecuted by a U.S. Attorney or one working in concert with the Department of Homeland Security to selectively target certain applicants, that individual's ultimate prosecution changes to a removal because of conduct that occurred prior to the enactment, conduct that was fundamentally incident to his or her undocumented status.

The potential impact of making literally thousands and thousands of undocumented workers subject to these provisions would in essence nullify the very essence of the earned legalization aspect of the ''grand bargain.'' We know that because of the failed employer sanctions, which this bill undoes and makes sure we have the right type of employer verification and the right type of sanctions and the right type of enforcement, undocumented workers have moved consistently in order to earn a livelihood and support their families in a way that would be undermined by this amendment. Given ICE'S new interior enforcement strategy, it seems to me what we will see is the rounding up of thousands of undocumented workers during worksite enforcement actions while we are supposedly waiting for the triggers which we enhanced yesterday. We made those even more difficult, which means it isn't going to be 18 months for those triggers to take place, it is going to be a lot more time, if this is what ends up being the final bill.

In that effort, we are going to have individuals who ultimately are not going to be subject to the opportunities we supposedly say are a pathway to earn legalization as part of the overall solution to our problem. Because the amendment is retroactive, and retroactivity as a provision of law is something we generally have disdain for, it would apply even to those applying for admission after the date of enactment. Clearly, it puts in jeopardy the total element of the legalization process.

Secondly, to address a different provision of the Cornyn amendment, it permits secret evidence to be used against an individual without any opportunity for it to be reviewed. This amendment gives the Attorney General—and we have seen of late what is capable out of the Justice Department—unreviewable discretion to use secret evidence to determine if an alien is ''described in''—not guilty of anything, but just described in—the national security exclusions within the immigration law. A person applying for naturalization could have her application denied and she would never know the reason for that denial, never have a chance to appeal and prove it was wrong.

If a lawful permanent resident already, somebody who followed the rules, obeyed the law, waited, came in, now a lawful permanent resident, maybe even serving their country, was giving money to tsunami relief and accidentally that money went to a charity controlled, for example, by the Tamil Tigers in Sri Lanka, that person could be denied citizenship on the basis of secret evidence, and there would be no review in the courts. In sum, it allows deportation based upon unreviewable determinations by the executive branch, determinations that can be based on secret evidence that the person cannot even see, let alone challenge.

All of these provisions are retroactive. Retroactivity is antithetical to core American values. What could be more unfair than changing the rules in the middle of the game. That is why it is unconstitutional in criminal law and strongly objectionable in a context like immigration law, where such changes can have profound, life-altering consequences. Why would we want to repeat the mistakes of past immigration reform? Retroactivity in that law led to incredible hardship and had the most strident immigration hardliners questioning whether the law had gone too far. Retroactivity was eliminated from all of those provisions during Judiciary Committee markup in past legislation, but now it emerges again.

We can be tough. We can be smart. The underlying substitute does so much to move us forward in this regard. But at the end of the day, let us not undermine the very essence of the constitutional guarantees that have been upheld by the courts—of judicial review, of due process, which makes America worthy of fighting for and dying for, the Constitution, the Bill of Rights that enshrines those essential rights and guarantees them to all of us, for its enforcement that makes us so different than so much of the rest of the world. We are moving in this bill, by a series of amendments—some that would have been adopted and some that are already pending and others I fear may come—into a state in which that is continuously eroded to great alarm. I hope the Senate will reject these because in terms of their pursuit and enforceability, at the end of the day, they will become real challenges.

We are going to overturn States and municipalities. We will make them enforce them. Will there be penalties against States and municipalities that have a different view of public safety? Secret evidence, is that the new standard for us, secret evidence that is not subject to review, not subject to be contested? What are we going to permit now? Retroactivity as a rule of law for the United States? You never know what you did before may have been right or wrong. That is the essence of why we don't like retroactivity. We tell people: This is the law, follow this law. We expect them to do it. But we also don't change it on them by passing a new law and saying: By the way, that was wrong, you couldn't do that, even though we told you you could, but retroactively we changed it; now we catch you in a set of circumstances in which you have committed a crime. That is why we don't do that generally in the law. That is why the Cornyn amendment should be defeated.

I yield the floor.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from New Jersey for his comments, both on the Coleman amendment and the Cornyn amendment.

To remind our colleagues, we intend to have votes starting at 12:15. Yesterday we had some success on a number of different amendments. We have a number here which we expect votes on through the afternoon. We will have a full morning and afternoon.

With regard to the Coleman amendment, because the American people obviously are concerned about security, we are concerned about security from terrorism. We are concerned as well about security from bioterrorism or from the dangers of nuclear weapons. We have heard those words. We have

taken action on many of them. We still have much to do. But we have in this legislation taken a number of very important steps with regard to security. It is important to understand what has been done in this legislation in terms of security and how the Coleman amendment fails to meet the test. In a number of areas, it probably endangers our security. It does so with regard to health care, education. It may even in other areas as well.

In this legislation, we are doubling the Border Patrol. We are creating a new electronic eligibility verification system, increasing penalties on noncompliant employers by a factor of 20. We are increasing detention space and requiring more detention of undocumented immigrants, pending adjudication of their cases. We are expanding the definition of aggravated felony to encompass a wider array of offenses. We are increasing the penalties related to gang violence, illegal entry, and illegal reentry. We are increasing penalties related to document and passport fraud. The list goes on. The question is, does this amendment add to our security, or does it make us more vulnerable to a public health crisis, more vulnerable to crime, terrorist attack, and less competitive?

What we are basically doing with the Coleman amendment is saying to any teacher, any doctor, any nurse, any public official, if they believe they have probable cause—and we have to understand what that means in terms of the individual, how they are going to know there is probable cause—then they can test the individual that is before them to find out whether they are undocumented, whether they are legal, or whether they are an American.

Let's take an example. Tuberculosis, which we have seen grow dramatically over the last 3 years for a number of different reasons—71 percent of those who have tuberculosis are foreign. But in order to protect American children from tuberculosis, we need to screen and protect those who have tuberculosis; otherwise, we will find the tuberculosis is going to spread.

Well, what are we going to do? What is important is that if we find out a person comes in and the family has tuberculosis and the individual says: Well, I am not sure I am going to treat you because I am not sure you are an American citizen or if you are undocumented or if your papers are right, so I am not sure we are going to treat you, and that family has tuberculosis, the child goes into a classroom with a communicable disease and infects a number of American children? This is the typical kind of challenge.

On immunization: Immunization is down in this country dramatically. What happens? We know when we do not immunize the children, they become more vulnerable to disease. Maybe these children are going to go into the public school system and are going to spread that disease. Isn't it better to make sure they are going to get the immunization? Or are we going to say to the medical professionals: Well, I think that person is undocumented. I think they may be illegal. Sure, they have papers. They look OK. But I am not sure they are OK, so therefore I am not going to treat them.

This is false security. We have tough security in the bill.

What are we going to say in the situation where we have battered women—which is taking place today in too many communities across this country? It is a reality. We might not like it, but it is a reality, and many of the people who are being battered happen to be immigrants, undocumented individuals. What are they going to do after they are getting beaten and beaten and beaten and they go on in to try to get some medical care? Oh, no. Well, you are undocumented, so we are going to report you for deportation. Report to deport. That is the Coleman amendment: Report to deport—trying, in these situations, to meet the immediate needs.

What is going to happen to the migrant, the undocumented, who sees a crime, knows the people, is prepared to make sure the gangs who are distributing drugs—they are a witness to a crime in the community and they go down to the police department and the first thing the police officer says is: Well, you look like you are undocumented. Let's see your papers, and they arrest the person, rather than solving the crime, rather than stopping the gang.

So this is, I think, false security and unnecessary. We will have a chance to address that. As we mentioned earlier, the amendment would prevent the local governments from having the flexibility to reassure fearful immigrant communities it is safe to come forward for programs that are absolutely essential to public health and safety. If the immigrant families are afraid to access the key public health interventions, such as immunization or screening for communicable disease, the public health consequences for the entire community are severe.

When the Nation is attempting to be prepared for the threat of biological terrorism or serious influenza epidemic, this is a dangerous policy. Local governments need the flexibility to keep the entire community safe.

Public health workers should not be enforcers. Public health workers should not be enforcers of immigration law. This can create a massive fear of the health care system and upset the trust of a patient-doctor relationship that many public health workers have worked to build among the immigrant community for years.

Further, social service and health care providers are unlikely to be familiar with the complex and constantly changing immigration laws, which would be needed to determine a patient's status and for which they would have to undergo extensive training.

I have listened to the Members of the Senate talk about the 1986 immigration laws like they understood it and knew what they were talking about. How in the world are we going to expect the local policeman or the local nurse or the local doctor to understand it when on the floor of the Senate they do not even understand it?

What are going to be the implications? The implications are going to be: There is going to be increased fear, increased discrimination, increased prejudice, and increased disruption—not only of people's lives but also of the public health system, the education system, and the law enforcement system.

So this amendment does not make sense. At an appropriate time, we will comment further about it.

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

Mr. SPECTER. Mr. President, I respect the purpose the distinguished Senator from Minnesota has in advancing this amendment, but I believe it would have a chilling effect on the reporting of crime by immigrants whose status is undocumented.

We had a hearing on this subject in Philadelphia, for example. The chief of police, Sylvester Johnson, had this to say:

> Meeting public safety objectives is only possible when the people trust their law enforcement officials. Fear of negative consequences or reprisal will undermine this important element of successful police work.

Many major cities in the United States have adopted so-called sanctuary city policies, such as Phoenix, Los Angeles, San Diego, Philadelphia, San Francisco, New Haven, Portland, Baltimore, Detroit, Minneapolis, Albuquerque, and New York.

Mayor Bloomberg testified before the Judiciary Committee saying:

> Do we really want people who could have information about criminals, including potential terrorists, to be afraid to go to the police?

Mayor John Street of Philadelphia, in a letter to me, said:

> It is imperative that immigrants who may be witnesses to or victims of crime not suffer repercussions as they attempt to give and receive assistance from law enforcement.

Mr. President, I ask unanimous consent that the full statement of the analysis of the amendment be printed in the RECORD at the conclusion of my comments.

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

(See exhibit 1.)

Mr. SPECTER. The essential point is that undocumented immigrants, if they are victims and make a report, or if they are witnesses, or if they have information about dangerous people—terrorists, illustratively—should have confidence and feel free to come to the police. Well-intentioned as this amendment is, I think it would be counterproductive and unwise.

AMENDMENT NO. 1190

Mr. President, I think we are in a position to accept the McCain amendment when Senator KENNEDY returns

to the floor. The thrust of the amendment offered by Senator MCCAIN, No. 1190, would provide that undocumented immigrants would have an obligation to pay Federal back taxes at the time their status is adjusted under the provisions of the bill.

Mr. President, I ask unanimous consent that I be added as an original cosponsor to the McCain amendment.

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

Mr. SPECTER. Mr. President, I note the presence of the Senator from North Dakota in the Chamber, who intends to speak, so I yield the floor.

EXHIBIT 1

ANALYSIS OF AMENDMENT

Requiring local law enforcement to inquire about immigration status undermines both law enforcement efforts and raises national security concerns:

''Meeting public safety objectives is only possible when the people trust their law enforcement officials. Fear of negative consequences or reprisal will undermine this important element of successful police work.'' [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 1.]

''Crime does not discriminate. Requiring immigration enforcement by local Departments will create distrust among persons from foreign lands living in the United States. Undocumented immigrants will not report victimization or cooperate in solving crimes or testifying for fear of deportation.'' [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 1.]

''If an undocumented person is a victim or a witness of a crime, we want them to come forward. They should not avoid local police for fear of deportation.'' [SJC 7/5/06 hearing transcript, p. 31, Philadelphia Police Commissioner Sylvester Johnson.]

''It is imperative that immigrants who may be witnesses to or victims of crime not suffer repercussions as they attempt to give and receive assistance from law enforcement.'' [Letter from Philadelphia Mayor John Street to Sen. Specter.]

''Do we really want people who could have information about criminals, including potential terrorists, to be afraid to go to the police?'' [SJC 7/5/06 hearing transcript, p. 27, New York Mayor Michael Bloomberg.]

''It will also undercut homeland security efforts among immigrant communities, in that those who that may know persons who harbor knowledge of terrorist activities will no longer be willing to come forward to any law enforcement agency for fear of reprisal against themselves or their loved ones.'' [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 1.]

Immigrants who live in fear of local authorities may undermine public health efforts:

''In the event of a flu pandemic or bioterrorist attack, the City would provide prophylaxis to all of its infected residents regardless of immigration status. The immigrant population, due to fear, might refrain from identifying themselves if infected, potentially resulting in the spread of disease leading to a public health crisis.'' [Letter from Philadelphia Mayor John Street to Sen. Specter.]

''Do we really want people with contagious diseases not to seek medical treatment? Do we really want people not to get vaccinated against communicable diseases?'' [SJC 7/5/06 hearing transcript, p. 27, New York Mayor Michael Bloomberg.]

Local law enforcement officials who inquire about immigration status may subject themselves and their offices to civil litigation and claims of racial profiling:

''[A]ll Police Departments are susceptible to civil litigation as a result of civil rights suits. . . . [T]ime in court on a civil suit equates to fewer officers of our streets and settlements, court costs, and Plaintiff's rewards all cost all citizens precious resources. With questionable federal law authority to enforce such immigration laws, and with a precedent of local police being sued for assisting in the enforcement of immigration law, the probability of civil suits against local departments as primary enforcers is a major concern.'' [Philadelphia Police Commissioner Sylvester Johnson, Written testimony to SJC, 7/5/06 hearing, p. 2–3.]

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is—I will wait for Senator KENNEDY to appear on the floor—my understanding is there would be an agreement to allow me to offer my amendment at this point, which would require me to set aside whatever pending amendment exists. If that is acceptable, I will do that, offer my amendment, and then speak on my amendment.

So I ask whether that it is acceptable for me to ask consent to set aside the pending amendment.

Mr. SPECTER. Mr. President, I think it is acceptable for the Senator from North Dakota to ask that the pending amendment be set aside. I will not object, and I am the only Senator on the floor—unless the Presiding Officer objects.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may be able to offer an amendment that is at the desk.

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

AMENDMENT NO. 1181 TO AMENDMENT NO. 1150

Mr. DORGAN. Mr. President, I ask for the amendment's immediate consideration.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, and Mrs. BOXER, proposes an amendment numbered 1181 to amendment No. 1150.

The amendment is as follows:

(Purpose: To sunset the Y–1 nonimmigrant visa program after a 5-year period)

At the end of section 401, add the following:

(d) SUNSET OF Y–1 VISA PROGRAM.—

(1) SUNSET.—Notwithstanding any other provision of this Act, or any amendment made by this Act, no alien may be issued a new visa as a Y–1 nonimmigrant (as defined in section 218B of the Immigration and Nationality Act, as added by section 403) after the date that is 5 years after the date that the first such visa is issued.

(2) CONSTRUCTION.—Nothing in paragraph (1) may be construed to affect issuance of visas to Y–2B nonimmigrants (as defined in such section 218B), under the AgJOBS Act of 2007, as added by subtitle C, or any visa program other than the Y–1 visa program.

Mr. DORGAN. Mr. President, I ask unanimous consent that Senator DURBIN be added as a cosponsor to the amendment.

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

Mr. DORGAN. Mr. President, this amendment is relatively simple. It is an amendment that would sunset the so-called guest worker or temporary worker provision.

As my colleagues know, I was on the floor the day before yesterday attempting to abolish the temporary or guest worker provision. I failed to do that. We had a vote and, regrettably, in the Senate they count the votes, and when they counted those votes, I was on the short end. I have felt very strongly about this issue, and I wish to describe why. But having lost that vote, what I next propose is that we sunset the temporary or guest worker provision.

Let me describe that even if we were not on the floor of the Senate talking about immigration today, we have a great deal of legal immigration in this country. We have a system by which there is a quota where we allow in people from other countries to become citizens of our country, to have a green card, to work, and then work toward citizenship.

Let me describe that even if we were not here with an immigration proposal, here is who would be coming to our country. The 2006 numbers, I believe, are: 1.2 million people—1,266,000 people—last year came to this country legally; 117,000 of them came from Africa; 422,000 came from Asia; 164,000 came from Europe; 414,000 came from various locations in North America, including the Caribbean, Central America, and other portions of North America; 138,000 came from South America.

Let me reiterate, the cumulation is 1.2 million people that came to this country legally, and received green cards last year. So it is not as if there is not immigration—legal immigration. We have a process by which we allow that to happen.

There are people, even as I speak this morning, who are in Africa or Europe or Asia or South America or Central America, and they have wanted to come to this country, and they have made application. They have waited 5 years, 7 years, 10 years, and perhaps they have risen to the top of the list or close to the top of the list to—under the legal process for coming to this country—be able to gain access to this country.

Then, they read we have a new proposal on immigration. No, it is not that immigration quota where you apply and you wait over a long period of time. It is that if you came into this country by December 31 of last year—snuck in, walked in, flew in—illegally, we, with this legislation, deem you to be here legally. We say: Yes, you came here illegally. You were among 12 million of them who came here illegally—some of them walking across, I assume, on December 31, who crossed the southern border—and this legislation says: Oh, by the way, that does not matter. What we are going to do is describe you as being here legally, and we are going to give you a permit to go to work.

What does that say to people in Africa or Asia or Europe who have been waiting because they filed, they believed this was all on the level, there is a process by which you come to this country legally—it is quota—and they decided to go through that process? What does it say to them that now we have said: Do you know what. You would have been better off sneaking across the border on December 31 of last year because, with a magic wand, this legislation would say you are perfectly legal.

In addition to the 1.2 million people who came here legally, under this bill there would be another 1.5 million people coming to do agricultural jobs. There are also 12 million people who have come here illegally. Let me say quickly I understand there will be some of them who have been here 10 years, 20 years, and more, who came here—they didn't come legally, I understand that—but they have been here for two or three decades. They have raised their families here, they have been model citizens, they have worked. I understand we are not going to round them up and ship them out of this country. I understand that. There needs to be a sensitive, thoughtful way to address the status of those who have been here for a long period of time and who have been model citizens. This is different than deciding that those who walked across the border on December 31 of last year are going to be deemed legal. That is very different.

But in addition to those questions about the legal status of 12 million people who came here without legal authorization, the other question is: Should we decide to bring additional people into this country who aren't now here to take American jobs under a provision called the guest worker or temporary worker provision?

Now, you don't have to read many newspapers in the morning to see the next story about the company that closed its plant, fired its workers, and moved its jobs to China. You don't have to spend a lot of time looking for stories such as that. They are all around us, American companies exporting American jobs in search of cheap labor in China, Indonesia, Sri Lanka, Bangladesh, and at exactly the same time, we see all of these stories about exporting American jobs. We now see the urgings of the biggest enterprises in this country, many of which do export these jobs in search of cheap labor. We see their urgings to allow them to bring in additional cheap labor from outside of this country into this country to assume jobs American workers now have. They say these workers are necessary because they can't find American workers to do those jobs. That is not true. They don't want to pay a decent wage for those jobs. The people across the counter at the convenience store, the people who make the beds in the morning at the hotels, if they paid a decent wage, they will get workers, but they don't want to have to do that. What they want to do is bring in cheap labor, and that is why we have a guest or a temporary worker provision.

I talked yesterday on the floor of the Senate about Circuit City, the story which reinforces all of this for me. Circuit City, a corporation all of us know, announced they have decided to fire 3,400 workers. The CEO of Circuit City, it says in the newspaper, makes $10 million a year. They announced they are going to fire 3,400 workers at Circuit City because they make $11 an hour and that is too much to pay a worker. They want to fire their workers and hire less experienced workers at a lower wage. This pernicious downward pressure on income in this country—fewer benefits, less retirement, less health care, lower income—is, in my judgment, initiated by the export of American jobs for low wages and the import of cheap labor for low wages, all of it coming together to say to the American worker: It is a different day for you and a different time for you. Don't expect the kind of wages you used to have. There is downward pressure on all of those wages, and that is part and parcel of what this proposal is: temporary guest workers.

Let me show you a graph I put up the other day, and this is a graph that has 200,000 temporary workers, because the proposal I tried to completely abolish was bringing in 400,000 temporary workers a year. That was cut by the Bingaman amendment to 200,000 a year. Let me describe how it works, because I am anxious to put a tape recorder on somebody and go listen to how they describe this at a town meeting, if they decide to vote for this.

Two hundred thousand foreign workers can come in as temporary or guest workers for 2 years. So these 200,000 come in for 2 years; then the second year another 200,000 can come in, so you have 400,000 the second year, but the 200,000 who come in can come in for 2 years, and they can bring their family if they wish. Then they have to go home for a year and take their family with them, and then they can come back for 2 more years. Or, they can come in for 2 years, not bring their family, go home for a year, and bring their family for another two years. Or, they can decide to come in for 2 years without a family, 2 years without a family, 2 years without a family, as long as they stay 1 year between each of the 2-year periods; as long as they stay 1 year outside of this country between those periods. It is the most Byzantine thing I have seen.

Now, what are the consequences of it? The consequences are this: This is cumulative, so what we have are these blocks of 200,000 workers who come and go, come and go. They stay 2 years, leave a year, bring their family, maybe don't bring their family. It is unbelievable. We are not talking about a few million people here. Add all these family members to these 200,000 workers who come for 2 years with their families and ask yourselves: What kind of immigration is this? By the way, where will they get jobs when they come to this country? We already have an agricultural provision that is in this legislation, so these are not farm workers. We are not talking about people who come and pick strawberries here. We are talking about people who will assume jobs—we are told—in manufacturing. Why? Because we don't have enough American workers in manufacturing? Are you kidding me?

I have described at length on the floor of the Senate the people who lost their jobs because their manufacturing jobs went to China for 20 cents an hour labor, 7 days a week, 12 to 14 hours a day. They want to know where to get people to work in manufacturing? Go find the people who were laid off—thousands, hundreds of thousands, millions laid off—because their company decided they were going to make their products in China. If they need hints, go back and read my previous speeches on the floor of the Senate. Fruit of the Loom underwear, a lot of folks worked there; not anymore. Levi's, not any more. Huffy Bicycles, no more. Radio Flyer, Little Red Wagon, no more. Fig Newton Cookies, no. All of those folks worked for all of those companies. Pennsylvania House Furniture.

My colleague from Pennsylvania is on the floor. Pennsylvania House Furniture is a great example of what has been happening, if you want to find some great workers, some real craftsmen. I know I have told this story before, and I will tell it again, because it is so important and so emblematic of what is going on.

Not many people know it, but Pennsylvania House Furniture, which is fine furniture—those folks in Pennsylvania who use Pennsylvania wood and were craftsmen to put together upper-end furniture, they all got fired because La-Z-Boy bought them and they decided they wanted to move Pennsylvania House Furniture to China, and they did. Now they ship the Pennsylvania wood to China, make the furniture and sell it back here as Pennsylvania furniture. But on the last day of work with the last piece of furniture these Pennsylvania House Furniture craftsmen produced—not many people know that they turned the last piece of furniture upside down, and as it came off the line, all of these craftsmen who for years have made some of the finest furniture in this country, decided to sign the bottom of that piece of furniture. Somebody in this country has a piece of furniture and they don't know it has the signatures of all the craftsmen at Pennsylvania House Furniture on the bottom of their piece of furniture. Do you know why they signed it? Because they understood how good they were. They didn't lose their jobs to China because they didn't do good work. They were wonderful craftsmen and they were proud of their work and

they wanted to sign that piece of furniture. Somebody has that piece of furniture today, but none of those craftsmen have a job today. If somebody is looking for a manufacturing worker, I can steer them in the right direction. We have plenty of people in this country who need these jobs.

We are told two things that are contradictory. We are told there is bona fide border security in this bill. I happen to think the way you deal with immigration, first and foremost, is to provide border security. If you don't have border security, you don't have immigration reform because all you will do is nick at the edges and continue to have a stream of illegal workers flowing into this country. So the first and most important step is to provide border security.

I was here in 1986, and I heard the promises of border security, but in fact, there wasn't border security. Employer sanctions. In fact, there were not employer sanctions that were enforced. No enforcement on the border of any consequence; no enforcement with respect to employer sanctions.

We are told a guest worker provision is necessary because we cannot provide border security. Several of those who have been involved with this compromise have said: Workers will come here illegally or legally; one way or another, they are going to come in. My colleague has a couple of times pointed to the Governor of Arizona—and I suspect she did say this; I don't contest that—the Governor of Arizona, Governor Napolitano, says: You know, if you build a 50-foot-high fence, those who want to come in will get a 51-foot ladder.

Well, if that is the case, if Governor Napolitano is correct, then I guess we are not going to have border security unless we cut the legs off 51-foot-ladders. The implication of that is: Illegal immigration is going to occur, like it or not. Therefore, let's have a temporary worker program, which means we will describe as legal those who come in illegally. That is the point. I mean, I don't understand this; I just don't.

So I lose the amendment fair and square to try to strike that temporary worker provision. I understand where the votes were on it. But I come to the floor suggesting let's do one additional thing. Let's at least sunset this provision.

Here is what will happen for 10 years under the temporary worker provision. This chart shows 10 years, 200,000 in the first year, 200,000 the second year. That first group of 200,000 will be on their second year, so as those 200,000 continue their work the second year, another 200,000 will join them, and then by the fourth year, we have 600,000. By the fifth year, we have 800,000.

My proposition is this: Why don't we decide to sunset this at the end of 5 years and take a look at it and see. We have plenty of experience with claims that have never borne fruit here on the floor of the Senate. Why don't we take a look at 5 years and see where the claims were made for the temporary worker provisions. Were they claims that turned out to have been accurate or not?

Now, my understanding is—and I was looking for a statement in the press that was reporting on a colleague who was part of the compromise, if I can find it. Let me read from Congress Daily, Wednesday, May 23, which would have been yesterday.

> One change that might win over some would be a sunset provision which Senator Byron Dorgan, Democrat, North Dakota, said he wanted to offer after his proposal to eliminate the guest worker program failed.

Continuing to quote:

> Senator Mel Martinez, Republican of Florida, who helped negotiate the compromise immigration bill, said today he would not consider the sunset proposal a deal breaker.

I am quoting now Senator MARTINEZ from Congress Daily:

> Labor conditions might change, Martinez said. I don't see why in five years we shouldn't revisit what we have done.

Martinez is among a group of roughly a dozen Senators dubbed the ''grand bargainers,'' who have agreed to vote as a block to stop any amendments they believe would unravel the fragile immigration compromise on the Senate floor.

So at least one of the grand bargainers, Senator MARTINEZ, has told Congress Daily that the amendment I offer is not a deal breaker. He says:

> I think it is perfectly reasonable.

Again quoting him:

> I don't see why in five years we should not revisit what we have done.

So I would say to my colleagues, at least one of the ''grand bargainers,'' so described by Congress Daily, has said the amendment that I offer with Senator BOXER and Senator DURBIN to provide a sunset after 5 years to the temporary or guest worker provision would not be a deal breaker.

We have passed a lot of legislation in the Congress that represents important policy choices and a number of those pieces of legislation have sunset provisions. The farm bill. The farm bill has sunset provisions in it. The Energy bill, the bankruptcy reform bill, the intelligence reform bill, all have sunset provisions. The purpose: Let's find out what happened and then determine what we do next. A sunset clause doesn't mean a piece of legislation will not get reauthorized. It might. If all of the claims that buttress the original passage turn out to be accurate, then you might well want to reauthorize it. But with other pieces of legislation, we have sunsetted key provisions. Why wouldn't we want to do the same with respect to temporary workers, which will open the gate and say come into this country.

This immigration bill that we have, with 12 million people being deemed legal, who came without legal authorization, that is not enough. We need more. I know we had discussion yesterday about chicken pluckers on the floor of the Senate. How much money will chicken pluckers make? Well, I will tell you one thing about chicken pluckers and those who do that kind of work. They are never going to make the money they used to make because of downward pressure on wages. That downward pressure in that sector comes directly from a massive quantity of cheap labor that has come into this country. That may be all right if you are not plucking chickens.

If you are working in one of those plants and you see what happened to wage standards and wage rates, it is very hard to say we are making progress on behalf of the American worker. We are not. That is what brings me to the floor of the Senate. I regret that I disagree with some very good friends in the Congress on these issues. But the fact is that this is very important public policy. This public policy and things that attend to it and relate to it determine what kind of jobs we are going to have in the future, what kind of economic expansion we will have, and what can the middle-income families expect for themselves and their kids and their lives.

I am not going to speak much longer, but I wish to say this. I remind all my colleagues where we have been. Almost a century ago, there was a man who was killed. I wrote about him and said he died of lead poisoning. He actually was shot 54 times—James Fyler. The reason he was shot 54 times almost a century ago is he was one of these people who decided to fight for workers' rights in this country. He believed that people who were coal miners and went into a coal mine ought to be able to expect, one, a fair wage; two, they ought to expect to be able to work in a safe workplace; they ought to have the right to organize and fight for those things. For that, he was shot 54 times.

For over a century, beginning with that, we dramatically, and through great difficulty, improved standards in this country. We demanded safe workplaces, fair labor standards, and all these things that would raise people up. We expended the middle class and created a country that is extraordinary, a middle class in which they could find good jobs that paid well and had decent fringe benefits. They negotiated for decent health care and retirement benefits. We did something extraordinary in this country. That didn't happen by accident.

At this point, all around the country, with middle-income workers, they see a retraction of those things, a downward pressure on their income, much less job security, and too many workers being treated akin to wrenches—use them up and throw them away. If you pay $11 an hour, that is too much. You find workers for $8 an hour, with no experience. Terrific. Or you can pay 30 cents an hour in China; that is even better.

You may say, what does that have to do with this bill? A lot, in my judgment. That is what pushes me to come to the floor on these amendments—not because I wish to hear myself talk or because I wish to take on friends but because I think the direction we are headed in is wrong. Yes, we have an immigration problem. I accept that and I understand that. I believe the first step to resolving it is border security because, otherwise, 10 or 15 years from now, we will be back with another immigration problem, and we will understand there was not border security. Those who tell us there is border security are the same ones who tell us, as Janet Napolitano says, that if we build a 50-foot fence, they will get a 51-foot ladder. You can't stop it, so declare it legal. Illegal immigration is going to occur, like it or not; therefore, let's have a temporary worker program. I disagree with that.

The fact is, I don't know all the nuances of what happened this week. I know this: The price for the support of the national Chamber of Commerce in the last bill brought to the Senate—the price for the support of the U.S. Chamber of Commerce was to allow them to bring in this cheap labor in the form of guest or temporary workers. I didn't support it then; I don't support it now.

We have 1.2 million people who came in legally last year. I support that process. That is a quota system. The process works. We refresh and nurture this country with immigrants. So 1.2 million were allowed in under the legal immigration system last year. That doesn't count the agricultural workers who would come in under the AgJobs program in this bill. That is another 1 million-plus people.

I also understand the urging and the interest to try to be sensitive in resolving the status of people who have been here a long time. Yes, they came without legal authorization, but they have been model citizens. They have lived up the block, down the street, and on the farm, and they have been among us and raised their families and gone to school; they have good jobs. Should we resolve their status with some sensitivity? Of course, I fully support that. But you do not resolve that, in my judgment, by pointing to December 31 of last year and saying, by the way, anybody who came across December 31 of last year and prior to that is considered to have legal status in our country. That is the wrong way to resolve it.

Let me do two things. Let me urge my colleagues to support a 5-year sunset on this legislation. Let me say a second time to those with whom I disagree, I respect their views. I disagree strongly with them. I mean no disrespect on the floor of the Senate about the views they hold. They perhaps hold them as strongly as I hold my views. I believe in my heart, when you look at people who got up this morning and got dressed and went to work, many of whom packed a lunch bucket, they came home and took a shower after work because they work hard and sweat, those people want something better for their lives in this country. They want the ability to get ahead and to get a decent wage for their work.

Regrettably, all too often, that is being denied them by a strategy that says this country values cheap labor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I rise in opposition to the proposal of the Senator from North Dakota. I appreciated over the period of these days the good exchanges we have had on the issues of the labor conditions in this country, which is what this legislation is all about.

I am going to put a chart behind me that describes the circumstances of what is happening to undocumented workers and to American workers in New Bedford, MA. This is a picture of a company in New Bedford, MA. This was taken probably in the last 4 weeks. These were the undocumented workers in New Bedford. This sweatshop is replicated in city after city all over this country. One of the key issues is: Can we do something about it? We say yes, and we say our legislation makes a very important downpayment to making sure we do.

Many of these individuals—not all—are undocumented workers. This is what happened to these workers. These workers were fined for going to the bathroom; denied overtime pay; docked 15 minutes pay for every minute they were late to work; fired for talking while on the clock; forced to ration toilet paper, which typically ran out before 9 a.m. So this is the condition in sweatshops in New Bedford, MA.

These conditions exist in other parts of my State, regrettably, and other parts of this country. Why? Because we have, unfortunately, employers who are prepared to exploit the current condition of undocumented workers in this country—potentially, close to 12½ million are undocumented. Because they are undocumented, employers can have them in these kinds of conditions. If they don't like it, they tell them they will be reported to the immigration service and be deported. That is what is happening today.

I yield to no one in terms of my commitment to working conditions or for fairness and decency in the workplace. That is happening today. The fact that we have those undocumented workers and they are being exploited and paid low wages has what kind of impact in terms of American workers? It depresses their wages. That should not be too hard to grasp. Those are the facts.

Now what do we try to do with this legislation? We are trying to say: Look, the time of the undocumented is over. You are safe. You will not be deported. Therefore, you have labor protections. If the employer doesn't do that, you have the right to complain, a right to file something with the Labor Department, and we are going to have a thousand labor inspectors who are going to go through the plants in the country to make sure you are protected. That doesn't exist today. It will under this legislation.

So what we are saying is that those who are coming in to work temporarily are going to be treated equally under the U.S. labor laws. Employers must provide them workers' compensation. So if something happens to them in the workplace, they will be compensated rather than thrown out on the street. Employers with histories of worker abuse cannot participate in the program. There are the penalties for employers who break the rules, which never existed before.

Now, we say: Well, you may very well be taking jobs from American workers. That is the question. What do you have to do to show that you are not going to take jobs from American workers? Well, if the employer wants to hire a guest worker, the employer must advertise extensively before applying for a temporary worker. The employer must find out if any American responds to that. If they do, they get the job. So the employer has to advertise and the employer must hire any qualified American applicant. Temporary workers are restricted in areas with high unemployment, and employers cannot undercut American wages by paying temporary workers less.

So we are saying the temporary workers are going to come in and be treated as American workers, and those who are undocumented are going to be treated as American workers. That is not the condition today. That is the condition in this legislation. How do we get there? Well, we get there with a comprehensive approach. What do you mean by a comprehensive approach? We are saying a comprehensive approach is that you are going to have border security. That is part of it. But you are also going to have the opportunity for people who are going to come in here through the front door—if you have a limited number of people coming in through the front door, and that number is down to 200,000 now, they will be able to come through the front door, and they will be able—in areas where American workers are not present, willing or able to work—to work in the American economy, with labor protections, which so many do not have today.

But we are going to have to say you need a combination of things—the security at the border. You have a guest worker program which is part of the combination. Is that it? No, no, it is not it. You have to be able to show your employer that you have the biometric card to show that you are legally in the United States. Therefore, you have rights. If that employer hires other people who do not have that card, they are subject to severe penalties. That doesn't exist today.

So when we hear all these voices about what is happening about the exploitation of workers, that happens to be true today. But those of us who have been working on this are avoiding that with the proposal we have on this particular issue.

Included in this proposal—the Senator makes a very good point, although I never thought we sunsetted the Bankruptcy Act. I wish we had. In this legislation, we have the provisions which set up and establish a commission. The commission in the legislation does this: In section 412 we say: Standing commission on immigration and labor markets. The purpose of the commission is what? To study the nonimmigrant programs and the numerical limits imposed by law on admission of nonimmigrants; to study numerical limits imposed by law on immigrant visas, to study the limitations throughout the merit-based system, and to make recommendations to the President and the Congress with respect to these programs.

So we have included in this legislation a very important provision to review the program we have. That panel is made up of representatives of the worker community, as well as the business community to make these annual reports to Congress about how this program is working so that we will then be able to take action: Not later than 18 months after date of enactment and every year thereafter, submit a report to the President and the Congress that contains the findings, the analysis conducted under paragraph 1; make recommendations regarding adjustments of the program so as to meet the labor market needs of the United States.

What we have built into this is a proposal to constantly review this program and report back to the Congress, so if we want to make the judgment to change the numbers, the conditions, the various incentives, we have the opportunity to do so. We believe—and I think the Senator makes a valid point—that it is useful to have self-corrective opportunities. He would do it by ending the program, by finishing it, by sunsetting it. We do it by having a review by people who can make a judgment and a decision and give information to Congress so that we can do it.

There is one final point I wish to make. We have a system, as the Senator from North Dakota pointed out, where people will work here, go back to their country of origin for a period of time, come back to work, go back to their country, and come back to work. Under our proposal, they get a certain number of points under the merit system which help move them on a pathway toward a green card and toward citizenship.

I wish that merit system could be changed in a way that favored workers more extensively and provided a greater balance between low skill and high skill because the labor market demands both. If you read the reports of the Council of Economic Advisers, you find there is a need for high skill, but 8 out of the 10 critical occupations are also low skill. We have tried, during this process, to see if we couldn't find equal incentives for both.

It is a fair enough criticism to say this merit system is more skewed toward the high skilled than it is toward the low skilled, but there are still very important provisions and protections in there for low skilled, and there are additional points added in case of family associations or if you are a member of an American family.

I really do not see the need. We moved from 400,000 down to 200,000. This is a modest program at best. We have in the legislation the report that will be made available to the Congress on a variety of areas. We have been very careful to make sure that everyone who is going to participate in this program, who is going to come in legally, is going to have the protections for working families today. That doesn't exist today. This legislation does protects them. The amendment of the Senator from North Dakota would cut out those provisions with regard to the temporary worker program.

The fact is, we need some workers in this country. All of us will battle and take great pride in being the champion of the increase in the minimum wage, and I commend my friend from North Dakota for his support over the years in increasing the minimum wage. We are very hopeful that we are going to finally get that increase in the next couple of days as part of this other legislation, the supplemental. We will be out here trying to get further increases in protections for American workers.

This is a modest program. It has the self-corrective aspect to it. It is a program that ought to be tried, and it ought to be implemented.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, recognizing the good-faith interest of the Senator from North Dakota in proposing this amendment, I nonetheless believe it should be rejected by the Senate. What the Senator from North Dakota has here is a fallback position. He offered an amendment yesterday to eliminate the guest worker program. Having failed there, he has a fallback position of trying to have it sunsetted.

There is no doubt about the need for guest workers in our economy. Last year in the Judiciary Committee, we held extensive hearings on this matter. We did not hold hearings this year, and we did not process this legislation through the Judiciary Committee, which in retrospect may have been a mistake, but here we are. But we have an ample record from last year.

We had the testimony of Professor Richard Freeman from Harvard outlining the basic fact that immigration raises not only the GDP of the United States because we have more people now to do useful activities, but it also raises the part of the GDP that goes to the current residents in our country.

We heard testimony from Professor Henry Holzer of Georgetown University to the effect that immigration is a good thing for the overall economy. ''It does lower costs. It lowers prices. It enables us to produce more goods and services and to produce them more efficiently.''

The executive director of the Stanford Law School program on law, economics, and business, Dan Siciliano, testified that there is a ''mismatch between our U.S.-born workers' age, skills, and willingness to work, and the jobs that are being created in the economy, in part as a function of our own demographics, whether they be elder care, retail, daycare, or other types of jobs.''

There is no doubt that there is a tremendous need for a guest worker program in our restaurants, hotels, on our farms, in landscaping, wherever one turns.

The Assistant Secretary of Policy at the U.S. Department of Labor testified earlier this month before the House Immigration Subcommittee that there are three fundamental reasons the United States needs immigrants to fuel our economy. That is the testimony of Assistant Secretary Leon Sequeira. The reasons he gives are that we have an aging workforce; we do not have enough people of working age to support the economy and support the social welfare programs, such as Social Security for the aging population; and immigrants contribute to innovation and entrepreneurship.

The chart which had been posted shows that the guest worker program is being treated fairly. Senator KENNEDY has outlined in some detail the review and analysis of the program, so the Congress is in a position to make modifications, if necessary.

After the laborious efforts in producing this bill, it would be my hope that we would not have to revisit it on an automatic basis in 5 years. If we find a need to do so, we will be in a position to undertake that review and to have congressional action if any is warranted. But on the basis of the record we have before us, I think this amendment ought to be rejected, and I urge my colleagues to do just that.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, unless the Senator from North Dakota wishes to briefly respond to Senator SPECTER, let me speak for 3 or 4 minutes.

I join Senator SPECTER in urging our colleagues to defeat this amendment. This is simply a light version of the amendment we defeated a couple days ago that would have eliminated the temporary worker program.

The problem here is twofold. First, there has been a basic agreement that even though Republicans generally did not want to allow illegal immigrants to remain in the United States and, in some situations, be permitted to stay

here for the rest of their lives, if that is their desire, and even get a green card and ultimately become citizens, there was an understanding that certain tradeoffs had to occur if we were going to get legislation. Part of the legislation does enable some 12 to 15 million people to have that right, as well as immigrants whose applications are pending, many of whom have no reasonable expectation of being able to naturalize, to actually be able to come here and get green cards and naturalize, perhaps some 4 million people.

If we have a temporary worker program, which is part of what Senators such as myself were proposing to relieve our labor shortages, if that program is only in existence temporarily but these other benefits are conferred permanently, you can see that you have a significant imbalance in the legislation.

Somebody said: What is mine is mine, and what is yours is up for grabs. In other words, one side pockets the ability of all the illegal immigrants to stay here, to get citizenship rights if they go through all of the process that enables them to do that, but the temporary worker program, which is desired by many in the business community and many foreign nationals who want the opportunity to come here and work, is only going to be temporary, and that might go away. That is not a fair way to proceed to the legislation, to have what you like is permanent, what I like is only temporary.

But there is a deeper problem. The whole point of having a temporary worker program is to ensure we are going to meet our labor needs in the future. We don't know exactly what those labor needs are, but they are going to be substantial. If you cannot plan with certainty that you know you can expand your business, you can make the capital investment in whatever the business is—let's say a meatpacking plant—that you are going to need some foreign nationals to come here on a temporary basis with a temporary visa to meet the employment needs because you found in the past that there are not sufficient Americans who have applied for that kind of work in the past, so you know you are going to need the temporary worker program, but you don't know whether that program is going to be in existence in 5 years, are you going to make the capital investment necessary? Are you going to be able to provide more tax base, more employment opportunities for Americans, as well as others, provide for more consumer choice in the country if you don't know you are going to have the labor force necessary to meet your needs?

Having a temporary worker program is not going to meet our long-term needs. As a result, I suggest that for planning purposes, for being able to know that labor pool is going to be available if we need it, we are going to have to have this temporary worker program. Therefore, there is not very much difference between simply eliminating the program now and saying in 5 years it is going to evaporate unless we take steps to reinitiate it.

I urge my colleagues to vote against the amendment. We defeated an amendment a few days ago. This is a killer amendment. Everybody knows that if this program goes away, it undercuts the entire program we tried to craft in a bipartisan way. We have to relieve the magnet of illegal employment in this country. That magnet is jobs that Americans won't do. As long as there is an excess of labor demand over supply, that magnet for illegal immigration is going to continue to pull people across our borders. That magnet is demagnetized when we have a temporary worker program that says we now have a legal way for you to meet your labor needs. It can be done within the rule of law. It is based on temporary workers. We need to keep that in this bill. It cannot be subject to some kind of a sunset so that it disappears 5 years from now and we have no idea at that point how to meet our labor needs.

I urge my colleagues, as we did 2 days ago, to reject the Dorgan amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. SPECTER. Will the Senator yield to me for a very brief unanimous consent request?

Mr. DORGAN. Mr. President, of course I will yield.

The PRESIDING OFFICER. The senior Senator is recognized.

AMENDMENT NO. 1168, AS MODIFIED

Mr. SPECTER. Mr. President, I ask unanimous consent that the previously agreed to Hutchison amendment No. 1168 be modified to read ''on page 7, line 2.''

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

Mr. KENNEDY. Will the Senator yield for a request?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that at 12:15 p.m., the Senate proceed to a vote in relation to the Akaka amendment No. 1186, to be followed by a vote in relation to the Coleman amendment No. 1158; that no amendments be in order to either amendment prior to the vote; that there be 2 minutes of debate equally divided and controlled in the usual form prior to each vote and that the second vote in the sequence be 10 minutes in length; further, that at 2:15 p.m., the Senate proceed to vote in relation to the Dorgan amendment No. 1181, with 5 minutes of debate equally divided and controlled in the usual form prior to the vote, with no amendment in order to the Dorgan amendment prior to the vote, all without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, Mr. President, I ask only that the Senator from Massachusetts amend the request to give Senator COLEMAN 5 minutes before the 12:15 vote.

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

Mr. DORGAN. Mr. President, reserving the right to object, Senator DURBIN will ask to speak for 10 minutes, and we will do that in addition to the 10 minutes I will want to speak before my vote, if that is acceptable.

The PRESIDING OFFICER. Without objection, the amended unanimous consent request is agreed to.

Mr. KENNEDY. Mr. President, as I understand the request, the time the Senator is getting is prior to his vote at 2:15.

Mr. DORGAN. Prior to my vote.

Mr. KENNEDY. And there will be time prior to that available as well for the Senator from Illinois.

Mr. SPECTER. Mr. President, following the entry of that unanimous consent request, I would ask the Senator from Massachusetts if we could call up the McCain amendment with the modification change which is at the desk and ask that it be adopted.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the Kennedy unanimous consent request, as amended by Senator DORGAN and Senator SPECTER, is agreed to.

AMENDMENT NO. 1190, AS MODIFIED

Mr. SPECTER. Mr. President, I urge adoption of the McCain amendment with the modifications which are at the desk.

The PRESIDING OFFICER. The clerk will report the amendment, as modified.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Mr. MCCAIN, for himself, Mr. GRAHAM, and Mr. BURR, proposes an amendment numbered 1190, as modified, to amendment No. 1150.

The amendment, as modified, is as follows:

On page 293 redesignate paragraphs (3) as (4) and (4) as (5).

On page 293, between lines 33 and 34, insert the following:

''(3) PAYMENT OF INCOME TAXES.—

''(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of any applicable Federal tax liability by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been paid; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(B) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

''(C) 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.

''(D) IN GENERAL.—The alien may satisfy such requirement by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been met; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

Mr. MENENDEZ. Mr. President, reserving the right to object, would somebody tell the body what the McCain amendment is?

Mr. SPECTER. Yes. As I had explained earlier this morning, the McCain amendment has a provision for the payment or a requirement of the payment of back Federal taxes.

Mr. MENENDEZ. The payment of back Federal taxes?

Mr. SPECTER. Mr. President, it calls for payment of back Federal taxes.

Mr. MENENDEZ. Mr. President, I have not had an opportunity to see the amendment, so I would object at this time. I may not ultimately object, but I would object at this time.

The PRESIDING OFFICER. The objection of the Senator from New Jersey is acknowledged.

The Senator from North Dakota is recognized.

AMENDMENT NO. 1181

Mr. DORGAN. Mr. President, my colleague from Arizona used the dreaded words ''killer amendment.'' It is like killer bees and killer whales. On the Senate floor, it is ''killer amendment.'' Pass this amendment, and we will kill the bill, we are told.

I said yesterday that it is like the loose thread on a cheap sweater: You pull the thread, and the arm falls off or, God forbid, the whole thing comes apart. It is not just this bill. This happens every single time a group of people bring a bill to the floor of the Senate. If you amend it, if you change our work, then somehow you kill what we have done. Of course, that is not the case at all.

Let me talk about a couple of the items that have been raised. Worker protection. The workers in New Bedford, MA. Let me describe to you a worker in the Gulf of Mexico just after Hurricane Katrina hit. His name is Sam Smith. Sam Smith was an electrician. Just after Katrina hit, he knew there was going to be a lot of reconstruction work. Sam Smith was a skilled craftsman, an electrician. He was told by an employer that he could come back and take a $22 an hour job—$22 an hour—for work as an electrician. The job would last 1 year. It only lasted a couple weeks. I don't have the picture to show you, but I have had it here on the floor before to show what Sam Smith faced, and it was a picture very similar to New Bedford, MA. Those who came into this country, presumably illegally, living in squalid conditions, being given very low wages to take the work Sam Smith was promised.

What is the solution? Well, the fact is, in New Bedford, MA, and in this case, the employer is guilty, in my judgment, of mistreating its workers. We have worker protection laws in this country. We have worker protections. If an employer abuses them in New Bedford, MA, or New Orleans, LA, that employer is responsible. Law enforcement is responsible to investigate and prosecute.

That is not what this bill is about. My colleague says, well, the way to resolve the situation in New Bedford, MA, is to make the illegal immigrants working there legal. Just describe them as legal. Would that be the way you would handle it in New Orleans, LA, to say, well, the people who came in to take Sam's job should be deemed legal? I don't think so. Why not punish the employer for abusing the rights of these immigrant workers and why not restore those jobs to those who were the victims of the hurricane in the first place? Is the principle here that we describe the problem as mistreatment of workers who are illegal immigrants, and therefore what we will do is deem them legal to hold those jobs and therefore expect some other kind of behavior by the employer? I don't think so. So that is a specious argument, frankly. We have worker protection laws. They ought to be enforced. If they are not enforced, there is something wrong with the system.

Now, one of my colleagues says there is no doubt that we need additional workers. Oh yes, there is doubt—probably not in the U.S. Chamber of Commerce. There is no doubt they want additional cheap labor. But there is plenty of doubt.

My colleague says there is an economist from Harvard who says this raises the GDP, this bringing in of immigrant labor, presumably illegal labor, determining that they are then legal once they have come across illegally. It raises the GDP. Well, you can get a Harvard economist to say anything you want. We all know that.

Let me describe my Harvard economist—my Harvard economist, Professor George Borjas. Here is what he says. The impact of immigration between 1980 and 2000 on U.S. wages is lower wages in this country, and he describes which ethnic group is hurt the worst. Hispanics are hurt the worst and Blacks next.

My colleague says that his Harvard economist states that one of the benefits of bringing in this additional labor from outside of our country is lower costs. Well, in my hometown, I understand what lower costs means. It means they are going to pay less to the people making it. That is called lower wages. And that is exactly what my Harvard professor says is the case.

The PRESIDING OFFICER. The Senator will suspend.

Under the previous order, the Senator from Minnesota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, I profoundly misunderstood the unanimous consent request. That is my fault, not the Presiding Officer's. I will ask consent, of course, to speak after the break for the luncheons, and I guess we have in order 10 minutes for me and 10 minutes for Senator DURBIN prior to the vote on my amendment; is that correct?

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I am not going to object to the time. The Senator ought to have wrap-up on this. But if we can have the 5 minutes prior to the Senator's last 5 minutes, I would be agreeable.

Mr. DORGAN. One of the things I am good at is wrapping up. So let me wrap up in 2 minutes by going through this grid so that we would then recognize Senator COLEMAN for the time he has been given.

The PRESIDING OFFICER. Is there objection?

Mr. COLEMAN. Mr. President, reserving the right to object, there is a unanimous consent agreement that says the vote starts at 12:15. I want to make sure everything is pushed back accordingly, if there is an extra 2 minutes here.

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

Mr. DORGAN. Mr. President, I will yield the floor to the Senator from Minnesota. I will have time to wrap up. If we are in a time requirement, I will yield the floor and find time elsewhere.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 1190

Mr. COLEMAN. Mr. President, I first ask unanimous consent that the McCain amendment, No. 1190, which was called up as modified, with the changes at the desk, be adopted.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Reserving the right to object, is this the same amendment that was just offered a few minutes ago?

Mr. COLEMAN. Yes.

Mr. MENENDEZ. I have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1190), as modified, was agreed to.

Mr. MCCAIN. I thank the bill managers for agreeing to accept this amendment, which I am pleased to be joined in sponsoring with Senator GRAHAM.

As my colleagues will hear throughout this debate, the bipartisan group of Members who developed this legislation, along with representatives of the administration, worked to develop this comprehensive reform measure with the foremost goal of developing a proposal that can be enacted this year. It is not a bill on which we are just ''going through the motions.'' Like any legislation on an expansive issue like immigration reform, this is a complex

compromise agreement, and that means that while perhaps no one is entirely happy with every single provision in the bill, we believe it provides a solid foundation for this floor debate. It is a serious proposal to address a very serious problem.

When Senator KENNEDY and I first proposed legislation in May 2005, it included, among other things, a series of strict requirements that the undocumented population would have to fulfill before being allowed to get in the back of the line and apply for adjustment of legal status. One of those provisions failed to be part of the consensus before us today due to concerns raised with respect to practicality. That provision required the undocumented to pay any back-taxes owed as a result of their time living and working in our country illegally.

I strongly believe everyone living and working in our country has an obligation to meet all tax obligations, regardless of convenience or practicality. Yes, requiring any undocumented immigrant to prove he or she has met their tax obligations will take manpower. After all, we are talking about as many as 12 million people. Undocumented immigrants will most likely have to find and submit plenty of paperwork to prove they have met their obligations. But that is what citizens here do. We pay our taxes. We may complain, but we pay our taxes. And while I don't doubt that it may be a difficult undertaking to require as a condition of receiving permanent status in the United States the payment of back-taxes, that isn't a good reason to toss the requirement aside. If an undocumented immigrant is willing to meet the many stringent requirements we are calling for under this bill, and I think they will be willing, including learning English and civics, paying hefty fines, and clearing background checks, that person should also have to prove their tax obligations have been fulfilled prior to adjusting their status.

Again, I thank the bill managers and urge the adoption of this amendment.

Mr. BURR. Mr. President, I support the amendment offered by Senator MCCAIN that requires the collection of back taxes from those who have worked in our country illegally and seek future adjusted status.

As one of the Founders of our Nation, Benjamin Franklin, wisely acknowledged long ago, ''In this world, nothing is certain but death and taxes.'' All individuals enjoying the American lifestyle have to pay taxes. As burdensome, painful, and onerous as the process may be, anyone who lives and works in the United States has the responsibility to pay Uncle Sam. The people whose legal status is affected by this bill should be no different. If they have worked in our country illegally, they should not get a free-ride when it comes to paying the tax obligations they have avoided for the time that they have been here.

Undocumented aliens who seek to assimilate into our society and want to become American citizens have high hurdles to overcome—and that is the way it should be. Those who want to become a part of our great country must come out of the shadows, tell us who they are, pay heavy fines, return to their country, learn English, consistently hold a job, follow the law, and they should also have to pay their tax obligations. There is no doubt that these requirements will be difficult to achieve for those seeking adjusted status—both practically and financially. However, this additional requirement is absolutely necessary. Payment of back taxes for unauthorized work is not only financially critical, it is morally right.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 1158

Mr. COLEMAN. Mr. President, I just want to, in perhaps less than 5 minutes, address the amendment we are going to vote on in a little bit, at 12:35. It is a simple amendment.

There is existing Federal law which says that municipalities may not restrict in any way—the language is very clear—in any way prohibit or restrict any governmental entity from sharing information with Federal authorities about immigration status. It is the law. The law says you can't restrict from sending, maintaining, or exchanging. What has happened is that some cities—referred to as so-called sanctuary cities—have adopted policies to circumvent what has been Federal law since 1996. I want my colleagues to understand that this is an amendment to a bill that, if passed, will end the need for sanctuary cities. If passed, this bill will allow folks to come out of the shadows and into the light. The only folks who won't come into the light will be those folks who have criminal problems. In other words, if this bill is passed with this amendment, it will allow folks to come out of the shadows, a concept that I support, and I want to make sure we do the right thing.

In the existing bill, we are telling employers they cannot create a sanctuary, they cannot create a haven for illegal aliens. We are saying to them that if they do, they will be penalized. If we do that, we should also then go to those cities or communities which are creating these sanctuaries and say to them that everyone is going to follow the rule of law, everyone is going to.

I think one of the challenges we face in getting the public to accept what we are trying to do is that there is a sense that somehow we are not following the rule of law. So this is very simple. If we are telling employers that they cannot provide a sanctuary, that they cannot shield individuals, then we have to tell the same thing to cities and to communities.

Lastly, there are those who say: Well, this is going to impact crime victims. The reality is that these sanctuary cities protect criminals. They are not limited. It protects criminals. So if we pass the underlying bill, folks can come out of the shadows. And for those who want to stay in the shadows, they should not get sanctuary by a city policy that is in contravention to existing Federal law. I believe those policies violate existing Federal law and in doing so protect criminals.

Let's uphold the rule of law. Let's do what is the right thing and the fair thing, and let's support this amendment, which, again, very simply—very simply—requires cities and communities to comply with what has been Federal law since 1996. Let's tell the public that this bill is about respecting the law at every phase.

I hope my colleagues will support my amendment to get rid of this concept of sanctuary cities.

Mr. KENNEDY. Mr. President, I wonder if the Senator will yield the last minute and a half to the Senator from Colorado. Would he be willing to do that?

Mr. COLEMAN. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I thank my friend from Minnesota for yielding me a minute and a half of time. I come to the floor to speak against his amendment, No. 1158. At the end of the day, what his amendment would do—it appears to be innocuous on its face—it would essentially make cops out of emergency room workers, out of school teachers, and out of local and State cops.

The reality is that we have a responsibility at the Federal Government to make sure we are enforcing our immigration laws as a national government. We ought not to put emergency room workers, we ought not to put school teachers in a position where they have to be the cops of our immigration laws in our country. New York City Mayor Bloomberg, in his own statement in opposition to this amendment, said:

> New York City cooperates fully with the Federal Government when an illegal immigrant commits a criminal act. But our city's social services, health and education policies are not designed to facilitate the deportation of otherwise law-abiding citizens.

Do we want somebody by the name of Martinez simply to go into an emergency room and to have that emergency room responder be in a position where he has to act as a cop because he suspects somebody named Martinez might be illegal?

This is a bad amendment. It will create problems. I urge my colleagues to oppose it.

AMENDMENT NO. 1186

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, on amendment No. 1186, offered by the Senator from Hawaii, Mr. AKAKA. Who yields time?

Mr. KENNEDY. Mr. President, I see the Senator from Hawaii. Could we delay the 1 minute? I ask unanimous consent we delay the 1 minute for 30 seconds.

Mr. President, I yield myself 1 minute.

I thank the Senator from Hawaii, Senator AKAKA. He has brought to the Senate the fact that there are about 20,000 immediate relatives of courageous Filipino families who served with American forces in World War II. They would be entitled under the other provisions of the bill to come here to the United States. This particular proposal moves this in a more expeditious way. These are older men and women who have been members of families who served with American fighting forces in World War II. He offered this before. It was accepted unanimously. I hope the Senate will accept a very wise, humane, and decent amendment by the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 1 minute.

Mr. AKAKA. Mr. President, I thank the chairman for bringing this forward. My amendment seeks to address and resolve an immigration issue that, while rooted in a set of historical circumstances that occurred more than seven decades ago, still, and sadly, remains unresolved today. It is an issue of great concern to all Americans who care about justice and fairness. It goes back to 1941, when President Roosevelt issued an Executive order, drafting more than 200,000 Filipino citizens into the United States military. During the course of the war, it was understood that the Filipino soldiers would be treated like their American comrades in arms and be eligible for the same benefits. But this has never occurred.

In 1990, the World War II service of Filipino veterans was finally recognized by the U.S. Government and they were offered an opportunity to obtain U.S. citizenship. Today we have 7,000 Filipino World War II veterans in the United States. The opportunity to obtain U.S. citizenship was not extended to the veterans' sons and daughters, about 20,000 of whom have been waiting for their visas for years.

While the Border Security and Immigration Reform Act of 2007 raises the worldwide ceiling for family-based visas, the fact remains that many of the naturalized Filipino World War II veterans residing in the United States are in their eighties and nineties, and their children should be able to come to America to take care of their parents. My amendment makes this possible. I urge my colleagues to support my amendment and to make this come through for our Filipino veterans and their families.

The PRESIDING OFFICER. The time of the Senator has expired. The question is on agreeing to amendment No. 1186, offered by Senator AKAKA.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), and the Senator from Wyoming (Mr. THOMAS).

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

The result was announced—yeas 87, nays 9, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—87

Akaka	Domenici	McConnell
Alexander	Dorgan	Menendez
Allard	Durbin	Mikulski
Baucus	Ensign	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Grassley	Obama
Bond	Hagel	Pryor
Boxer	Harkin	Reed
Brown	Hatch	Reid
Byrd	Hutchison	Roberts
Cantwell	Inouye	Rockefeller
Cardin	Kennedy	Salazar
Carper	Kerry	Sanders
Casey	Klobuchar	Schumer
Clinton	Kohl	Shelby
Coburn	Kyl	Smith
Cochran	Landrieu	Snowe
Coleman	Lautenberg	Specter
Collins	Leahy	Stabenow
Conrad	Levin	Stevens
Corker	Lieberman	Tester
Cornyn	Lincoln	Thune
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	Webb
Dodd	McCain	Whitehouse
Dole	McCaskill	Wyden

NAYS—9

Bunning	Gregg	Sessions
Chambliss	Inhofe	Sununu
Enzi	Isakson	Vitter

NOT VOTING—4

Brownback	Johnson
Burr	Thomas

The amendment (No. 1186) was agreed to.

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

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. HAGEL. Mr. President, I ask unanimous consent that I be registered in favor of vote No. 176, the Akaka amendment. My change will not affect the outcome. I ask unanimous consent that my vote be changed from ''nay'' to ''yea.''

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

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1158

Mr. KENNEDY. Mr. President, I understand there is 2 minutes evenly divided. I yield our minute to the Senator from New Jersey.

The PRESIDING OFFICER. Under the previous order there will be 2 minutes equally divided on amendment 1158, offered by the Senator from Minnesota.

The Senator from Minnesota is recognized.

Mr. COLEMAN. Mr. President, I want my colleagues to listen. I want my colleagues to understand there is nothing in this amendment that requires teachers, hospital workers, anyone, to do anything. What it simply does is it lifts a gag order. It lifts a policy and a practice in some cities that gags police officers from doing their duty, from complying with what has been Federal law since 1996.

There is no requirement that anybody do anything. It lifts the gag order. There was testimony by Houston police officer John Nichols before the House Judiciary subcommittee. He said this: When we shackle law enforcement officers in such a manner, instead of protecting U.S. citizens and people here legally, the danger to society greatly increases by allowing potentially violent criminals to freely roam our streets.

If the underlying bill is passed, there should be no need for sanctuary cities. The only folks who will want to remain in the shadows will be those who do not want anyone to know they are in the shadows. These present sanctuary cities, if the law passes, will protect criminals, and we should again get rid of the gag order. That is all this amendment does.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. MENENDEZ. Mr. President, this amendment undoes what State and local police have long sought to do, separate their activities from those of Federal immigration orders, because they understand some of the toughest law enforcement people in this country want the freedom to be able to communicate with immigrant communities so they come forth and talk about crimes. The standard the Senator offers here is probable cause. Probable cause what? Based on what? My surname, Menendez? Salazar? Martinez? Probable cause how? The way I look? Probable cause, the accent I have? Is that the probable cause that leads an ambulance worker or a municipal hospital worker to ask when somebody is being rolled in? This leads to the opportunity for racial profiling. This leads to the opportunity when we have disease spreading, such as tuberculosis, for people, not coming forth to report themselves, this leads to a woman who has been the subject of domestic violence not reporting herself. This is clearly not in the interest of our country. I believe it is discriminatory. It leads to racial profiling. It is not necessary for the pursuit of law enforcement.

I urge my colleagues to vote no.

The PRESIDING OFFICER (Mr. TESTER). All time has expired.

The question is on agreeing to amendment No. 1158.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. THOMAS).

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

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—48

Alexander	Craig	McCain
Allard	Crapo	McCaskill
Baucus	DeMint	McConnell
Bayh	Dole	Murkowski
Bennett	Dorgan	Nelson (NE)
Bond	Ensign	Pryor
Bunning	Enzi	Roberts
Burr	Grassley	Sessions
Byrd	Gregg	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Tester
Collins	Kyl	Thune
Corker	Landrieu	Vitter
Cornyn	Lott	Warner

NAYS—49

Akaka	Hagel	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Snowe
Clinton	Levin	Specter
Conrad	Lieberman	Stabenow
Dodd	Lincoln	Voinovich
Domenici	Lugar	Webb
Durbin	Martinez	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Mikulski	
Graham	Murray	

NOT VOTING—3

Brownback	Johnson	Thomas

The amendment (No. 1158) was rejected.

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 1199 TO AMENDMENT NO. 1150

(Purpose: To increase the number of green cards for parents of United States citizens, to extend the duration of the new parent visitor visa, and to make penalties imposed on individuals who overstay such visas applicable only to such individuals)

Mr. DODD. Madam President, I ask unanimous consent that the pending amendment be set aside and send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, reserving the right to object—and I do not intend to object—my friend from Connecticut has an amendment that deals with family reunification. We have several other amendments—Senator MENENDEZ and Senator CLINTON have other amendments—dealing with family and family reunification. This is going to be a very important aspect in terms of our debate and the completion of this legislation.

It is our intention to try to consider these amendments in relationship with each other at the appropriate time. We will work with the proponents of each of these amendments. So I will not object, but I would also put in the queue, so to speak, the other—I see Senator MENENDEZ on the Senate floor. He will probably put his in. And we would then put in, I guess, Senator CLINTON's amendment as well.

That is for the general information about how we are going to proceed. But I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from New Jersey.

Mr. MENENDEZ. Madam President, reserving the right to object—and I will not object—if the Senator from Massachusetts would yield for a moment for a question.

Mr. KENNEDY. Yes.

Mr. MENENDEZ. Madam President, I have been waiting on the floor of the Senate most of the day to offer an amendment related to families. I will not be objecting to Senator DODD's, which I am a cosponsor of as well. The question is, I assume the Senator may be going to an amendment, after Senator DODD's, on the other side of the aisle, and then I would hope we could come back and that my amendment would be next in order—after the next Republican amendment.

Mr. KENNEDY. Madam President, we thought we would try to take Senator DODD's and yours, and then take two Republican amendments.

Mr. MENENDEZ. That would be fine with me. Thank you.

I withdraw my objection.

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

Without objection, it is so ordered. The amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, and Mr. MENENDEZ, proposes an amendment numbered 1199 to amendment No. 1150.

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

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

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

Mr. DODD. Madam President, I have spoken about the amendment already, last evening. Again, I have talked to Senator GRAHAM of South Carolina and the Senator from Massachusetts, the manager of this legislation on the floor. My understanding is, at an appropriate time we will have an opportunity to actually vote on these amendments.

Madam President, I rise to offer an amendment to the immigration bill with my good friend from New Jersey, Senator MENENDEZ, that relates to the parents of U.S. citizens. My amendment is simple in what it proposes but enormously important in what it seeks to accomplish.

It prevents this bill from dividing millions of American families by making it easier for U.S. citizens and their parents to unite. As currently written, this bill weakens the principle of family reunification in a way that is harmful to our nation and unfair to our fellow citizens.

Under current law, parents are defined as immediate relatives and exempt from green card caps. Yet this bill drastically and irresponsibly excludes parents from the nuclear family and subjects them to excessively low green card caps and an overly restrictive visa program.

This amendment rights this wrong by increasing the new annual cap on green cards for parents of U.S. citizens; extending the duration of the parent visitor visa; and ensuring that penalties imposed on overstays are not borne collectively.

The debate on this provision goes to the heart of how a family is defined in America. For millions of American citizens, parents are not distant relatives but absolutely vital members of the nuclear family who play a critical role, be it as grandparents providing care for their grandchildren while their parents are at work or as sources of strength and support for their bereaved or single children.

Ensuring that parents have every opportunity to unite with their children or live with them for extended periods is important not only because of their contribution to the nuclear family but also so that their children can support and care for them in sickness and in health.

We all know that sense of duty from our own lives. And for those of us who have lost our parents, we wish we had the opportunity to do so.

That is exactly why it has been our policy to date to allow U.S. citizens to sponsor their parents to come to this country without caps. Yet now we are told that parents are no longer immediate relatives and subject to caps. That parents no longer fit in the same category of relatives as minor children and spouses, an idea that millions of Americans would disagree with.

We are told that we must weaken that principle, thus disrupting the lives of countless law-abiding families, in the name of reducing ''chain migration.'' Well, that is a red herring. The truth is that once parents of citizens obtain immigrant visas, they usually complete the family unit and are unlikely to sponsor others.

That is why today we must do justice to the families of our fellow citizens who seek nothing more than to keep their families intact. This amendment does just that.

First, it increases the new green card cap from 40,000 to 90,000. Ninety thousand is the average number of green cards issued each year to parents who as I mentioned have to date been exempt from caps. Again this is just an average. Last year the number was 120,000.

It is abundantly clear that 40,000 green cards per year is an unreasonably low number. One of the goals of this bill is to clear the backlog on immigrant visa applicants which in some cases extends as far back as 22 years. If we don't allot sufficient numbers of green cards for parents in this bill, we risk creating a whole new category of backlog. Ninety thousand would meet this need.

To those who still think 90,000 is too high a number, I would also argue that it is simply not the place of the Senate to tell our fellow citizens that they should wait a year or two to see their parents. I would ideally not want the parents of any citizen of this country subject to caps but working within the framework of this bill, I believe 90,000 is entirely fair and reasonable.

Second, it extends the parent visitor visa to allow for an aggregate stay of 180 days per year and makes it valid for 3 years and renewable. These are already accepted timeframes for the validity of a visa. Madam President, 180 days is the length of a tourist visa; H–1Bs are valid for 3 years. This would allow those parents who do not want to permanently leave their countries of residence yet want to stay with their children in the U.S. for extended periods the ability to do so.

The current bill however limits the length of this visa to only 30 days per year—30 days. This is far too soon to pry parents away, particularly those who come to America for health reasons, or to care for their children during and after childbirth.

Many parents who live abroad, come to the United States at great expense. They often come from thousands of miles away just to be with their children and grandchildren. To limit them to a 30-day visit per year is simply unacceptable, especially when under a tourist visa, an individual can come to this country for 6 months.

To think that a parent can only be with his or her child or grandchild for 1 month out of 12 is simply unacceptable. Yet under this provision, a tourist can be in America six times longer than a parent of a citizen. That is not the America I know. That is not an America that cherishes family values.

Third, and finally, this amendment prevents collective punishment for parent visa overstays. Under this bill, if the overstay rate exceeds 7 percent for two years, either all nationals of countries with high overstay rates can be barred or the entire program can terminated.

Needless to say, this form of collective punishment is patently wrong and unjust. We should never punish law abiding individuals on account of the misdeeds of others.

Under this bill, for example, a sponsor could be barred from sponsoring his widowed mother because his father at some earlier date overstayed his visa. That is not the type of law we want on our books. That is not what this country is about. Nor is it about stopping thousands of parents from entering this country because of the misdeeds of some.

This my amendment will unite and strengthen the families of our fellow Americans and the fabric of our society, while upholding the best traditions of this great country. Because as we all know, families are the backbone of our country. Their unity promotes our collective stability, health, and productivity and contributes to the economic and social welfare of the United States.

My amendment does not strike at this bill's core; nor should it be a partisan issue. It is one of basic humanity and fairness for our fellow citizens.

What is at stake here is whether Congress should dictate to U.S. citizens if and when they can unite with their parents; if and when their parents can come and be with their grandchildren; if and when U.S. citizens can care for their sick parents here on American soil.

It is our duty to remove as many obstacles as we can for our fellow citizens to be with their parents. None of us would stand for anyone dictating the terms of that union to us. Why should we then apply a double standard for other citizens of this country? We must craft a law that is tough yet just.

I urge my colleagues not to think of this amendment in terms of numbers and caps, but in terms of its all too real and painful human impact for U.S. citizens.

I urge them to vote for this amendment and to take down the legislative barrier that this bill has stood up between our fellow citizens and their parents.

Again, at the appropriate time, I will ask for a recorded vote on this amendment. I thank my colleague from Massachusetts for allowing us to get in the queue here so that when these matters come up for votes, we will be able to consider them.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

CALLING UPON THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN TO IMMEDIATELY RELEASE DR. HALEH ESFANDIARI

Mr. CARDIN. Madam President, I ask unanimous consent to proceed to the immediate consideration of S. Res. 214 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 214) calling upon the Government of the Islamic Republic of Iran to immediately release Dr. Haleh Esfandiari.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CARDIN. Madam President, this resolution brings to the Senate's attention the ongoing plight of Dr. Haleh Esfandiari. Dr. Esfandiari is the director of the Middle East Program at the Woodrow Wilson International Center for Scholars here in Washington, DC. She holds dual citizenship with the United States and Iran and visits her ailing 93-year-old mother twice a year in Iran.

During her return to the United States on her last visit, Dr. Esfandiari's vehicle was robbed by three knife-wielding men. She lost her luggage and her travel documents. Later, when she requested the replacement documents, agents of Iran's Ministry of Intelligence began to question her for hours over the course of several days. The Ministry of Intelligence asked Dr. Esfandiari questions about her work and her work at the Woodrow Wilson International Center. The Woodrow Wilson International Center supplied exhaustive material about her education and information about her mission.

Dr. Esfandiari was essentially kept under house arrest for 10 weeks. On May 7 she was informed she must return to the Intelligence Ministry on May 8. Upon honoring the summons, Dr. Esfandiari was immediately taken into custody and jailed. She has been denied contact with her family, her attorneys, and the outside world. Earlier this week, news reports stated that Dr. Esfandiari is suspected of espionage and supporting the ''soft revolution'' against the regime in Iran.

Dr. Esfandiari is well known and well respected as a Middle East scholar. She has dedicated her professional career to bringing people together from the West to gain greater understanding of the Middle East and to gain common ground.

Increasingly, Iran has begun to stifle debate among different people and international exchanges.

The Department of State has called upon the Iranians to release Dr. Esfandiari. I am joined in this resolution by Senators MIKULSKI, BIDEN, LIEBERMAN, SMITH, CLINTON, and DODD, which encourages the State Department to keep up the pressure on the Iranians to do the right thing and release Dr. Esfandiari.

I also wish to recognize the solid effort of the Woodrow Wilson International Center and its staff, led by our former colleague in the House of Representatives, Lee Hamilton, for its steadfast support of Dr. Esfandiari.

Finally, I wish to express my support for Dr. Esfandiari's family during this trying time. She has a strong family and dozens of caring friends who refuse to give up her plight and refuse to let the Iranians suppress a beacon of peace and understanding.

This is outrageous. The Iranians need to do the right thing and allow her to return home here in the United States.

I can tell my colleagues that this body needs to stand in strong opposition to what the Iranians are doing, urging them to release this U.S. citizen so she can return here to her home.

Madam 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 there to be printed in the RECORD.

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

The resolution (S. Res. 214) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 214

Whereas Dr. Haleh Esfandiari, Ph.D., holds dual citizenship in the United States and the Islamic Republic of Iran;

Whereas Dr. Esfandiari taught Persian language and literature for many years at Princeton University, where she inspired untold numbers of students to study the rich Persian language and culture;

Whereas Dr. Esfandiari is a resident of the State of Maryland and the Director of the Middle East Program at the Woodrow Wilson International Center for Scholars in Washington, D.C. (referred to in this preamble as the ''Wilson Center'');

Whereas, for the past decade, Dr. Esfandiari has traveled to Iran twice a year to visit her ailing 93-year-old mother;

Whereas, in December 2006, on her return to the airport during her last visit to Iran, Dr. Esfandiari was robbed by 3 masked, knife-wielding men, who stole her travel documents, luggage, and other effects;

Whereas, when Dr. Esfandiari attempted to obtain replacement travel documents in Iran, she was invited to an interview by a representative of the Ministry of Intelligence of Iran;

Whereas Dr. Esfandiari was interrogated by the Ministry of Intelligence for hours on many days;

Whereas the questioning of the Ministry of Intelligence focused on the Middle East Program at the Wilson Center;

Whereas Dr. Esfandiari answered all questions to the best of her ability, and the Wilson Center also provided extensive information to the Ministry in a good faith effort to aid Dr. Esfandiari;

Whereas the harassment of Dr. Esfandiari increased, with her being awakened while napping to find 3 strange men standing at her bedroom door, one wielding a video camera, and later being pressured to make false confessions against herself and to falsely implicate the Wilson Center in activities in which it had no part;

Whereas Lee Hamilton, former United States Representative and president of the Wilson Center, has written to the President of Iran to call his attention to Dr. Esfandiari's dire situation;

Whereas Mr. Hamilton repeated that the Wilson Center's mission is to provide forums to exchange views and opinions and not to take positions on issues, nor try to influence specific outcomes;

Whereas the lengthy interrogations of Dr. Esfandiari by the Ministry of Intelligence of Iran stopped on February 14, 2007, but she heard nothing for 10 weeks and was denied her passport;

Whereas, on May 8, 2007, Dr. Esfandiari honored a summons to appear at the Ministry of Intelligence, whereby she was taken immediately to Evin prison, where she is currently being held; and

Whereas the Ministry of Intelligence has implicated Dr. Esfandiari and the Wilson Center in advancing the alleged aim of the United States Government of supporting a ''soft revolution'' in Iran: Now, therefore, be it

Resolved, That—

(1) the Senate calls upon the Government of the Islamic Republic of Iran to immediately release Dr. Haleh Esfandiari, replace her lost travel documents, and cease its harassment tactics; and

(2) it is the sense of the Senate that—

(A) the United States Government, through all appropriate diplomatic means and channels, should encourage the Government of Iran to release Dr. Esfandiari and offer her an apology; and

(B) the United States should coordinate its response with its allies throughout the Middle East, other governments, and all appropriate international organizations.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007—Continued

Mr. MENENDEZ. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Dodd amendment No. 1199.

AMENDMENT NO. 1194 TO AMENDMENT NO. 1150

Mr. MENENDEZ. I ask unanimous consent that the amendment be set aside in order to call up amendment No. 1194.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself and Mr. HAGEL, Mr. DURBIN, Mrs. CLINTON, Mr. DODD, Mr. OBAMA, Mr. AKAKA, Mr. LAUTENBERG, and Mr. INOUYE, proposes an amendment numbered 1194 to amendment No. 1150.

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

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

The amendment is as follows:

AMENDMENT NO. 1194

(Purpose: To modify the deadline for the family backlog reduction)

In paragraph (1) of subsection (c) of the quoted matter under section 501(a), strike ''567,000'' and insert ''677,000''.

In the fourth item contained in the second column of the row relating to extended family of the table contained in subparagraph (A) of paragraph (1) of the quoted matter under section 502(b)(1), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (3) of the quoted matter under section 503(c)(3), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (3) of the quoted matter under section 503(c)(3), strike ''440,000'' and insert ''550,000''.

In subparagraph (A) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''70,400'' and insert ''88,000''.

In subparagraph (B) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''110,000'' and insert ''137,500''.

In subparagraph (C) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''70,400'' and insert ''88,000''.

In subparagraph (D) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''189,200'' and insert ''236,500''.

In paragraph (2) of section 503(e), strike ''May 1, 2005'' each place it appears and insert ''January 1, 2007''.

In paragraph (1) of section 503(f), strike ''May 1, 2005'' and insert ''January 1, 2007,''.

In paragraph (6) of the quoted matter under section 508(b), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (5) of section 602(a), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In subparagraph (A) of section 214A(j)(7) of the quoted matter under section 622(b), strike ''May 1, 2005'' and insert ''January 1, 2007''.

Mr. MENENDEZ. Madam President, I ask unanimous consent that Senators DURBIN, CLINTON, DODD, OBAMA, AKAKA, LAUTENBERG, and INOUYE be added as cosponsors of this amendment, along with Senator HAGEL and myself.

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

Mr. MENENDEZ. Madam President, the legislation currently before us curtails the ability of American citizens, or U.S. permanent residents, to petition for their families to be reunified here in America. Right now, if the bill goes untouched, this bill sets two different standards for groups of people, and it sets it in a way that is fundamentally unfair. One group is those who have followed the law and obeyed the rules by having their U.S. citizen relative or U.S. lawful permanent resident petition to bring them into this country legally, and one more favorably—it treats the next group much more favorably, one who has entered or remained in the country without proper documentation. So those who have obeyed the rules, followed the law, relatives of U.S. citizens, get treated in an inferior way to those who have not followed the law, who get treated in a better way. Let me explain how.

The Menendez-Hagel amendment simply states that at a minimum, the two groups should be treated equally under the bill. Our amendment is about fundamental fairness. All this amendment does is to make sure both groups face the same cutoff date.

Right now, those who are in our Nation in an undocumented status are allowed under the bill to potentially earn permanent residency so long as they entered this country before January 1, 2007. All our amendment says is that those who followed the rules who are waiting outside of the country who are the immediate relatives of U.S. citizens shouldn't be treated worse because they obeyed the law and followed the rules. They should at least be treated the same, not worse. Therefore, they should have the same date: January 1, 2007. All this amendment does is simply apply the same standard, the same cutoff date to those who followed the rules so that those who did obey the law and who legally applied for their green card can potentially earn permanent residency so long as they apply for their visa before January 1, 2007.

Now, this is a somewhat complicated issue, so let me explain exactly what the legislation as it is currently drafted does if we don't adopt this amendment. Right now, there is a family

backlog of people who have applied for legal permanent residency. These are the people waiting outside of the country, waiting as they are claimed and have their petitions by a U.S. citizen or permanent resident saying: I want to bring my father or my mother here. I want to bring my child here. I want to bring my brother or sister here. This legislation, as currently drafted, does away with the rights of U.S. citizens to make that claim if, in fact, those individuals have not filed their application before May 1, 2005.

It is important to pay attention to that May 1, 2005 date because it is nearly 2 years before the cutoff for people who are here in an undocumented status—those who didn't follow the law, obey the rules, and those who may obviously have no U.S. citizen to claim them. So it actually says to a U.S. citizen and a U.S. permanent resident: You have an inferior right and a right that is now lost because it exists under the law as it is today. That right is lost, and your right is inferior to the rights of those individuals who have not followed the rules and obeyed the law. So as this bill seeks to clear the legal family backlog, we say: Don't treat a U.S. citizen worse. Don't treat a U.S. citizen worse. The legislation as currently drafted sets this arbitrary date of May 1, 2005, yet gives everybody else who didn't follow the law the date of January 1, 2007. That means a lot of family gets cut off. The rights of U.S. citizens get cut off as well.

Right now, the legislation also says that if you overstayed a visa or came to this country without proper documentation before January 1, 2007, you can ultimately become a lawful, permanent resident between the 9th and 13th year of the process that the bill describes. But if you applied for a visa outside of the country and you applied by a U.S. citizen or permanent resident and you followed the rules, there is no—no—guarantee you will ever be able to be reunified with your family.

Our amendment would remedy this injustice by moving the cutoff date for those who legally applied for visas to January 1, 2007—the same cutoff date that is currently set for the legalization of undocumented immigrants. And we would add the appropriate number of green cards to ensure we don't create a new backlog or cause the 8-year deadline for clearing the family backlog to slip by a few years. So we stay within the framework of the underlying bill; we just bring justice and fairness to the bill for those who have obeyed the law, followed the rules, and are the family members of U.S. citizens.

Now, why shouldn't legal applicants be able to keep their place in line if they applied before January of 2007? Clearly, this legislation, as it is currently written, is unfair to those who legally applied for a visa. The legislation unfairly says that those who followed the rules lose their place in line. The legislation unfairly says that those who followed the rules will have to wait at least an additional 8 years before they even become eligible to compete—eligible to compete—for a new proposed merit-based green card. The legislation unfairly says that those who followed the rules would have to wait a total of 10 years in addition to the time they have been waiting—in addition to the time they have been waiting—before they are eligible to compete under a new and different system, with a different set of rules, and no guarantee they will ever be able to be reunited with their family member, that U.S. citizen or permanent resident. Clearly, at a minimum, we should allow those who played by the rules to have the same cutoff date of January 1, 2007.

Now, not only is it unfair to make people who follow the rules wait longer than those who chose not to, it is also wrong to make people who applied under our current system have to reapply under a totally different one. Those who applied on May 1, 2005, or after, applied under our current immigration system that values family ties and employment at a premium, unlike under this bill, would now be subject to a completely different standard that is primarily concerned with education and skill levels. This is like changing the rules of the game halfway through it. People who applied after May 2005 would not only lose credit for the up to 2 years they have been waiting under the legal process, they would also have to apply under a completely different system than the one under which they originally applied.

Now, let's think of how fundamentally unfair that is.

In this photo is the late Marine LCpl Jose Antonio Gutierrez, a permanent resident of the United States—the first American casualty in the war in Iraq. For people similar to the late Jose Antonio Gutierrez who served their country, for them, under this bill—he was not only here legally but was serving his country—oh, no, you apply for your family by May 1, 2005, or, sorry, we will give those people who don't follow the rules and obey the law a preference. But you, who served your country, you who wore the uniform, you who have done everything right—no, you have an inferior right.

Is that the legacy we leave to people who have served their country, a legal permanent resident? Sometimes people don't even know we have legal permanent residents fighting in the service of the United States—tens of thousands. That is fundamentally unfair.

In this photo is another group of lawful permanent residents, ''first called to duty.'' They were in different services of the Armed Forces of the United States, serving their country, in harm's way. Guess what. Under the bill, you have family abroad, you applied for them, you did the right thing, and you told them to wait. After May 1, 2005, sorry, Charlie, your right is gone, just like that. Your value and service doesn't matter. All these soldiers, sailors, and marines—all different services—all of them are ultimately serving their country.

Under this bill, we take people such as them, and so many others, and vitiate their rights. That is fundamentally unfair. These people not only are serving our country abroad, they are protecting our airports, our seaports, and our borders. They risk their lives in Afghanistan and Iraq and around the world to protect us at home. To petition for your sister to come to live with you in America, you lose that right if you filed after May 1, 2005. You didn't do the right thing, but you get the benefit of 2 years more than those who obeyed the laws and followed the rules—brothers and sisters, sons and daughters, mothers and fathers. It is hard to imagine that one would have that right taken away from them.

Here is another case for you to consider. You are a U.S. citizen, you have paid your taxes, you have served your Nation, you attend church, and you make a good living. You are a good citizen. You petition to have your adult child come to America, but you did so after the arbitrary date of May 1, 2005. Under this bill, that U.S. citizen would lose their right. However, those undocumented in the country after May 1, 2005, get a benefit. It is hard to imagine, but it is true.

Right now, this bill is unfair and nonsensical, capriciously punishing those who have followed the rules and legally applied for a green card. What message, then, do we send? I have heard a lot about the rule of law, a lot about waiting in line, a lot about all those who should have followed our immigration laws. Yet what message does the bill send? You followed it, but your rights are vitiated, taken away—not the rights of the family member waiting abroad to come here, it is the rights of the U.S. citizen to make the claim for that individual. That is what bothers me about the underlying legislation. They are taking my right away and your right away as a U.S. citizen.

We must make sure that people who have played by the rules and legally applied to immigrate here are not arbitrarily placed at a disadvantage in respect to those who are in this country in an undocumented status. As I have said many times before, comprehensive immigration reform must be tough but must also be practical and fair and tough on border security. Certainly, we have done that here—this bill even moved more to the right—by providing a pathway to earned citizenship.

At the same time, we have to be fair by rewarding those who have followed the law. I think we have to remain true to those principles. Let me give you a little sense of this. I have heard a lot about chain migration. You know, it is interesting, we have seen during history that when we want to dehumanize something, take out the humanity of something, when we want to make it an abstract object, we find a word or a

phrase for it, such as chain migration. I have heard a lot about what a ''nuclear family'' is and is not.

I will use these paperclips to demonstrate this. I always thought a mother or father, son or daughter, brother and sister was not a chain; I thought that was a circle of strength. It is a circle of strength within our community. It is a sense of what our society is all about, regardless of what altar you worship at, what creed you believe in. I thought, when I heard the speeches of family values on the floor, that this was a circle of strength and dignity and the very essence of what is essential for our communities to grow and prosper.

What does this bill do? It says that is not a value—a mother, father, son, daughter, brother, sister. It is not a value. That is what this bill does. Let me tell you what family values have meant to this country. Here on the chart are names of Americans who had immigrant parents. A lot of them probably could not have come to this country under the bill as proposed. Look at what their offspring have provided for this country.

A gentleman known as General Petraeus happens to be leading our efforts in Iraq. He is our big hope to turn it around. He had immigrant parents.

Thomas Edison, from my home State of New Jersey, Menlo Park, invented electricity. He may not have been the originator of that in this country if his parents had not come here.

Martin Sheen, from the show ''West Wing,'' would not have been here under this bill.

Jonas Salk invented the polio vaccine, which was a great achievement. His parents would have likely not made it here under this bill.

Colin Powell, former Secretary of State, former chairman of the Joint Chiefs of Staff—he is somebody who is admired on both sides of the aisle—he would not have made it here under this bill.

Antonin Scalia—I may not agree with him all the time, but he is a distinguished member of the Supreme Court of the United States. Several of these names you might recognize as Republicans. He would not have likely made it here under the bill as proposed; Carl Sandburg, a great poet, who wrote of our humanity as a people; the late Peter Jennings, who talked to us every night on television.

These are all people who have contributed in so many different ways to our country because their parents came to America. Family values have enriched America.

Let me give you another group of citizens. These, unlike those others who were born in the United States, are naturalized U.S. citizens, meaning they weren't born in this country. They came here through the immigration process of our country. I would like to think some of them have contributed some good things:

The Governor of California, Arnold Schwarzenegger. I am not sure he would have made it into this country; Henry Kissinger, former Secretary of State; Ted Koppel, who brought us the news on ''Nightline:'' Levi Strauss, you have probably worn his products; Desi Arnez, one of my favorites, a Cuban immigrant, who loved Lucy every day on national TV; Bob Hope was a naturalized U.S. citizen. He brought an enormous amount of joy to our service men and women across the globe; Patrick Ewing, a great basketball player; Oscar de la Renta, a great designer; Liz Claiborne; Madeleine Albright, former Secretary of State; Albert Einstein. His parents never would have made it under this bill; Andrew Carnegie of the Carnegie Foundation; Joseph Pulitzer, of Pulitzer Prize fame; Michael J. Fox, who talks to us every day about the necessity for stem cell research and the incredible challenges of Americans with Parkinson's. He is a naturalized U.S. citizen.

The list goes on and on. The bottom line is that under this bill, so many of those, such as General Petraeus, Colin Powell, Thomas Edison, and Antonin Scalia, whose parents came to this country and therefore gave them the opportunity to be born in America, they would not have made it under this bill. Family values. Those who did not have the good fortune to be born here, but because their parents immigrated here, were naturalized U.S. citizens. They have contributed greatly.

So let's not dehumanize this reality. This isn't about ''chain migration.'' This isn't about some abstract sense of how we try to change a very important concept—family, family values, reunification, strengthening communities, and having great Americans who have altered the course of history and made this country the greatest experiment and country in the history of the world.

Our amendment simply says to all those who have espoused family values, it is time to put your vote with your values. It says don't snuff out the right of a U.S. citizen or a U.S. permanent resident, these guys in this picture—don't snuff out their right, all permanent residents of the U.S. originally, don't snuff out their rights to be able to claim family members. Don't treat those of us who are U.S. citizens and legal permanent residents worse than those people who didn't obey the law, follow the rules, and came into the country. Don't do this. At least treat us equally. At least treat us equally.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I appreciate my colleague from New Jersey and the passion and value he brings to this debate; it is tremendous, and we are all better for it. I am grateful to him.

I rise this afternoon to, once again, discuss the dire need we have in this country and in our communities for comprehensive immigration reform. I do believe the debate on immigration reform has been the kind of meaningful, bipartisan approach in the Senate—with Senators KYL and KENNEDY working together, Senator MCCONNELL and Leader REID working together—this is a bipartisan approach and the debate the American people expect out of the Senate.

I am proud we are moving forward on it because of the immediate need but also the way we are going about this process.

Despite the Senate's success in producing a bipartisan bill last year, the issue still has not been resolved. There is still much to be questioned, and we are working through that.

The majority of my colleagues will agree that our Nation's current immigration system is badly broken, it is out of date, and it desperately needs to be fixed. I plan to look for any plan that we can support that is tough and practical and fair in dealing with this ever-increasing issue.

Without a doubt, the top priority must be the safety and security of our country, as well as the economic needs of industry, U.S. citizens, and immigrants. But most importantly, the security issue is one of our top priorities.

I am so pleased the underlying bill includes triggers to require that Border Patrol agents are significantly increased and vehicle barriers and fencing are installed along the southern border with Mexico before any of the other provisions can even begin, making sure that we are taking care of what we know we can do and we can do quickly.

I believe this bill is a work in progress, though, just as any other bill we bring before the Senate—working hard through the committee process and through years of debate, but also recognizing that we are not here to create a work of art but to create a work in progress. Through these debates and actually through implementation, we learn what works and what doesn't work, what the current needs of our country are. But as we move forward with implementation, we learn the future needs.

If we debate reform in this bill in the coming days and weeks, we must also address other important issues. As I stated during last year's debate, my home State of Arkansas had the largest per capita increase of the Hispanic population of any State in the Nation during the last census. Arkansas has become what is referred to as an emerging Hispanic community, with largely first-generation immigrants. These immigrants have had a dramatic impact on our communities and our economy.

The majority of immigrants in my State came to the United States because they wanted an opportunity to work hard and achieve a better life for themselves and for their families. However, I believe it is to the detriment, oftentimes, of taxpaying Americans if we don't address the millions of illegal

immigrants living in our communities. We have to do so in a practical way, in a realistic way of how we effectively use the tax dollars we have, along with the rules and regulations and realistic barriers that we can put into place to rein in the problem that exists today in this country.

No reform proposal should grant amnesty. Amnesty is total unqualified forgiveness without restitution, and no policy should provide amnesty. This policy does not, nor did the one we passed in the last session of Congress. I don't think it is fair to the citizens of this Nation or to those immigrants who do play by the rules to come into this great land. Those who have broken the law, including employers who knowingly hire illegal immigrants, must face proper recourse.

However, I also don't believe it is practical, wise, or even, quite frankly, an economic reality to think that we can simply round up and deport all of the illegal immigrants who are residing in this country today. That is why I support an approach that includes serious consequences for those who are in our country illegally and yet want to remain. We create an earned path to citizenship and tough enforcement policies for businesses and those who are working toward that citizenship. We can eliminate the shadow economy that encourages illegal immigration.

According to the bill being debated, all undocumented immigrants who arrive in the United States before January 1, 2007, will be required to pay a hefty fine, a $5,000 fine, go to the end of the line, and wait 8 years before a green card can be issued, putting into place stiff regulations and expectations of those who have come here against the rules and yet want to remain, putting them at the back of the line not at the front.

In addition, a touchback provision has been included that will require the head of a household to return to his or her country of origin to apply for a green card before being allowed to return. Many of us know how absolutely precious citizenship in this great land is. When I first ran for Congress, I can remember the first thing my father told me. I was a young single woman out campaigning and pleading with my fellow Arkansans in east Arkansas, people I had known ever since I was born, people who had helped raise me, those I had grown up around.

My father said: Never, ever, ever miss an opportunity to ask someone for their vote. He said: When you have something that precious, you want to be asked for it.

Citizenship in this great country, just as that vote, is a precious gift, and we, as Arkansans and Americans, know that anything similar that precious is worth working for.

That is why these provisions are important because it demonstrates that citizenship is something that must be earned and is not free.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. LINCOLN. Mr. President, I am sorry, I didn't know I had a restricted time limit. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Is there objection to the request for an additional 2 minutes for the Senator from Arkansas? Without objection, it is so ordered.

Mrs. LINCOLN. I thank the Chair.

Mr. President, as I said, citizenship in this country is not free, and it is something that has to be earned and worked for, and that is what this bill requires.

I also believe any plan must consider guest workers. Many business leaders throughout our great State of Arkansas have told me about the valuable contribution that legal immigrant workers have made to the economic growth we have seen. It is my belief these workers are vital to sustained growth and development of many industries and farming communities throughout our land. However, we must ensure that adequate safeguards are in place to prevent guest workers from taking jobs from U.S. workers or driving down wages and benefits for hard-working Americans. We have seen that in this bill, and we will continue to work to strengthen it.

I am pleased the immigration reform legislation we are currently debating contains provisions that will improve our agricultural guest worker program which will benefit our Nation's farmers.

We stand at a crossroads in this country. Over the last decade and a half, the immigrant population has expanded in every area of our country, many of them coming here legally but some not; some coming illegally, many of them already paying local taxes. Almost half are paying into Medicare and Social Security with no promise of ever receiving any benefits.

We are faced with the decision that gets to the heart of what values we hold near and dear as Americans. We have always said: If you work hard and play by the rules, there is a place for you in this great land of America to raise your children and contribute to our great melting pot.

We now must consider as part of this debate what to do with those who have broken the rules to come here but have since worked hard to provide for their families. I hope the Senate will give this difficult question the reasoned, thorough debate it deserves.

The problems we face today with border security and illegal immigration did not appear overnight, and they will not be solved overnight. It is a difficult and complicated issue, and fixing it will not be easy. But while I am still reviewing the provisions of this legislation and reserve the right to try to improve it through the amendment process, as others will, I believe strongly that we can work to complete an immigration bill this year because we no longer can wait.

I thank the majority leader and Senator MCCONNELL. I thank Senator KENNEDY and Senator KYL for their hard work. And I look forward to continuing our work on this bill and hopefully finding a solution to this issue and doing so in a timely way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1186, AS MODIFIED

Mr. DURBIN. Mr. President, I ask unanimous consent that notwithstanding the adoption of amendment No. 1186, that it be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by inserting after subparagraph (G), as added by section 503 of this Act, the following:

''(H) Aliens who are eligible for a visa under paragraph (1) or (3) of section 203(a) and who have a parent who was naturalized pursuant to section 405 of the Immigration Act of 1990 (8 U.S.C. 1440 note).''.

AMENDMENT NO. 1181

Mr. DURBIN. Mr. President, pending before the Senate and a vote in a few moments is an amendment by the Senator from North Dakota, Mr. DORGAN. It will sunset the guest worker program at 5 years. We will stop at 5 years and take a look at this immigration program and decide whether it is good for America, whether it is fair and just.

I don't believe that is an unreasonable request. I think it is the right thing to do, and I will be supporting that amendment.

I wish to speak to that amendment, but first I wish to say a word about the bill.

Mr. President, 96 years ago, just a few miles from where we are meeting, on July 18, 1911, a woman came down a gangplank in Baltimore, MD. She had just arrived on a voyage from Bremen, Germany. She had a 2-year-old little girl in her arms and two young children, a boy and a girl, by her side. She stepped foot in America in Baltimore and took a train to join up with her husband in a place called East St. Louis, IL.

This woman who brought these three children across the Atlantic didn't speak English. She only knew that her husband was waiting 800 miles away and was making her journey. That woman was my grandmother. The baby in her arms was my mother. That was 96 years ago. Ninety-six years later, the son of that little girl stands as a United States Senator from Illinois. It is a story about America.

This Nation is great because of the immigrants and their sons and daughters who came here and made it great. I am certain that when my mother's family announced to their villagers in Jurbarkas, Lithuania, that they were leaving for America, that they were leaving behind their home, their garden, their church, their history, their language, and their culture and heading someplace where they couldn't

even speak the language, I am sure as their neighbors walked away in the darkness that evening they all said the same thing: They'll be back. They'll be back.

They didn't go back. They stayed here. They built America. People similar to them have been building America since the beginning.

This bill is about immigration. It is about a system of immigration that has failed us. It has failed us because 800,000 undocumented illegal people pour across our southern border every year into America. It has failed us because employers welcome these employees, often paying them dirt wages under poor conditions and say to them: We will use you until we don't need you, and then you are on your own.

These immigrants sacrifice for themselves, send their money home, and dream of someday that they will have security and peace of mind. That is the story.

Sadly, we have 10 or 12 million now in our country who came that way, with no legality or documentation.

I salute Senator KENNEDY and those who brought this bill to the floor. They have worked long and hard for years to deal with this issue honestly. They have to fight the talk show hosts who are on every afternoon screaming about immigration with not one positive thought of what we can do about it. Instead, Senator KENNEDY and many like him have stood up and said: We will risk our political reputation by putting this measure before America. Let's do something and fix this broken immigration system.

I salute them for that—for border enforcement, for workplace enforcement, for dealing honestly, fairly, legally, in an American way with the 12 million people who are here.

The amendment before us addresses one part. It addresses the guest worker program. As written in this bill, we would allow 400,000 people a year to come into America and work as temporary workers, and that number could increase. By action of the Senate yesterday, we reduced the 400,000 to 200,000.

Do we need 200,000 guest workers every year in America? I don't know the answer to that. I can tell you today that among college graduates in America, the unemployment rate is 1.8 percent. The unemployment rate for high school graduates is 7 percent. It tells me that there is a pool of untapped talent in America.

Do we need 200,000 people coming from overseas each year to supplement our workforce? I don't know the answer to that question. There are those who insist we do and some who say we don't. And that is why Senator DORGAN's amendment is important. It says we will try the 200,000 a year for 5 years and then stop and assess where we are, what has happened to wages of American workers, what has happened to businesses that need additional workers. We can make an honest assessment at that point. If we see American wages going down, if we see the unemployment rate of Americans going up, we may want to calibrate, reconsider.

His is a thoughtful and reasonable approach. Senator KENNEDY has said, and he is right, that we establish standards of treatment for these guest workers that are dramatically better than what they face today. There is gross exploitation taking place. We know that.

Many of these undocumented, illegal workers are treated very kindly, but many are exploited. We know the stories. we hear them, we read about them. We can change that, and we should. A great nation should not allow people to be exploited in this way.

It is not inconsistent to say that we will have a limited number of guest workers, that we will treat them fairly and honestly and in a decent manner, with decent wages, and then step back in 5 years and make an assessment of where we are. I think that is a reasonable approach to take.

There are many positive provisions in this bill, but the one thing that troubles me is the idea of guest workers being here for 2 years and leaving, creating a rotating class of people with little investment in the United States. How will that work? We already know the answer to that question. That is what European nations are doing today. They are bringing in people from former colonies and other countries. The Turks are coming into Germany, Africans coming into France, but they never become part of those countries. They are always the workforce. They become angry. They become dispossessed. They riot in the streets because they have no investment in that country in which they are working. They are being exploited and used. I don't want to see that happen in America. I want those who are living here to be vested in this country and its values and its ideals.

Finally, let me say that when it comes to guest workers and H–1B visas, where we invite higher skilled workers, our first obligation is to the workers of America, those who are unemployed and those who have the American dream but just need an American chance. As we look at each of these categories of workers, let us make certain that the first question we ask and answer is, are we dedicated to the workers and the families across America to make sure they have a fighting chance to realize the same American dream my mother realized when she came off the boat.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just as an inquiry, I think we are scheduled for a vote at 2:15; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I see the Senator from North Dakota.

How much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes, and the Senator from North Dakota has 8½ minutes.

Mr. KENNEDY. Mr. President, I yield myself 3½ minutes, and the Chair will let me know when I have ½ minute remaining.

Mr. President, just to summarize where we are, those of us who have studied this issue—and I respect all the Members of the Senate in giving this consideration—recognize we have to have a comprehensive approach. We don't rely on any one part in order to be successful with this recommendation in terms of immigration reform. We have the strong border security, but with the border security we do have some opportunity for people to come in the front door so they are not coming in the back door illegally. We have tough interior enforcement because we require that those individuals who are going to come in have a card. We treat them fairly, we treat them well, and we provide the same kinds of protections for those individuals that we give to the American workers. That doesn't exist today. It is an entirely different game.

We have to understand at the outset that the guest worker doesn't get in here unless there is a refusal of any American to do that job. If there is any American anyplace that will do the job, they get it. Do we understand that? This is for jobs Americans will not do. We hear great stories about people being unemployed here and unemployed there. I agree with that. But the fact is, there are some jobs in the American economy which Americans just will not do. I don't think that needs to be debated. And there are those who will come here and will do those jobs with the idea that, hopefully, they will have an opportunity to be part of the American dream. So the advertising goes out for the job that is out there, and Americans can get the job. If no American wants it, then the opportunity is there for a guest worker.

We have built in here a review of the guest worker program. The Senator from North Dakota says: Let's do a 5-year and then end it. We say: Let's take it to 18 months. I spoke earlier in the debate about what this commission does. It is made up of businessmen, it is made up of workers and of economists who will decide how this program is working. Is there exploitation? Is it functioning? If it is working, is it fair? It is 18 months, and then they have to give Congress the information. They do the study, they give the information, and we modify the program.

Under the existing program, people will go out and work for a period of 5 years, and they may very well earn points to become part of the American dream. That doesn't exist in the European system. This is entirely different. These individuals, in 5 years, up to a million individuals, earn points to become part of the American dream, but

then suddenly the Dorgan amendment pulls the strings right out from under them. Down they go. Down they go. The promise to them is if they work hard and play by the rules and work in very tough and menial jobs, they may have an opportunity—not guaranteed, but they may have the opportunity to be a part of the American dream, but not under the Dorgan amendment, under our amendment.

This is the way to go. We have in here the review that is essential and necessary. This can provide the Congress with the information of whether this program is working. It has been established, and it will be set up. It will be functioning, and it will give Congress the best information. We will have continuing oversight, and we will be able to adjust that program in ways that serve humanity and serve our economy.

I hope the Dorgan amendment will be defeated.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield 1 minute to the Senator from California, Mrs. BOXER.

Mrs. BOXER. Mr. President, it is very rare that I have such a strong disagreement with my friend, TED KENNEDY, but I don't understand the agitation over an amendment that simply says that a program that allows 200,000 foreign workers in here, a generalized program—this isn't AgJOBS, which is a specific industry program that we know we need because we know right now half the workers are foreign workers; this is a generalized, open program, 200,000 foreign workers a year. I think Senator DORGAN and I and others have shown that American workers are going to be hurt by this. So why is there so much angst about sunsetting a program that will allow in now 200,000 people a year? It was 400,000. Thanks to the Bingaman amendment, it is down. This is a modest amendment. This is a sensible amendment.

Mr. President, I would ask my friend to yield me 1 more minute, or 30 seconds.

Mr. DORGAN. I yield an additional 30 seconds.

Mrs. BOXER. Mr. President, here is the point: You are doing no harm to these people. Under this bill, these people have to leave at the end of 6 years. They are done. So for the Senator to say this somehow hurts people in the long run, it simply isn't true.

This is a modest amendment. It makes a lot of sense. Who knows, in 5 years, we could be in a massive depression. We don't want that, but we are certainly not going to want to extend the program in that case. This is a wise amendment, and I urge an ''aye'' vote.

I thank the Senator from North Dakota for his leadership.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes 40 seconds.

Mr. DORGAN. Mr. President, there is no social program in this country as important as a good job that pays well. That is just a fact. Having a job that pays well, with some job security, is the way we expand opportunity in this country and allow someone to be able to take care of their family.

We are told by those who offer this legislation that there are jobs Americans won't take, that we don't have enough workers and we should bring in workers from outside of our country. Well, it is true there are jobs, for example, at the lower end of the economic scale where businesses that offer those jobs don't want to pay anything for those jobs, and so they do not have people rushing to beat down the door to get those jobs. They do not have to pay a decent wage for those jobs if they can keep bringing in cheap labor. That is what is at work here in the guest worker program. I thought supply and demand was something that was cherished and embraced by the people who most strongly support this. Supply and demand. So if you are having trouble finding workers for a job, you raise the price, you raise the wage.

Do my colleagues know what is happening to workers in this country? Their productivity has gone way up. We have had dramatic gains in productivity by workers. Has their income gone up? No, not at all, especially those at the bottom. There is downward pressure on their income. Why? Because we are told we can have an almost inexhaustible supply of cheap labor coming into this country.

Even if this bill were not on the floor, we bring in 1.2 million people per year under the legal process by which people come to this country. So it is not as if there is not going to be immigration. On top of that, there will be well over a million people coming in for agricultural jobs without this bill. But this bill says that is not enough, that we need additional workers to come in because we need more of those workers, particularly unskilled workers, at the bottom.

Here is what this group has put together as a plan. It is hard for me to see how you could come up with a plan such as this, but this is the plan. It used to be 400,000, but now it is 200,000. In the first year, we bring in 200,000 people from outside of this country to come in and take American jobs—200,000 people come on in. They can stay for 2 years, by the way, and bring their family, if they want. Then they go home for a year, come back for 2, go home for a year, and come back for 2 more years. If they bring their family, they can only come twice, with a year in between.

So here is the way it works: 200,000 come in the first year. They stay here for the second year. That is 200,000. Another 200,000 come in, perhaps their families come in. Let's go through year 10. What you have, for example, in year 10 is you have 1,200,000 people here in year 10; 11, 1,200,000 people; in year 8, you have 1,200,000 people. We are not talking about 200,000 people; we are talking about millions of people, including their families, coming in during this period of time for the sole and exclusive purpose of taking American jobs—jobs which we offer in this country and which we are told Americans will not perform.

That is simply not true, by the way. Americans will perform these jobs if there are decent wages. But you don't have to pay decent wages if you can bring in people from elsewhere who are used to working for 50 cents an hour or from Asia where they are used to working for 20 cents an hour and working 7 days a week, 12 and 14 hours per day. If you dispute that, go to Xianxian, China, and check any of the factories there and find out the conditions and the wages.

Well, my point is this: We will get these millions of people into this country on top of the 1.2 million who will already come in legally. Plus we will say to the 12 million who came in illegally that you, too, now are deemed to be legal and given a work permit. On top of that, we want to bring in additional guest or temporary workers. I ask this question: Of these millions of people—millions of people—how many of them are going to leave and go back home?

My colleague yesterday said that the Governor of Arizona, who probably knows as much about this as any other Member of the Senate, has pointed out that you can build the fence down there—talking about the southern border—but if it is 49 feet high, they will have a 50-foot ladder. Talk to the Arizona Governor, he says. It is a matter of fact that some workers will still come here illegally or legally, but one way or another, they will come in. So much for the proposition that the bill brought to the floor of the Senate solves the immigration problem.

We are told we need a guest worker or temporary worker provision here because they are going to come anyway. Apparently, we are saying: OK, they are going to come in illegally anyway because we can't stop them—we don't have a provision in the bill to stop them—so we will very cleverly say they are guest workers and give them a permit as they come in. That is the bottom line here.

My amendment is very simple. I lost the amendment to strip out the guest worker provision, a provision we don't need and shouldn't need. It is a provision that is the price paid to the U.S. Chamber of Commerce for their support for this bill even as they export good American jobs through the front door, mostly to Asia. We don't need and should not support this provision. I lost my amendment the day before yesterday to strike this provision. This amendment I offer today says at least—at least let us sunset this provision in 5 years so we can take a look at whether any of these promises have made any sense.

I was here in the Congress in 1986. I heard all the promises of the Simpson-

Mazzoli Act. None of them were true, and 3 million people got amnesty. There was no border security to speak of, no employer sanctions to speak of, and there was no enforcement. Now, all these years later, we have 12 million people in this country without legal authorization. What do we do? We bring a new bill to the floor with border security, with employer sanctions, and a guest worker provision. Nirvana.

The fact is, it is not going to work, regrettably, and this is the worst possible provision in this bill, in my judgment.

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

How much time remains?

The PRESIDING OFFICER. The Senator has 17 seconds.

Mr. DORGAN. I will reserve the 17 seconds unless the Senator from Massachusetts is ready to yield back, and then I will yield back and we can vote.

Mr. KENNEDY. I yield the time.

Mr. DORGAN. I yield my time.

The PRESIDING OFFICER. All time has been yielded. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. THOMAS).

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

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—48

Baucus	Feingold	Obama
Bayh	Grassley	Reed
Biden	Harkin	Reid
Bingaman	Inhofe	Rockefeller
Boxer	Inouye	Sanders
Brown	Klobuchar	Schumer
Byrd	Kohl	Sessions
Cardin	Landrieu	Shelby
Casey	Lautenberg	Stabenow
Clinton	Leahy	Sununu
Coburn	Levin	Tester
Conrad	McCaskill	Thune
Corker	Mikulski	Vitter
Dodd	Murray	Webb
Dorgan	Nelson (FL)	Whitehouse
Durbin	Nelson (NE)	Wyden

NAYS—49

Akaka	Craig	Kennedy
Alexander	Crapo	Kerry
Allard	DeMint	Kyl
Bennett	Dole	Lieberman
Bond	Domenici	Lincoln
Bunning	Ensign	Lott
Burr	Enzi	Lugar
Cantwell	Feinstein	Martinez
Carper	Graham	McCain
Chambliss	Gregg	McConnell
Cochran	Hagel	Menendez
Coleman	Hatch	Murkowski
Collins	Hutchison	Pryor
Cornyn	Isakson	Roberts
Salazar	Specter	Warner
Smith	Stevens	
Snowe	Voinovich	

NOT VOTING—3

Brownback	Johnson	Thomas

The amendment (No. 1181) was rejected.

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

Mr. CRAIG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thought the Republican leader, the Senator from Kentucky, Mr. MCCONNELL, wanted to speak and introduce an amendment. Then we are hopeful that we would deal with the Vitter amendment, and after that we would go with the Feingold amendment, and perhaps even the Sanders amendment as well. That might be a way we proceed.

I see the Senator from Kentucky, who is going to talk for a period of time. Then we would go back to the Republican side, Senator VITTER, come back over here to Senator FEINGOLD, then perhaps they were looking on the other side—we had talked to our Republican colleagues—and we are hopeful to get a vote, potentially go to Senator SANDERS after that.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 1170 TO AMENDMENT NO. 1150

Mr. MCCONNELL. Mr. President, I thank my friend from Massachusetts.

I ask unanimous consent that the pending amendment be laid aside, and I call up amendment No. 1170.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 1170.

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

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

The amendment is as follows:

(Purpose: to amend the Help America Vote Act of 2002 to require individuals voting in person to present photo identification)

At the appropriate place, insert the following:

SEC. _____. IDENTIFICATION REQUIREMENT.

(a) NEW REQUIREMENT FOR INDIVIDUALS VOTING IN PERSON.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

"SEC. 304. IDENTIFICATION OF VOTERS AT THE POLLS.

"(a) IN GENERAL.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present a current valid photo identification issued by a governmental entity before voting.

"(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2008.".

(2) CONFORMING AMENDMENTS.—

(A) Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303, and 304".

(B) The table of contents of the Help America Vote Act of 2002 is amended by redesignating the items relating to sections 304 and 305 as relating to items 305 and 306, respectively, and by inserting after the item relating to section 303 the following new item:

"Sec. 304. Identification of voters at the polls.".

(b) FUNDING FOR FREE PHOTO IDENTIFICATIONS.—

(1) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following:

"PART 7—PHOTO IDENTIFICATION

"SEC. 297. PAYMENTS FOR FREE PHOTO IDENTIFICATION.

"(a) IN GENERAL.—In addition to any other payments made under this subtitle, the Commission shall make payments to States to promote the issuance to registered voters of free photo identifications for purposes of meeting the identification requirements of section 304.

"(b) ELIGIBILITY.—A State is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

"(1) a statement that the State intends to comply with the requirements of section 304; and

"(2) a description of how the State intends to use the payment under this part to provide registered voters with free photo identifications which meet the requirements of such section.

"(c) USE OF FUNDS.—A State receiving a payment under this part shall use the payment only to provide free photo identification cards to registered voters who do not have an identification card that meets the requirements of section 304.

"(d) ALLOCATION OF FUNDS.—

"(1) IN GENERAL.—The amount of the grant made to a State under this part for a year shall be equal to the product of—

"(A) the total amount appropriated for payments under this part for the year under section 298; and

"(B) an amount equal to—

"(i) the voting age population of the State (as reported in the most recent decennial census); divided by

"(ii) the total voting age population of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

"SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to any other amounts authorized to be appropriated under this subtitle, there are authorized to be appropriated such sums as are necessary for the purpose of making payments under section 297.

"(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The table of contents of the Help America Vote Act of 2002 is amended by inserting after the item relating to section 296 the following:

"PART 7—PHOTO IDENTIFICATION

"Sec. 297. Payments for free photo identification.

"Sec. 298. Authorization of appropriations.".

Mr. MCCONNELL. Mr. President, Members on both sides have voiced a

lot of legitimate concerns about the immigration bill that we brought to the floor earlier this week, which is precisely what we were hoping for when we decided to move forward with it. We needed to air things out. Many of our Republican colleagues have rightly focused on border security and their concern that people who have broken the law can somehow get away with it under the proposed legislation.

As we have debated this issue on the floor, the American people have spoken very loudly. Phones have been ringing off the hooks. If we have settled anything this week, it is that Americans are not shy about expressing their views on immigration. It is my hope this debate will move forward until every apprehension will be addressed.

Now I wish to voice a concern of my own. The Constitution says: All persons born or naturalized in the United States are citizens, and are therefore free to vote. As a corollary, we have always maintained that no one who is not a citizen has a right to vote. But in order to preserve the meaning of this pledge, we need to make sure the influence of those who vote legally is not diluted by those who do not; those who do not abide by the laws are not free to influence our political process or our policies with the vote.

As we move forward on this immigration bill, we need to make sure we protect voters, protect the 15th amendment by strengthening protections against illegal voting. This is the principal concern, but it is also practical.

The fundamental question we have been debating this week is what to do about the fact that 12 million people in this country are here illegally. We would have to go back more than two decades to find a Presidential election in this country in which 12 million votes would not have tipped the balance in the other direction.

Only citizens have the right to choose their elected representatives. Regardless of what we decide to do about these 12 million, those who are not here legally and are not citizens should not have the ability to upend the will of the American people in a free and fair election. This is not fantasy. It was reported last week that hundreds of noncitizens in and around San Antonio have registered to vote over the past several years. Most are believed to be here illegally and many are thought to have cast votes.

We have no reason to believe this practice, if true, is not being replicated in other cities and towns all across our country. So the question is: Given the current reality, how do we safeguard the integrity of the voting system? If these millions were eventually to become citizens, how do we propose to make sure their vote counts, that it isn't diluted?

Now the Carter-Baker Commission on Federal Election Reform, founded after the 2004 election and spearheaded by former President Jimmy Carter and former Secretary of State Jim Baker, has already addressed the problem. Here you see President Carter and former Secretary Jim Baker together addressing this issue as they cochaired the Federal Election Reform Commission. That report said, quite simply, election officials need to have a way to make sure the people who show up at the polls are the ones on the voter lists.

I cannot think of anyone who would disagree with that. The solution the commission proposed, the Carter-Baker Commission, is the same one I am proposing today as an amendment to the immigration bill.

In our country, photo IDs are needed to board a plane, to enter a Federal building, to cash a check, even to join a wholesale shopping club.

In a nation in which 40 million people change addresses each year, in which a lot of people don't even know their neighbors, some form of Government-issued tamperproof photo ID cards should be used in elections as well. If they are required for buying bulk toothpaste, they should be required to prove one's identity, to prove that someone actually has a right to vote and a right to influence the laws and policies of our country. We need to ensure those who are voting are the same people on the rolls and that they are legally entitled to vote. ID cards would do that. They would reduce irregularities dramatically and, in doing so, they would increase confidence in the system.

We have all been through elections where groups of voters questioned the results based on rumors of coercion or fraud. Photo IDs would substantially limit this kind of voter skepticism and loss of faith in the political process.

Consistent with the purpose and the aim of the 15th amendment, we don't want anyone who has the right to vote to have any difficulty acquiring an ID. This amendment addresses this concern by establishing a grant program for those who cannot afford a photo ID. People who qualify will be provided one for free, no cost. No less an advocate for poor Americans than Ambassador Andrew Young has said photo IDs would have the added benefit of helping those who don't have drivers licenses or other forms of official ID to navigate an increasingly computerized culture. Photo IDs would make it easier to cash checks, rent movies, or gain access to other forms of commerce that are closed to people who don't have them.

An overwhelming majority of Americans support this attempt to ensure the integrity of our elections. An NBC News/Wall Street Journal poll last year showed 26 percent of respondents strongly favored requiring a universal tamperproof ID at the polls. Nineteen percent said they mildly favored the IDs. You can do the math, Mr. President. That is 80 percent of the American people think this is a good idea. On issues in America, 80/20 is about as good as it gets. Twelve percent were neutral and didn't have an opinion at all, only 3 percent mildly opposed, and 4 percent opposed. So let's add those together. We are talking about 80 to 7, with the rest of Americans not having a view. Ninety-three percent of those who were asked for their opinion were either undecided or in favor of implementing this control. State polls show similar results. Americans are clearly divided on what to do with illegal immigrants in our communities, but they seem to agree on the benefit of an ID.

Members from both sides of the aisle agree we need to address voting irregularities. The junior Senator from Illinois is sponsoring a bill that would stiffen penalties for preventing someone from exercising his or her right to vote. He has already drawn 12 Democratic cosponsors. The bill is meant to respond to a problem we all recognize and which we should do something about by requiring photo ID for voters. Two dozen States already require—that is 24 States—some form of identification at the polls.

As a result of the Help America Vote Act, photo ID is required for those who register to vote by mail but who can't produce some other identifying document. What I would like to do is to provide a Federal minimum standard that is consistent but which allows States wide flexibility in determining the kind of ID that is required. It doesn't have to be a driver's license. It could be a hunting or fishing license. Either way, we would be ensuring for the first time the same verification standards from rural Iowa to Dade County, FL. This would be one of the surest steps we could take to protect the franchise rights of every American citizen in a fast-changing and increasingly mobile society.

The promise of America is that every law-abiding citizen has an equal stake in the political process and should be treated equally under the law. The most concrete expression of this right is the right to vote. It is a right that has been at the core of our democracy for more than a century, and whenever it has been deprived at the local level, we strengthen it federally. We need to strengthen it again now as part of our effort to reform America's immigration laws. Stronger borders would do nothing to prevent noncitizens who are already here from abusing the system further through illegitimate voting. To protect franchise rights of all born and naturalized citizens, we need to harden antifraud protections at the polls. For the sake of the citizen who is already here and for those who dream of becoming citizens in the future, this amendment is an important step in the right direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1157

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and call up Vitter amendment No. 1157.

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

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. DEMINT, Mr. THOMAS, Mr. BUNNING, Mr. ENZI, and Mr. INHOFE, proposes an amendment numbered 1157.

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

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

The amendment is as follows:

(Purpose: To strike title VI (related to Nonimmigrants in the United States Previously in Unlawful Status)

Strike title VI.

Mr. VITTER. Mr. President, this is an important amendment that goes to the heart of our debate. This amendment strikes all of the text of title VI, the Z visa amnesty section. It takes all of that Z visa out of this massive immigration bill. I thank several Members for joining me in this important amendment: Senator DEMINT, Senator THOMAS, Senator BUNNING, Senator ENZI, Senator INHOFE, and Senator COBURN. They are all cosponsors of this amendment. I ask all of my colleagues to join in this fundamental but necessary correction of the bill.

Many folks will say: We can't do this. This goes to the heart of the bill. It goes to the heart of the compromise. Well, indeed, it does. It does that because that is where an absolutely fundamental flaw with this approach resides. The Z visa is amnesty, pure and simple. Amnesty is at the heart of this bill and is a fundamental problem and flaw with the bill that we must correct. Make no mistake about it, the American people know this. It is obvious. Why is it so hard for us to acknowledge the fact, acknowledge the negative consequences that flow from it, and correct it?

Considering how badly received last year's Senate-passed amnesty bill was, I am shocked we are here again, admittedly with a better bill in some respects but with a bill with Z visa amnesty right at the heart of it. The American people don't want this. They don't want the Z visa, because they don't want to reward law breaking and thereby encourage more of the same. The Z visa amnesty provision absolutely rewards those who have broken the law and, in doing so, is a slap in the face to those thousands upon thousands of folks who are honoring the law, following the law, standing in line, waiting their turn under the rules.

I ask my fellow Senators, are we going to be a nation that values that rule of law? These Z visas tell lawbreakers the opposite, that it is OK to break the law. In doing so, most importantly, most negatively, that has to encourage more like behavior in the future. Clearly, that sort of amnesty sends the wrong message, a reward for breaking the law. Clearly, that encourages the same sort of behavior we absolutely don't want in the future.

I think the fundamental question in this debate is, is this bill going to be a repeat of the 1986 immigration reform the Congress passed at that time or is this bill fundamentally different? Again, that is a central question that goes to the heart of the Z visa issue and others.

In 1986, Congress took up immigration reform. They passed a significant bill, not as wide sweeping as we are talking about now but certainly a significant bill. Arguments were very much the same: We are going to beef up enforcement. We are going to get serious. We are going to have real enforcement at the border. We are going to have meaningful enforcement at the workplace. In that context, we need this amnesty one time, and it will be done and the problem will be solved.

What is the history since then? The history is clear. A problem that was then about 3 million illegal aliens has grown at least fourfold—12, 13 million, or more. So it has mushroomed. The problem has gotten a lot worse. Why? Because the amnesty provisions of that bill in 1986 absolutely went into force and effect. They were absolutely honored. But at the same time, the enforcement never happened to an adequate extent.

So what happens with those two dynamics? It is simple to see what did happen—inadequate enforcement, real amnesty that sent the message loudly and clearly: You will eventually be forgiven for breaking the law to get into this country illegally. The problem mushroomed. The problem quadrupled from more than 3 million illegal aliens in the country to 12 or 13 million or more today.

That is an awfully fundamental question we need to ask as we look at this legislation. I have asked that question. My answer is: This is a vastly improved bill from last year, but this bill still has that fundamental flaw. This bill still risks—and I believe will inevitably repeat—the mistake of 1986, only on a far broader, a far bigger, and far more dangerous scale. We cannot afford that.

There are colleagues of both parties in this Chamber who make the argument that we hear about most legislation: The status quo is broken. This bill is not perfect, but this bill will move it along. This bill will make it better.

That sort of incrementalist approach is true in a lot of cases. In this case, I don't think it is true at all. In this case, a flawed bill gives us the real threat, the real danger of making the problem a lot worse, not better. That is the history of what happened in 1986. That is what will happen again with inadequate enforcement plus amnesty.

How do we correct this? One way is to beef up enforcement. I support a lot of different measures to make the enforcement more certain, to nail it down absolutely before we go into any of these other areas such as a temporary worker program, certainly Z visas. The triggers in this bill are much ballyhooed, but the triggers don't get us to where we need to be before they trigger the Z visa. All the triggers do is say: We are going to do what was planned for the next 18 months anyway, which isn't all of what we need to do, which isn't half of what we need to do to secure the border and have real workplace enforcement. But then we are going to trigger the amnesty. We are going to trigger the Z visa. That is not enough. We need to beef up those enforcement provisions.

The other way to fix going down the 1986 road again is to get rid of amnesty, to get rid of the Z visa. That is exactly what this amendment does.

Certainly many of my colleagues will protest wildly about calling this amnesty. If you look at the facts, there is no other conclusion to reach. If you look at history, there is no other conclusion.

For those lawyers in the Chamber, probably the best known legal reference book is Black's Law Dictionary. Open it. Turn to ''amnesty.'' It is very straightforward. Amnesty is ''a pardon extended by the government to a group or class of persons.'' Black's Law Dictionary cites as its first example of what that means the 1986 Immigration Reform and Control Act. It points to that very act and says it ''provided amnesty for undocumented aliens already present in the country.'' That is the example it cites in the very definition of the concept of amnesty.

I ask unanimous consent to print this definition with the example in the RECORD.

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

[From Black's Law Dictionary (8th ed. 2004)]

amnesty, n. A pardon extended by the government to a group or class of persons, usually for a political offense; the act of a sovereign power officially forgiving certain classes of persons who are subject to trial but have not yet been convicted

The 1986 Immigration Reform and Control Act provided amnesty for undocumented aliens already present in the country.

Unlike an ordinary pardon, amnesty is usually addressed to crimes against state sovereignty—that is, to political offenses with respect to which forgiveness is deemed more expedient for the public welfare than prosecution and punishment.

Amnesty is usually general, addressed to classes or even communities.—Also termed general pardon. See PARDON. [Cases: Pardon and Parole 26. C.J.S. Pardon and Parole §§3, 31.]—amnesty, vb.

''Amnesty . . . derives from the Greek amnestia ('forgetting'), and has come to be used to describe measures of a more general nature, directed to offenses whose criminality is considered better forgotten.'' Leslie Sebba, ''Amnesty and Pardon,'' in 1 Encyclopedia of Crime and Justice 59, 59 (Sanford H. Kadish ed., 1983).

express amnesty. Amnesty granted in direct terms. Implied amnesty. Amnesty indirectly resulting from a peace treaty executed between contending parties.

Mr. VITTER. In that context, one obvious question is: How does that amnesty provision compare to what is in this 2007 bill?

I think if you go down the requirements of the 1986 law and the requirements of this bill before us, you will see they are disturbingly familiar.

In 1986, how do you gain temporary residence status? Continuous unlawful residence in the United States since before January 1, 1982. Fees: a $185 fee for the principal applicant, $50 fee for each child, a $420 family cap. You have to meet certain admissibility criteria: 18-month residency period, English language and civics requirement. Those are the basic requirements under that 1986 law.

Let's compare it to what is in this bill, which is very similar. The dollar amount fees are higher, more significant, but in terms of the nature of the requirements in this bill, they are disturbingly similar: physically present and employed in the United States since a certain date—January 1, 2007; $1,000 penalty and a $1,500 processing fee; meet admissibility criteria; background check; English language basic requirement, et cetera—the exact same type of requirements under the Z visa provisions of this bill, as well as the 1986 law, which ''Black's Law Dictionary'' itself labels amnesty.

Mr. President, I ask unanimous consent to have printed in the RECORD this simple side-by-side comparison of the 1986 law and this bill presently before the Senate.

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

1986 IRCA

TEMPORARY RESIDENT STATUS

Continuous unlawful residence in the U.S. since before January 1, 1982.

$185 fee for principal applicant, $50 for each child ($420 family cap).

Meet admissibility criteria.

Ineligible for most public benefits for five years after application.

18-month residency period.

ADJUSTMENT TO PERMANENT RESIDENT

English language and civics requirement.

$80 fee per applicant ($240 family cap).

2007

Z VISA STATUS

Physically present and employed in U.S. since January 1, 2007.

$1,000 penalty and $1,500 processing fee.

Meet admissibility criteria.

Background check.

ADJUSTMENT TO PERMANENT RESIDENT

Meets merit requirements, file application in home country.

$4,000 penalty.

Mr. VITTER. So, again, let's not repeat the horrible mistakes of the past. Let's not repeat the fundamental mistake of 1986 that got us to the situation we are in today, that quadrupled, or more, the problem then faced in 1986. Let's not repeat it in either side of the ledger: by having inadequate enforcement—and I am afraid the enforcement provisions of this bill, the trigger requirements, et cetera, are inadequate—and let's not repeat it on the other side of the equation by granting amnesty and creating a magnet for more illegal activity into this country.

We cannot afford to do that. This amendment goes to the core of that fundamental problem and corrects it by taking out title VI, the Z visa amnesty provisions.

Mr. ENZI. Mr. President, I rise in strong support of the amendment introduced by the Senator from Louisiana. I am proud to be a cosponsor of this amendment.

I am disappointed in the way the substitute amendment to S. 1348 was brought before the Senate. I do not believe Senators have had adequate opportunity to fully understand all the impacts this legislation will have on our Nation. Over the next 2 weeks, Senators and staff will continue to study the language. I hope the Senate leadership will ensure that all Members have the opportunity to have their amendments considered by the full Senate. I am pleased an agreement was reached to vote on the Vitter amendment.

If this was the first time the Senate was considering offering amnesty to illegal aliens, I think this debate would be under a different tone. When the 1986 legislation was enacted, Members of the House and Senate had the best of intentions—to improve our border situation and decrease illegal immigration by offering permanent status to those in the United States illegally. Those good intentions, however, were not without fault. We can see that now, 21 years later, and we cannot ignore the problems caused by that legislation.

Our goal here is to make an immigration system that works—one that meets the economic needs of our Nation and allows for legal immigration and legal workers. We need to make it less complicated to immigrate legally rather than illegally. The status quo is just the opposite. It has become so difficult to follow the legal path that many look for the easier route of crossing our border without paperwork, without filing fees, and without bureaucratic delays. It has become so difficult for employers to hire legal temporary workers that many hire illegal immigrants without legal Social Security numbers, without labor certifications, and without bureaucratic delays. Our laws should not be a deterrent to themselves.

Our immigration system is complicated. Our borders remain open. Border security must be the top priority of the debate. We cannot have immigration reform without strengthening the security of our borders. This is why I am pleased that the language the Senate is considering includes triggers that must be met before certain provisions can be enacted.

There are some positive ideas in this legislation, but there remain many problems. The Senate should not pass flawed legislation merely for the sake of voting on something.

Amnesty is one of the main concerns of my constituents in Wyoming. Amnesty sends a message to illegal immigrants that if you break our immigration laws and avoid being detected for several years, the United States will not only forgive you but reward you with permanent resident status. Amnesty encouraged illegal immigration. In 1986, 7 million immigrants were granted amnesty. Today, we are facing an illegal population of over 12 million. The 1986 legislation did not stop illegal immigration. We should not repeat this policy without ensuring that we are not making the same mistake.

I continue to closely examine bill language as new developments unfold and will make decisions keeping in mind what concerns I have heard from the people and businesses of Wyoming. We expect to spend the first week of June continuing to debate and amend the bill. I am concerned about where we will be in 2 weeks on this legislation. This issue is too important to refuse to consider amendments for members of either party.

Again, I state my strong support for Senator VITTER's amendment to remove the amnesty provisions from this legislation. I hope my colleagues in the Senate will join me in taking a strong stance against amnesty.

With that, I yield back the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed as in morning business for 3 minutes.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the pending amendment be set aside so I might call up an amendment.

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

AMENDMENT NO. 1176 TO AMENDMENT NO. 1150

(Purpose: To establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II)

Mr. FEINGOLD. Madam President, I call up amendment No. 1176.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. LIEBERMAN, and Mr. INOUYE, proposes an amendment numbered 1176 to amendment No. 1150.

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

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

(The amendment is printed in the RECORD of Wednesday, May 23, 2007, under ''Text of Amendments.'')

Mr. FEINGOLD. Madam President, this amendment contains the language of S. 621, the Wartime Treatment Study Act, a bill I have introduced with my friend from Iowa, Senator GRASSLEY.

This amendment would create two fact-finding commissions: one commission to review the U.S. Government's treatment of German Americans, Italian Americans, and European Latin Americans during World War II, and another commission to review the U.S. Government's treatment of Jewish refugees fleeing Nazi persecution during World War II.

I am very pleased that my distinguished colleagues, Senator LIEBERMAN and Senator INOUYE, have agreed to cosponsor this amendment. They are also cosponsors of my bill, and I appreciate their continued support for this important initiative.

This amendment would help us to learn more about how, during World War II, recent immigrants and refugees were treated. It is an appropriate and relevant amendment to this immigration bill.

I would have preferred to have moved this bill on its own. Senator GRASSLEY and I have introduced the Wartime Treatment Study Act in the last four Congresses, and the Judiciary Committee has reported it favorably each time, including just last month. It has been cleared for adoption by unanimous consent by my Democratic colleagues. But I am forced to offer this as an amendment because the Wartime Treatment Study Act has not cleared the Republican side in this Congress or any of the last three Congresses. It is time for the Senate to pass this bill.

During World War II, the United States fought a courageous battle against the spread of Nazism and fascism. Nazi Germany was engaged in the horrific persecution and genocide of Jews. By the end of the war, 6 million Jews had perished at the hands of Nazi Germany.

The Allied victory in the Second World War was an American triumph, a triumph for freedom, justice, and human rights. The courage displayed by so many Americans, of all ethnic origins, should be a source of great pride for all of us. But we should not let that justifiable pride in our Nation's triumph blind us to the treatment of some Americans by their own Government.

Sadly, as so many brave Americans fought against enemies in Europe and the Pacific, the U.S. Government was curtailing the freedom of some of its own people here, at home. While it is, of course, the right of every Nation to protect itself during wartime, the U.S. Government can and should respect the basic freedoms that so many Americans have given their lives to defend.

Many Americans are aware that during World War II, under the authority of Executive Order 9066 and the Alien Enemies Act, the U.S. Government forced more than 100,000 ethnic Japanese from their homes and ultimately into relocation and internment camps. Japanese Americans were forced to leave their homes, their livelihoods, and their communities. They were held behind barbed wire and military guard by their own Government.

Through the work of the Commission on Wartime Relocation and Internment of Civilians created by Congress in 1980, this unfortunate episode in our history finally received the official acknowledgement and condemnation it deserved.

Congress and the U.S. Government did the right thing by recognizing and apologizing for the mistreatment of Japanese Americans during World War II. But our work in this area is not done. That same respect has not been shown to the many German Americans, Italian Americans, and European Latin Americans who were taken from their homes, subjected to curfews, limited in their travel, deprived of their personal property, and, in the worst cases, placed in internment camps.

Most Americans are probably unaware that during World War II, the U.S. Government designated more than 600,000 Italian-born and 300,000 German-born U.S. resident aliens and their families as ''enemy aliens.'' Approximately 11,000 ethnic Germans, 3,200 ethnic Italians, and scores of Bulgarians, Hungarians, Romanians, or other European Americans living in America were taken from their homes and placed in internment camps. Some even remained interned for up to 3 years after the war ended. Unknown numbers of German Americans, Italian Americans, and other European Americans had their property confiscated or their travel restricted, or lived under curfews. This amendment would not—would not—grant reparations to victims. It would simply create a commission to review the facts and circumstances of the U.S. Government's treatment of German Americans, Italian Americans, and other European Americans during World War II.

Now, a second commission created by this amendment would review the treatment by the U.S. Government of Jewish refugees who were fleeing Nazi persecution and genocide and trying to come to the United States. German and Austrian Jews applied for visas, but the United States severely limited their entry due to strict immigration policies—policies that many believed were motivated by fear that our enemies would send spies under the guise of refugees and by the unfortunate antiforeigner, anti-Semitic attitudes that were sadly all too common at that time.

It is time for the country to review the facts and determine how our immigration policies failed to provide adequate safe harbor to Jewish refugees fleeing the persecution of Nazi Germany. It is a horrible truth that the United States turned away thousands of Jewish refugees, delivering many to their deaths at the hands of the Nazi regime we were fighting.

It is so urgent that we pass this legislation. We cannot wait any longer. The injustices to European Americans and Jewish refugees occurred more than 50 years ago. The people who were affected by these policies are dying.

In fact, one of them died earlier this month. Max Ebel was one of the thousands of German Americans who were interned during World War II in the United States. He died on May 3, 2007. His death brings me great sadness.

Max Ebel was only 17 when he came to America in 1937. He fled Germany after he was assaulted for refusing to join the Hitler Youth. When he came to the United States, he lived with his father in Massachusetts. He learned English. He joined the Boy Scouts. He completed high school. When the war broke out, he registered for the draft.

Nonetheless, in 1942, this new American was arrested by the FBI and interned under the Alien Enemies Act because of his German ancestry. He spent the next 18 months in a series of detention facilities and internment camps and ultimately was transferred to a camp in Fort Lincoln, ND, where despite the way he had been treated, he found a way to help the war effort. He volunteered for a government work detail and spent a North Dakota winter laying new railroad track on the Northern Pacific Rail Line. Max Ebel's crew boss saw how hard he worked and petitioned for his release.

Finally, in April of 1944, the Government let him go home. Despite everything that had happened, he remained loyal to his new country and became a citizen in 1953. A few years ago he told a journalist:

I was an American right from the beginning, and I always will be.

Max Ebel's death is a loss not only to his family and friends but also to our country.

But losing Max Ebel does more than bring me sadness; it also makes me a bit angry. It makes me angry because he did not live to see the day that Congress recognized what he went through: his internment at the hands of his newfound country.

I have been trying for years to pass this legislation creating a commission to study what happened to Max Ebel and to other German Americans and other European Americans and to Jewish refugees during World War II. I am gravely disappointed that Max Ebel and many others affected by these policies will not be here to see that legislation become law.

Americans must learn from these tragedies now, before there is no one left. We cannot put this off any longer. These people have suffered long enough without official, independent study of what happened to them and without knowing this Nation recognizes their

sacrifice and resolves to learn from the mistakes of the past that caused them so much pain.

As the Milwaukee Journal Sentinel editorial board put it, Congress must move forward with this legislation:

Lest the passage of time deprive more Americans of the justice that they deserve.

Let me again repeat that this amendment does not call for reparations. All it does is ensure that the public has a full accounting of what happened. We should be proud of our victory over Nazism, as I am. But we should not let that pride cause us to overlook what happened to some Americans and refugees during World War II. I urge my colleagues to join me in supporting the Wartime Treatment Study Act that is an amendment to this immigration legislation, and I hope the managers of the bill can accept it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Madam President, we are in the process where we will begin to make comment on the amendment of the Senator from Louisiana. We will address that very shortly. I am finding that the amendment of the Senator from Wisconsin is enormously compelling. I would have thought it would be generally accepted. We are in the process of trying to get a review of that amendment.

But for the notice of our colleagues, we expect that we will probably have two votes, if we are unable to get clearance, and we will probably have that somewhere in the relationship of probably about—hopefully about 4 o'clock. I haven't had the chance to clear this time with Senator VITTER, but that is generally sort of the plan we are looking at, at the present time. I am not asking unanimous consent on that, but that is just in terms of information for our colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1157 TO AMENDMENT NO. 1150

Mr. DEMINT. Madam President, I rise to speak in favor of the Vitter amendment No. 1157, which strikes title VI of the bill, the title that authorizes Z visas for illegal immigrants.

Z visas are amnesty, pure and simple. They allow illegal immigrants to stay here permanently without ever returning home to their countries. This is the provision that has so many Americans upset.

By removing Z visas from the bill, illegal immigrants will be able to go home and get right with the law. Once they have returned, they can apply for legal entry, just like everyone else, but they would not be allowed to violate our laws.

I know many will say this amendment will be too disruptive to the illegal workers who would ultimately be forced to return to their home countries, but I disagree. Last year, 51 million people traveled to and from the United States from abroad, and 13 million of these travelers were from Mexico alone. People are very mobile, and moving this number of people around is relatively easy today. In fact, this bill acknowledges this very point by requiring them to go home to apply for citizenship.

I have also heard some say the opposition to amnesty is being driven by an anti-immigrant bias. This is also untrue. Americans are extremely pro-immigrant, but they are upset that their Government has lied to them for 20 years on this issue, and they have lost confidence in our ability to control our borders.

Let me be clear: I am pro-immigrant. I believe in legal immigration. I want people to come here, respect our laws, embrace our values, and become American citizens, but we must reject amnesty if we ever expect that to happen.

That is why eliminating the amnesty provision in this bill is the most compassionate and pro-immigrant thing we can do.

By striking the Z visas from this bill, this amendment will allow us to uphold the rule of law, create fairness for millions of people who want to come here legally, and allow us to focus on securing our borders.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Madam President, we are working with our colleagues and trying to go back and forth, trying to be bipartisan. We have gone to Senator VITTER, to FEINGOLD, to HUTCHISON, and then to SANDERS. We expect votes and reasonably short debate. We are trying to get votes on all of those before the debate starts on the supplemental. I thank the Senator from Vermont for his patience.

Mrs. HUTCHISON. Madam President, I would appreciate the Senator from Vermont going first, after which I will offer mine.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 1223 TO AMENDMENT NO. 1150

Mr. SANDERS. Madam President, I ask unanimous consent to set aside the pending amendment. I have an amendment at the desk and I ask for its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS] proposes an amendment numbered 1223 to amendment number 1150.

The amendment is as follows:

(Purpose: To establish the American Competitiveness Scholarship Program)

At the end of title VII, insert the following:

Subtitle C—American Competitiveness Scholarship Program

SEC. 711. AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this section as the ''Director'') shall award scholarships to eligible individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, health care, or computer science.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a scholarship under this section, an individual shall—

(A) be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), an alien admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), or an alien lawfully admitted to the United States for permanent residence;

(B) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(C) certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, nursing, medicine, or other clinical medical program, or technology, or science program designated by the Director.

(2) ABILITY.—Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(c) AMOUNT OF SCHOLARSHIP; RENEWAL.—

(1) AMOUNT OF SCHOLARSHIP.—The amount of a scholarship awarded under this section shall be $15,000 per year, except that no scholarship shall be greater than the annual cost of tuition and fees at the institution of higher education in which the scholarship recipient is enrolled or will enroll.

(2) RENEWAL.—The Director may renew a scholarship under this section for an eligible individual for not more than 4 years.

(d) FUNDING.—The Director shall carry out this section only with funds made available under section 286(x) of the Immigration and Nationality Act (as added by section 712) (8 U.S.C. 1356).

(e) FEDERAL REGISTER.—Not later than 60 days after the date of enactment of this Act,

the Director shall publish in the Federal Register a list of eligible programs of study for a scholarship under this section.

SEC. 712. SUPPLEMENTAL H-1B NONIMMIGRANT PETITIONER ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) (as amended by this Act) is further amended by inserting after subsection (w) the following:

''(x) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Supplemental H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this Act, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(15).

''(2) USE OF FEES FOR AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—The amounts deposited into the Supplemental H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 711 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 for students enrolled in a program of study leading to a degree in mathematics, engineering, health care, or computer science.''.

SEC. 713. SUPPLEMENTAL FEES.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) In each instance where the Attorney General, the Secretary of Homeland Security, or the Secretary of State is required to impose a fee pursuant to paragraph (9) or (11), the Attorney General, the Secretary of Homeland Security, or the Secretary of State, as appropriate, shall impose a supplemental fee on the employer in addition to any other fee required by such paragraph or any other provision of law, in the amount determined under subparagraph (B).

''(B) The amount of the supplemental fee shall be $8,500, except that the fee shall be ½ that amount for any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).

''(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(x).''.

Mr. SANDERS. Madam President, I will begin by quoting from an article today in Congress Daily by Bruce Stokes. He sets up in one paragraph pretty much what we are going to talk about in this amendment:

The immigration deal under consideration in the Senate raises the number of H–1B visas, a long-sought boon for the high-tech industry that will provide Silicon Valley firms with skilled workers at rock-bottom salaries, who will bolster company profits.

This amendment I am offering now is supported by the AFL–CIO. I will read the few paragraphs of the letter they sent today:

Dear Senator SANDERS:

On behalf of the AFL–CIO, I am writing to offer strong support for your amendment to the Secure Borders, Economic Opportunity and Immigration Reform Act.

Your amendment would provide scholarships in math, science, engineering, and nursing for our domestic workforce by increasing fees on H–1B employers.

The last paragraph, signed by William Samuel, director of the Department of Legislation for the AFL–CIO, writes this:

It is completely irresponsible for Congress to increase yet again the total annual number of available H–1B visas without addressing the myriad well-documented problems associated with the H–1B program, or considering long-term solutions involving access to training and educational opportunities for domestic workers.

That is William Samuel, director of the Department of Legislation for the AFL–CIO.

The amendment I am offering today also has the support of the Teamsters, the Programmers Guild, and the International Federation of Professional and Technical Engineers.

The Comprehensive Immigration Reform Act is a long and complicated bill. It touches on a number of very important issues, and some of those issues I strongly agree with, no question. The time is long overdue that we control our borders. No question, the time is long overdue that we begin to hold employers—those people who are hiring illegal immigrants—accountable. Those items are long overdue, and we have to deal with them. This legislation does that. I support that.

In my view, this bill is also responsible in how it deals with the very contentious and difficult issue of how we respond to the reality that there are some 12 million illegal immigrants in this country today. This bill carves out a path which eventually leads to citizenship, and that is something I also support.

But—and here is the but: There are a number of provisions in this bill I do not support, that I think are going to be very harmful to the middle-class and working families of this country.

The amendment I am offering right now concentrates on only one aspect of this very long bill and of that problem. That point centers on the state of the economy for working people in our country and the negative impact this legislation will have for millions of workers—low-income workers and professional workers as well.

The fact is there is a war going on in America today. I am not talking about the war in Iraq and I am not talking about the war in Afghanistan; I am talking about the war against the American middle class, the American standard of living and, indeed, the American dream itself.

The American people understand very well that since George W. Bush has become President, an additional 5.4 million Americans have slipped into poverty out of the middle class—5.4 million people who are poor. Nearly 7 million Americans have lost their health insurance. Income for the average American family has fallen by over $1,200 since President Bush has been President, and some 3 million Americans have lost their pensions.

All over this country, from Vermont to California, people get up in the morning and they are working incredibly long hours. People need two incomes in a family to try to make ends meet. Yet, at the end of the day, they are falling further and further behind. There are a lot of reasons for that, but I think this bill, and what this bill proposes to do, is part of the problem.

During the debate over NAFTA and permanent normal trade relations with China, we were told by President Clinton and many others that, well, yes, globalization and unfettered free trade, such as our trade relations with China, yes, they will cost us blue-collar factory jobs, and the result is that because of our trade agreements, we have lost millions of good-paying blue-collar factory jobs and, in fact, today there are fewer people working in manufacturing than since President Kennedy was in office in the early 1960s.

Yes, we have lost millions of good-paying manufacturing jobs, but what people told us is: Look, don't worry about that. Yes, we are going to lose blue-collar manufacturing jobs, but not to worry because your kids are going to become very sophisticated in terms of using computers, and the future for them is white-collar information technology jobs. We don't need those factory jobs anymore; we have white-collar information technology jobs, and those are the kinds of jobs which are going to be growing. Unfortunately, that has not quite occurred. From January 2001 to January 2006, we lost over 600,000 information technology jobs.

Alan Blinder, the former Vice Chair of the Federal Reserve, has told us that between 30 and 40 million jobs in this country are in danger of being shipped overseas. In other words, what we are looking at right now is not just the loss of blue-collar manufacturing jobs, but we are looking at the loss of significant numbers of white-color information technology jobs. I know that in my State—and I expect in Senator KENNEDY's State and all over this country—we have seen white-collar information technology jobs heading off to India and other countries. There is nothing more painful than to see people in my State—I have gone through this experience—having to train people to do their jobs as those people return to India.

Some of the leading CEOs and information technology companies have told us point blank—this is not a secret—that the new location for high-tech jobs is going to be India and China; it is not going to be the United States of America.

John Chambers, the CEO of Cisco, has said:

China will become the IT center of the world, and we can have a healthy discussion about whether that's in 2020 or 2040. What we're [in Cisco] trying to do is outline an entire strategy of becoming a Chinese company.

The founder of Intel predicted in the Wall Street Journal that the bulk of our information technology jobs will go to China and India over the next decade. That is the reality. That is what the heads of the information technology industry are telling us.

Over the last few days, a number of us have expressed the concern about the impact of bringing low-wage workers into this country and what that

would mean to Americans at the lower end of the economic ladder. Today, I wish to address a concern I have about what language in this bill could do to the middle class and, indeed, the upper middle class, people who hold professional jobs and who often earn a very good income.

The bill we are discussing today substantially increases the number of well-educated professionals coming into the United States from overseas. This bill, in fact, would allow 115,000 new professionals to come into this country each year, and that number could go up to 180,000.

This program which allows well-educated professionals to come into our country is called the H–1B program. It is currently capped at 65,000 visas a year. Under the language in this bill, the number would increase at least by 50,000 and by as much as 115,000.

The argument that corporate America is using in supporting this increase is that there are just not enough highly educated, highly skilled Americans to fill available job openings in the high-tech industry and in various science fields. Proponents of the H–1B visa program also say it allows us to bring in the ''best and the brightest'' from around the world to help America's competitiveness position. That sounds good on its face, and it may also have the benefit of being true in some cases, but there are those in this Chamber and across the country who are very concerned that in many instances the H–1B program is being used not to supplement American high-tech workers when they might be needed but instead is being used to replace them with foreign workers who are willing to work for substantially lower wages.

First, we should be clear that H–1B visas are not being used only in the high-tech and highly specialized technology and science fields. That is the argument often made, but it is really not true. The reality is that a whole host of jobs in various categories are going to H–1B visa holders.

Let's take a look at some of the jobs that corporate America is telling us that there are just not enough Americans who are smart enough, who are educated enough to perform. Here they are: information technology computer professionals—I guess we can't do that kind of work; university professors—oh, my word, I guess we just don't have enough people to be university professors; engineers, health care workers, accountants, financial analysts, management consultants, lawyers—lawyers, I love that one. Is there anyone in America who doesn't think we have too many lawyers? I guess we need to bring some lawyers in as well. Architects, nurses, physicians, surgeons, dentists, scientists, journalists and editors, foreign law advisers, psychologists, market research analysts, fashion models—Madam President, fashion models—teachers in elementary or secondary schools. In America, we do not have enough people to become teachers in elementary or secondary school. Does anyone really believe that we cannot, with proper salary inducements, bring people into secondary and primary education?

Given that we all know there are many Americans who have college degrees and advanced degrees in these fields who cannot find work, why is it that we need to bring in more and more professional workers from abroad? For those who believe that the law of supply and demand applies to labor costs, the evidence shows there is no shortage of college-educated workers in America. What we learn in economics 101 is if you cannot attract people for certain jobs, you pay them higher wages and you give them better benefits. Unfortunately, in America today, from 2000 to 2004, we have seen the wages of college graduates decline by 5 percent. So on one hand, corporate America says: Oh, my goodness, we can't find people as professionals to fill these jobs, but amazingly enough, wages have gone down for college graduates from 2000 to 2004 by 5 percent. Maybe somebody is not trying hard enough to find American workers to fill these jobs.

In truth, what many of us have come to understand is that these H–1B visas are not being used to supplement the American workforce where we have shortages but, rather, H–1B visas are being used to replace American workers with lower cost foreign workers.

There are studies which conclude that H–1B workers earn less than what U.S. workers make in similar jobs at similar locations. According to the Center for Immigration Studies, wages for H–1B workers average $12,000 a year below the median wage for U.S. workers in computer fields. Another study by Programmers Guild found that foreign tech workers who came to the United States with H–1B visas are paid about $25,000 a year less than American workers with the same skill.

According to the GAO:

> Some employers said that they hired H–1B workers in part because these workers would often accept lower salaries than similarly qualified U.S. workers.

What is very important to mention here is that some in corporate America are giving the impression that most of the jobs within the H–1B program are for highly specialized technical work which just can't be found in the United States. The truth is that most of the H–1B visas go to people who do not have a Ph.D., who do not have a master's degree, but only have a bachelor's degree, a plain old college degree.

In today's Congress Daily, there is a very insightful article on H–1B visas which is relevant to this debate:

> As Ron Hira, a professor at Rochester Institute of Technology, points out . . . the Labor Department acknowledges that ''H–1B workers may be hired even when a qualified U.S. worker wants the job, and a U.S. worker can be displaced from the job in favor of a foreign worker.''

The article goes on to state:

> The median wage for new H–1B computing professionals was $50,000 in 2005, far below the median for U.S. computing professionals, according to the annual report of U.S. Citizenship and Immigration Services.

These findings are extremely troubling given the promises made to the American people that the future for our economy was with high-skilled, high-paying, high-tech jobs. What we have found is that in the last 4 years, wages for college graduates are going down, and we are finding that people from abroad are coming in and doing jobs American professionals can do and they are doing them for lower wages.

To bolster their argument for increased H–1B visas, proponents point to a study by the Bureau of Labor Statistics about the jobs of the future. That is what it is entitled, ''Jobs of the Future.'' According to the Bureau of Labor Statistics, over the next decade, 2 million jobs will be created in mathematics, engineering, computer science, and physical science. That equates to about 200,000 jobs a year times 10—2 million jobs. Under this legislation, the number of H–1B visas would increase to as many as 180,000 a year. That means virtually every job—about 90 percent—that will be created in the high-tech sector over the next 10 years could conceivably be taken by a H–1B visa holder. What sense does that make? What are we telling our young people? We are saying: Go to college, get the best education you can, and we have all kinds of jobs available to you, except those jobs in a significant way are going to be taken by people from another country.

We would hope that companies in the United States would have just enough patriotism, maybe just a little bit of patriotism so they would work to hire qualified American workers. But if you look at the statements and conduct of some of these companies, you realize that patriotism, love of country is becoming a dated concept for those who are pushing extreme globalization.

Let me take one case study, and that is Microsoft. In 2003, Microsoft's vice president for Windows engineering was quoted in Business Week as saying:

> It is definitely a cultural change to use foreign workers. But if I can save a dollar, hallelujah.

The CEO of Microsoft, Steven Anthony Ballmer, has said, and this is an interesting quote, very relevant to today's discussion:

> Lower the pay of U.S. professionals to $50,000, and it won't make sense for employers to put up with the hassle of doing business in developing countries.

In other words, if we lower wages for professionals in this country, maybe our companies won't outsource and go to India or China.

The economic benefit of H–1B visas, though, is not limited to American companies. The truth is, as my colleagues, Senator DURBIN and Senator GRASSLEY, have pointed out, the top companies applying for H–1B visas are actually outsourcing firms from India, known in the industry as ''body shops.'' According to a February 7, 2007, article in BusinessWeek:

Data for the fiscal year 2006, which ended last September, showed that 7 of the top 10 applicants for H–1B visas are Indian companies. Giants Infosys Technologies and Wipro took the top two spots, with 22,600 and 19,400 applications respectively.

In fact, 30 percent of the H–1B visas approved last year went to nine Indian outsourcing firms. In other words, the very same companies that are involved in the H–1B program of supplying American companies with cheap foreign labor are exactly the same corporations that are involved in outsourcing, providing cheap labor to these very same companies when they move to India. Two sides of the same coin.

In my view, the H–1B system is working against the best interests of the American middle class. It is displacing skilled American workers, it is lowering our wages, and it is part of the process by which the middle class of this country continues to shrink. Meanwhile, it is creating huge profits for foreign companies that traffic in H–1B visas.

I do wish to commend Senators DURBIN and GRASSLEY for their work to reform the H–1B program and their efforts to include in the substitute some provisions that strengthen protection for American workers. But as important as these strengthened protections are, the H–1B program, which will be increased from 65,000 slots to 115,000 slots, and potentially even 180,000 slots, continues to pose a threat to American jobs and American wages.

The question is: Where do we go from here? What is our response to this problem? I could certainly offer an amendment to remove the increase in H–1B visas or even to restrict them below the current 65,000 level. But that amendment would be defeated. So where do we go? What is the sensible thing to do? How do we bring people together around this issue?

I think the author of the Congress Daily article I referred to earlier said it quite well when he wrote:

More importantly for the American taxpayer, the current allocation system for H–1B visas conveys a valuable resource—access to talented workers who add value to a company's bottom line—at almost no cost. This is a subsidy in violation of market principles for firms that are too quick to appeal to market forces when they are fighting Washington over export controls or other issues.

The amendment I am offering has two goals. First, raising the H–1B visa fee from $1,500 to $10,000 will go a long way in telling corporate America they are not going to be able to save money by bringing foreign professionals into this country, and they may want to look at the United States of America to find the workers that they need. If they have to pay $10,000, that will cut back on their margin.

Secondly, to the degree it is true that the United States does not have a significant number of skilled workers in certain categories—and in certain categories that may well be true—this new revenue will be dedicated toward providing scholarships to students who are studying in areas where we currently lack professionals.

Specifically, my amendment would create a new American Competitive Scholarship program at the National Science Foundation that would provide merit-based scholarships of up to $15,000 a year, and which are renewable for up to 4 years, to students pursuing degrees in math, science, engineering, medicine, nursing, other health care fields, and other extremely important fields vital to the competitiveness of this Nation. These new scholarships would create the incentive for the best and the brightest of American students to enter these fields where there is reputedly a shortage.

In other words, we have the absurd situation today where we are bringing people from all over the world into this country to do this job, yet we have large numbers of middle-class, working-class families who can't afford to send their kids to college or to graduate school. Well, maybe we ought to pay attention to American workers and American families first.

How will this program be paid for? Under current law, companies applying for H–1B visas pay a $1,500 fee. That fee is split up in a number of ways, with some of it going to scholarships and retraining programs. Unfortunately, it is too small to effectively create a scholarship program of the scale needed to address the claimed shortage in math, science, and technology specialists. This amendment imposes an $8,500 surcharge on those companies seeking H–1B visas. This fee would only apply to those who are required to pay the current $1,500 fee. Therefore, universities and schools would be exempt, as they are under current law. Companies with less than 25 employees would pay only half the fee.

I am sure corporate America will tell us this $8,500 fee is too expensive; that they can't afford it. After all, many of these people are the same exact people who opposed raising the minimum wage above $5.15 an hour. However, this fee represents a very small amount compared to the incredible economic benefits that companies realize from bringing in foreign H–1B visa workers.

H–1B visas are valid for 3 years. So the $8,500 surcharge on an annual basis is only $2,800. Compared to the median $50,000 wage of a new H–1B computing professional, it is only about 5.5 percent of that wage. For this small fee, what would be the benefit to American students and our families? If there are 115,000 H–1B visas issued for which fees are paid, we could provide over 65,000 scholarships each year to our students—65,000. If the number of H–1B visas goes to 180,000, we could provide scholarships to over 100,000 American students.

If the Members of this body believe we need H–1B visas to compensate for a shortage of skilled American professionals, this amendment will attract tens of thousands of America's best and brightest to those fields.

One of the reasons I am offering this amendment, which will provide much needed scholarships for the American middle class, is I was very interested in reading an article that appeared in BusinessWeek on April 19, 2004. In that article, BusinessWeek reported that:

To win favor in China, Microsoft has pledged to spend more than $750 million on cooperative research, technology for schools, and other investments.

If Microsoft and other corporations have billions of dollars to invest in technology for schools, research, and other needs in China and other countries, these same companies should have enough money to provide scholarships for middle-class kids in the United States of America.

Another major supporter of the H–1B program is IBM. Last year, IBM made $9.5 billion in profits. Meanwhile, IBM has announced it will be investing $6 billion in India by 2009 and—get this—IBM has also signed deals to train 100,000 software specialists. Where? In Massachusetts? In Vermont? In California? No, in China, according to an August 4, 2003, article in BusinessWeek.

Other major supporters of increasing H–1B workers include Intel, which made $5 billion in profits last year; Bank of America, Caterpillar, General Electric, Boeing, and Lehman Brothers. All of these companies, making billions and billions of dollars in profit, can't afford to pay American workers the wages they need. Well, if they can't do that, at least let them contribute to an important scholarship program.

Let me conclude by saying a vote for this amendment is a vote for preserving American competitiveness in the 21st century, it is a vote for giving our children a brighter future, and it is a vote—unfortunately all too rare—to help middle-income families in this country who are struggling so hard to make sure their kids can have the education they need.

Madam President, I am not quite sure of the proper legislative approach, but on this amendment, I will be calling for the yeas and nays.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. We had intended, Madam President, to vote on the amendment. We are working out the sequence at the present time.

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. CORNYN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 1184, AS MODIFIED

Mr. CORNYN. Madam President, by way of housekeeping, I wish to submit a modification of my amendment that is pending, amendment No. 1184.

The PRESIDING OFFICER. Is there an objection to the modification?

Mr. DURBIN. Reserving the right to object——

Mr. CORNYN. If I may explain to my colleagues, there is a problem with the pagination in the original draft of the bill. I noticed the original amendment appears to be off. This is to reconcile the problem with the handwritten note on page 224, which was added on the floor.

Mr. DURBIN. Would my colleague from Texas yield for a moment?

Mr. CORNYN. Surely.

Mr. DURBIN. If he would be kind enough to share with us a copy of the modification, if it is routine, there will be no problem. I object at this moment until he does. I will be glad to work with him and the chairman once we have seen a copy.

Mr. CORNYN. Absolutely. I am glad to do that and withhold until that time. I do have some other comments I wish to make.

Mrs. HUTCHISON. Madam President, could I ask my colleague, and also the Senator from Massachusetts, when the Senator from Texas is finished with his remarks, I wish to be recognized for 5 minutes—just to speak, not to offer my amendments, but I wanted to speak on the bill. I ask unanimous consent to do that, after he speaks. Then we will talk about my amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Will the Senator yield for a minute, for a point of information?

Mr. CORNYN. Certainly. I yield without losing my right to the floor.

Mr. KENNEDY. I will make a unanimous consent request in a few moments to vote at 5 o'clock on the Vitter amendment, and then the amendment of Senator SANDERS. Then, at that time, we have been told, those who want to address the supplemental will begin that debate—a discussion on the Senate floor.

I thank the Senator from Texas. She has an amendment on Social Security. She has been kind enough, as always, to cooperate with us, and indicated a willingness to work out an appropriate time. It is a substantive amendment. We will look forward to considering it. I want to give her every assurance we will consider this and will deal with it. If not today, we will do the best we can to deal with it on the Tuesday we get back. There are members on the Finance Committee, since it is dealing with Social Security, who wanted to at least have an impact. This in no way will delay the consideration of this amendment. We want to give her those assurances.

I know the Senator from Alabama, Senator SESSIONS, is on his way over. He wants to be able to enter an amendment as well. We certainly will look forward to that. We had hoped we might have been able to get an earlier consideration. He has been over in the Armed Services Committee.

Members have been extremely cooperative, incredibly helpful. We have made good progress here today. We want to make some brief comments at an appropriate time, when the Senator finishes, on the Vitter amendment. Then, hopefully, we will have an opportunity to vote on these amendments. Then those who are dealing with the supplemental will have a chance to address the Senate.

I thank the Senator. We look forward to his comments.

Mrs. HUTCHISON. Madam President, could I also have 5 minutes following Senator CORNYN?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered; 5 minutes following the junior Senator from Texas.

The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I understand now, talking to the majority whip, there is no objection to the modification of my amendment, No. 1184.

As I was explaining, we checked with the legislative counsel last night and this morning we were told the problem was with the handwritten page, No. 224, that was added on the floor. So it is a matter of pagination. I appreciate the accommodation of my colleagues to allow that modification to go forward. Also, legislative counsel corrected a technical error in the text which this modification corrects.

I have two things I want to speak on, briefly. First, on my original amendment, No. 1184, as you recall, this is composed of two parts. The first part is what I would assume to be technical errors in the underlying bill. In the haste of writing the bill, I think there were some errors made that we pointed out in the amendment, errors that need to be corrected. I do not expect there will be a lot of controversy about that.

What is more controversial, what I want to address, is the second part. That has to do with excluding from the benefits under this bill individuals who have already come into our country in violation of our immigration laws, who have been detained, who have had due process, a trial, who have had their day in court and then, once they were ordered deported, rather than agree to show up and be deported, they simply went on the lam and went underground and melted into the great American landscape. A second category is people who have had their day in court, who have been deported but then who have reentered illegally. Under section 234 of the Immigration and Naturalization Act, both of those actions would constitute felonies. I think it would be a grave error for this bill to reward individuals who have committed that sort of open defiance of our laws. For, whatever you can say about other people who have entered the country in violation of our immigration laws, certainly those who have had a day in court, who have been ordered by court to exit the country but who have gone on the lam, or those who have reentered after they were deported, represent a different type of lawbreaker. I do not believe we should reward those by conferring upon them a Z visa, outlined in the underlying bill.

The Senator from New Jersey, Senator MENENDEZ, argued my amendment would amount to an unconstitutional ex post facto rule because of its retroactive application. This is a misreading of the bill. In order for any immigration provisions to have immediate effect, it is imperative that they apply to conduct and convictions that actually occurred before enactment. If prior conduct and convictions were not covered, you would have an immigration regime that essentially welcomes the following people—this is not how the U.S. immigration should operate. Consider an immigration regime where a known criminal gang member could not be removed unless the Department of Homeland Security can show he was a member after the statute was enacted, even if the DHS had videotaped evidence, or even a confession from last month, showing the alien involved in gang activities. Surely that could not be construed as unconstitutionally retroactive or ex post facto.

Another example would be an undisputed terrorist fundraiser who would not, unless we agree to this amendment, be barred from naturalization on terrorism grounds. Not only would the citizenship application of someone who has been engaged in terrorist activity not be barred for that reason, unless the terrorist activity occurred after the date of enactment, but this effective date could also be used to call into question the use by the Department of Homeland Security of existing discretionary authority to determine a terrorist did not possess good moral character. To create a regime that turns a blind eye to these known facts would be foolish and would not be in our country's national interest.

To avoid such perverse and unintended consequences, Congress has on many occasions enacted grounds of deportability and inadmissibility that are based on past conduct and criminal convictions. For example, section 5502 of the Intelligence Reform and Terrorism Prevention Act made aliens who committed acts of torture or extra judicial killings abroad a ground of inadmissibility and a ground of deportability. That provision applies to offenses committed before, on, or after the date of enactment.

The Holtzman amendment, enacted in 1978, rendered Nazi criminals excludable and deportable. It applied to individuals who ordered, advocated, assisted, or otherwise participated in persecution on behalf of Nazi Germany or its allies at least 33 years earlier, between the years of 1933 and 1945.

It is clear from past experience, as well as common sense, that the only actions we would be taking in this legislation would be to say to those who have had their day in court, who literally thumb their nose at our legal system and at our court system, you

will not be rewarded with the benefits under this act; that you will be excluded. You have had your chance, you have blown it, you have defied the American legal system and, in fact, this is not the kind of acts from somebody we would expect to be a law-abiding citizen in the future.

I also want to speak briefly on an amendment Senator MENENDEZ has offered. Ironically, I find myself in opposition to him on amendment No. 1184, the amendment I have offered, but I find there is a lot to like in his amendment. I want to explain why. This is what I would call the line-jumping amendment Senator MENENDEZ has offered. I have heard the proponents explain that the underlying bill is not an amnesty because it does not allow anyone to jump in line. This is a fundamentally important concept. It is a matter of fundamental fairness and crucial to the integrity, not only of our immigration system, but to our entire legal system. It would be extremely unfair to allow someone who has not respected our laws to be able to obtain a green card as a legal permanent resident before someone who has respected our laws and waited in line for a chance to legally enter this country.

Please understand, I am not just talking about the fact that those who wait in line legally have to do so in their home country while someone who has entered our country in violation of our immigration laws and obtains Z status can wait in our country. That certainly is an issue, that those here are getting the advantage over those who are observing our laws.

I point to a story in today's USA Today, where the Secretary of the Department of Homeland Security, Secretary Chertoff, admits there is ''a fundamental unfairness'' in allowing undocumented immigrants to stay in the country while those who have respected our laws wait patiently outside the country. Should we make what even Secretary Chertoff admits is ''a fundamental unfairness'' that much more unfair?

To the proponents' credit, they have attempted to craft a proposal that would not allow anyone who came here illegally obtain their green card until everyone who chose to follow the law gets their green card. But the problem with the bill is this: The compromise bill arbitrarily sets the cutoff date for being in line legally at May 1, 2005, while setting the date for the end of the line for those illegally here at January 1, 2007. I understand the reason why that was done. It was so there would not have to be added a huge number of additional green cards in order to clear the backlog of people who have been waiting patiently, legally, in line to clear before Z visa holders would get the benefits under the law.

But the problem is this: What this means is someone who chose to respect the law, chose not to enter illegally, and filed the proper immigration paperwork on, for example, June 1, 2005, is not considered to be ''in line'' under the terms of the bill, while someone who decided not to respect the laws and entered illegally on the very same date can obtain Z status and ultimately obtain citizenship.

Family groups such as Interfaith Immigration Coalition, Jewish Council for Public Affairs, the U.S. Conference of Bishops, and MALDEF, have written to my office to explain that those people who played by the rules and applied after May 1, 2005 will not be cleared as part of the family backlog pursuant to the terms of this bill and will lose their chance to immigrate under the current rules and be placed in line behind the Z visa applicants. Some of these family groups reported that more than 800,000 people who will have patiently waited in line will, in essence, be kicked out of the line.

I ask unanimous consent that the letters I just referred to from these organizations, the Conference of Catholic Bishops, Interfaith Immigration Coalition, Jewish Council for Public Affairs, and MALDEF, be printed in the RECORD following my remarks.

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

(See exhibit 1.)

The PRESIDING OFFICER. With respect to the earlier modification of the Senator's amendment, is there objection?

Without objection, it is so ordered.

The amendment (No. 1184), as modified, is as follows:

AMENDMENT NO. 1184, AS MODIFIED

(Purpose: Establishing a permanent bar for gang members, terrorists, and other criminals)

On page 47, line 25, insert '', even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements,'' after ''15 years''.

On page 47, beginning with line 34, strike all through page 48, line 10, and insert:

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) by striking the undesignated matter following subparagraph (U);

(6) in subparagraph (E)—

(A) in clause (ii), by inserting '',(c),'' after ''924(b)'' and by striking ''or'' at the end, and

(B) by adding at the end the following new clauses:

''(iv) section 2250 of title 18, United States Code (relating to failure to register as a sex offender); or

''(v) section 521(d) of title 18, United States Code (relating to penalties for offenses committed by criminal street gangs);''; and

(7) by amending subparagraph (F) to read as follows:

''(F) either—

''(i) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense), or

''(ii) a third conviction for driving while intoxicated (including a third conviction for driving while under the influence or impaired by alcohol or drugs), without regard to whether the conviction is classified as a misdemeanor or felony under State law,

for which the term of imprisonment is at least one year;''.

(b) EFFECTIVE DATE.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act that occurred before, on, or after such date of enactment.

In title II, insert after section 203 the following:

SEC. 204. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended by inserting after paragraph (1) the following:

''(2) one who the Secretary of Homeland Security or the Attorney General determines, in the unreviewable discretion of the Secretary or the Attorney General, to have been at any time an alien described in section 212(a)(3) or 237(a)(4), which determination—

''(A) may be based upon any relevant information or evidence, including classified, sensitive, or national security information; and

''(B) shall be binding upon any court regardless of the applicable standard of review;''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) any act that occurred before, on, or after the date of the enactment of this Act, and

(2) any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws, pending on or filed after the date of enactment of this Act.

SEC. 204A. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS OFFENSES.

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by adding at the end of subsection (a)(2) the following new subparagraphs:

''(J) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the essential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

''(K) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

''(L) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS; CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits having committed or admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. For purposes of this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person

as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

''(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a independent order in another proceeding.''; and

(2) in subsection (h)—

(A) by striking ''The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)'' and inserting ''The Attorney General or the Secretary of Homeland Security may, in his discretion, waive the application of subparagraphs (A)(i)(I), (III), (B), (D), (E), (J), and (L) of subsection (a)(2)'';

(B) by striking ''if either since the date of such admission the alien has been convicted of an aggravated felony or the alien'' in the next to last sentence and inserting ''if since the date of such admission the alien''; and

(C) by inserting ''or Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(b) DEPORTABILITY FOR CRIMINAL OFFENSES INVOLVING IDENTIFICATION.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding after subparagraph (E) the following new subparagraph:

''(F) CRIMINAL OFFENSES INVOLVING IDENTIFICATION.—An alien shall be considered to be deportable if the alien has been convicted of a violation of (or a conspiracy or attempt to violate) an offense described in section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any act that occurred before, on, or after the date of enactment, and

(2) to all aliens who are required to establish admissibility on or after the date of enactment of this section, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

(d) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to create eligibility for relief from removal under former section 212(c) of the Immigration and Nationality Act if such eligibility did not exist before the amendments became effective.

On page 48, line 36, insert ''including a violation of section 924 (c) or (h) of title 18, United States Code,'' after ''explosives''.

On page 49, lines 7 and 8, strike '', which is punishable by a sentence of imprisonment of five years or more''.

On page 49, beginning with line 44, through page 50, line 2, strike ''Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any'' and insert ''Any''.

On page 50, lines 20 through 22, strike ''The Secretary of Homeland Security or the Attorney General may in his discretion waive this subparagraph.''.

On page 283, strike lines 32 through 38, and insert:

(A) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

On page 285, strike lines 1 through 7, and insert:

(I) is an alien who is described in or subject to section 237(a)(2)(A)(iii), (iv) or (v) of the Act (8 U.S.C. 1227(a)(2)(A)(iii), (iv) or (v)), except if the alien has been granted a full and unconditional pardon by the President of the United States of the Governor of any of the several States, as provided in section 237(a)(2)(A)(vi) of the Act (8 U.S.C. 1227(a)(2)(A)(vi);

(J) is an alien who is described in or subject to section 237(a)(4) of the Act (8 U.S.C. 1227(a)(4); and

(K) is an alien who is described in or subject to section 237(a)(3)(C) of the Act (8 U.S.C. 1227(a)(3)(C)), except if the alien is approved for a waiver as authorized under section 237 (a)(3)(C)(ii) of the Act (8 U.S.C. 1227(a)(3)(C)(ii)).

On page 285, line 21, strike ''(9)(C)(i)(I),''.

On page 285, line 41, strike ''section 212(a)(9)(C)(i)(II)'' and insert ''section 212(a)(9)(C)''.

On page 286, between lines 2 and 3, insert:

(VII) section 212(a)(6)(E) of the Act (8 U.S.C. 1182(a)(6)(E)), except if the alien is approved for a waiver as authorized under section 212(d)(11) of the Act (8 U.S.C. 1182(d)(11)); or

(VIII) section 212(a)(9)(A) of the Act (8 U.S.C. 1182(a)(9)(A)).

On page 287, between lines 10 and 11, insert:

(5) GOOD MORAL CHARACTER.—The alien must establish that he or she is a person of good moral character (within the meaning of section 101(f) of the Act (8 U.S.C. 1101(f)) during the past three years and continue to be a person of such good moral character.

Now, Madam President, I wanted to express the concerns I have just expressed and say that I am still studying the amendment from Senator MENENDEZ. I know it adds new green cards on top of all the green cards this compromise has already provided. I will listen carefully to the arguments of Senators MENENDEZ and HAGEL, the main cosponsors of that amendment, as well as arguments of the opponents of the amendment before deciding finally how to vote. But I am troubled by those this bill disadvantages simply because they chose to abide by our laws as opposed to those who chose not to abide by our laws.

I, too, have an amendment, but my amendment does not increase the number of green cards. The effect of my amendment will be to cause the 8-year time period to clear family backlogs to slip a few years. But my amendment speaks to an important principle, one I have been speaking to here for the last few minutes, which is, no one who came here illegally should be placed ahead in the citizenship path in front of someone who has played by the rules.

Finally, let me just say that I anticipate there may be an argument that Citizenship and Immigration Services discontinued taking applications in May of 2005. However, we are told that the State Department has currently approved petitions dated after May 2005 for family members who are just waiting for an immigrant visa.

EXHIBIT 1

U.S. CATHOLIC BISHOPS URGE SENATE SUPPORT FOR FAMILY REUNIFICATION AMENDMENTS TO S. 1348

The U.S. Conference of Catholic Bishops strongly urges senators to vote ''For'' the following family reunification amendments to S. 1348, Comprehensive Immigration Reform Act of 2007:

Menendez/Hagel Backlog Reduction Amendment. The Menendez/Hagel amendment would bring equity to the backlog reduction contained in the substitute amendment to S. 1348 by establishing the same cut-off date for backlog reduction visas as is contained in the substitute for legalizing undocumented aliens. Unless amended by Menendez/Hagel, the substitute amendment would kick all relatives of U.S. citizens and permanent resident aliens who filed petitions after May of 2005 for family reunification visas out of line, thus providing better treatment to undocumented aliens than would be given to persons who have followed the law.

Dodd Parents of U.S. Citizens Amendment. The Dodd amendment would mitigate the damage done to parents of U.S. citizens by the substitute amendment. It would do this by increasing from 40,000 to 90,000 the number of such parents who can be admitted to the United States each year as permanent residents. Under current law, there are an unlimited number of such parents who can immigrate to the United States each year.

Clinton/Hagel Spouses and Unmarried Children Amendment. The Clinton/Hagel amendment would categorize spouses and unmarried children (under the age of 21) of legal permanent resident aliens as ''immediate relatives.'' This would ensure that longterm residents in the United States have the opportunity to reunite with their immediate family members.

Menendez/Obama Sunset Amendment. The Menendez/Obama sunset amendment would sunset the new, untested and little-considered point system provision in the substitute amendment to S. 1348 after 5 years in order to enable lawmakers to assess whether the consequences of the experimental program are unacceptable and warrant a return to the existing family- and employment-sponsored preference systems.

Dear Sir: The Interfaith Immigration Coalition is a coalition of faith-based organizations committed to enacting comprehensive immigration reform that reflects our mandate to welcome the stranger and treat all human beings with dignity and respect. Through this coalition, over 450 local and national faith-based organizations and faith leaders have called on Congress and the Administration to enact fair and humane reform. Members of the coalition are extremely concerned about the provisions of S. 1348 that would undermine family reunification, and therefore urge Senators to VOTE YES on the following amendments that will reaffirm the United States' longstanding commitment to family values and fairness.

Vote ''Yes!'' Menendez Amendment on Family Backlog Cut Off Date. Currently, the compromise legislation will clear the backlog under our existing family and employer based system, but only for those who submitted their applications before May 1, 2005. As a result, an estimated 833,000 people who have played by the rules and applied after that date will not be cleared as part of the

family backlog and will lose their chance to immigrate under current rules. The Menendez amendment would change the ''cut-off'' date for legal immigrant applicants who would otherwise be handled under the backlog reduction part of the bill from May 1, 2005 to January 1, 2007, which is the same cut-off date that is currently set for the legalization of the undocumented immigrants. It would also add 110,000 green cards a year to ensure that we don't start creating a new backlog or cause the 8 year deadline for clearing the family backlog to slip by a few years.

Vote ''Yes!'' Clinton Amendment to Include Minor Children and Spouses of Lawful Permanent Residents in ''Immediate Relative'' Category. Current immigration law limits the number of green cards available to spouses and minor children of lawful permanent residents (LPRs) to 87,900 per year. For these spouses and minor children, quota backlogs are approximately 4 years and 9 months long. The inequitable treatment of minor children and spouses who are dependent on the status of their U.S. sponsor has devastated thousands of legal immigrant families. The Clinton amendment will re-categorize spouses and children of LPRs as ''immediate relatives,'' thereby lifting the cap on the number of visas available to these close family members, allowing permanent residents of the U.S. to reunite with their loved ones in a timely fashion.

Vote ''Yes!'' Dodd Amendment Related to Foreign-Born Parents of U.S. Citizens. Currently, the compromise legislation would set an annual cap for green cards for parents of U.S. citizens at 40,000 (less than half the current annual average number of green cards issued to these parents). It would also create a new parent visitor visa program that only allows parents to visit for 100 days per year and includes overly harsh collective penalties. The Dodd amendment would increase the annual cap of green cards from 40,000 to 90,000, extend the duration of the parent visitor visa from 100 days to 365 days in order to make it easier for families to remain together for a longer period; and make penalties levied on individuals who overstay their S-visa only applicable to that individual and not collectively applied to their fellow citizens. This amendment is essential to making sure that our permanent legal immigration system is fair to US citizens and their parents, and facilitates family reunification.

MAY 22, 2007.

DEAR SENATOR CORNYN: The Jewish Council for Public Affairs (JCPA) applauds the Senate's commitment to finding a workable compromise on Comprehensive Immigration Reform and supports S.1348 as a starting point for the debate. The introduction of a comprehensive framework that secures our borders, clears much of the current family backlog, and provides a path to citizenship for the estimated 12 million undocumented workers in the United States is a step in the right direction toward fixing our broken immigration system.

As the umbrella body for policy in the Jewish community, representing 13 national agencies and 125 local community relations councils in 44 states, the JCPA has long been active in supporting comprehensive immigration reform that is workable, fair and humane.

However, JCPA holds serious reservations about other aspects of the bill, particularly those that address family-based immigration.

For example, the JCPA believes that several aspects of Title V of the Senate compromise are unworkable and unjust. Cutting entire categories of family-based immigration and restructuring our current immigration system to favor employment-based ties over family ties not only undermines the family values that our central to our national identity, it is also detrimental to our economy.

Immigrant families bring an entrepreneurial spirit to our country. Family-based immigration allows newcomers to pull their resources together, start businesses, integrate more easily into their communities and be more productive workers. In addition, using education, English proficiency and job skills as the basis for obtaining a green card does not necessarily meet the economic need, as the U.S. Department of Labor predicts that the U.S. economy has a higher demand for low-skilled workers.

Therefore, the JCPA urges you to:

Vote ''Yes'' on the Clinton/Hagel Amendment to Include Minor Children and Spouses of Lawful Permanent Residents in the immediate Relative'' Category, thereby lifting the cap on the number of visas available to these close family members.

Vote ''Yes'' on the Dodd/Hatch Amendment related to Foreign-Born Parents of U.S. Citizens, which would increase the annual cap of green cards for parents from 40,000 to 90,000, extend the duration of the parent visitor visa from 100 days to 365 days, and not impose collective punishment on families when one member overstays their visa.

The JCPA is also concerned about the Title V provision that arbitrarily sets the date of May 1st, 2005 as a cut-off for clearing the backlog of applicants who have gone through legal channels to try to reunite with their families in the United States. Excluding individuals who have filed family-based applications and paid fees after May 2005 sends the wrong message that playing by the rules is not rewarded. Unless this provision is fixed, the 800,000 applicants that applied after the May 2005 cut-off will be re-directed to the new application process, where they will have to compete in an untested point system that is stacked against them, in order to reunite with their family members.

Therefore, the JCPA urges you to:

Vote ''Yes'' on the Menendez/Hagel Amendment on Family Backlog Cut-off Date, which would change the May 1, 2005 cut-off date to January 1, 2007, the same cut-off date set for the legalization for undocumented immigrants. The Menendez amendment would also add 110,000 green cards a year to avoid creation of a new backlog or cause families who went through legal channels to wait longer than 8 years to reunite with their loved ones in the United States.

The JCPA applauds the Senate's commitment to passing a comprehensive immigration reform package this year. The alternative is the status quo, which has proven to produce suffering, exploitation, family separation and chaos. However, the JCPA maintains serious reservations due to the concerns outlined above. We therefore urge you to support the above amendments to the agreement that reflect family values, workability and fairness.

If you have any questions, please do not hesitate to contact me at hsusskind@thejcpa.org or 202–789–2222 X101.

Sincerely,

HADAR SUSSKIND,
Washington Director,
Jewish Council for Public Affairs.

MALDEF—PROMOTING LATINO CIVIL RIGHTS SINCE 1968

IMMIGRATION DEBATE STARTS IN THE U.S. SENATE—POSITIVE AND NEGATIVE DETAILS EMERGE; FIRST VOTES BEING TAKEN

MAY 22, 2007.—On Monday, the U.S. Senate, by a vote of 69–23, voted to begin debate on comprehensive immigration reform. Contrary to the original plan to complete action by Memorial Day, Senate leaders acknowledged that deliberations will continue into June after the Memorial Day recess. MALDEF will work with local organizations and leaders to organize meetings and events while Senators are in their home states to highlight the need for comprehensive immigration reform. We encourage you also to work with local coalitions in your area.

MALDEF is working to restore family reunification, support realistic employment verification systems, and remove unnecessary obstacles to legalizing the immigration status of otherwise law-abiding people already in the United States. In addition to drastically limiting the ability of U.S. citizens to be reunited in the U.S. with their brothers, sisters, and parents, the Senate bill arbitrarily terminates family reunification petitions filed after May 1, 2005. Urge your Senator to support Senator MENENDEZ's effort to restore the hope for reunification for families whose applications were filed after May 1, 2005. Over 800,000 legal immigrants currently waiting in line will be harmed if this provision is not improved.

A key provision in the Senate bill requires all employers to use a new government database to verify the employment eligibility of every new hire within 18 months and every existing employee, U.S. citizen or not, within three years. Based on our experience with employer sanctions, we expect significant discrimination to result against Latino workers. The bill would bypass the existing Department of Justice Civil Rights office and require discrimination victims to complain to the Department of Homeland Security. The bill also shields the implementing rules from class action challenges and bars a court from awarding attorney fees to those, like MALDEF, that would challenge the regulations. These features must be changed.

The legalization program makes unauthorized immigrants eligible for a new ''Z'' visa if they entered the United States as late as December 31, 2006. The program would start six months after the bill is enacted and individuals (and heads of households on behalf of their spouse and minor children) would have up to a year and potentially two years to apply. If they are eligible, unauthorized immigrants would have an immediate interim stay of removal even before they applied. These are the most positive features of the compromise. MALDEF is working to strengthen other features such as the costs, timing and eligibility restrictions.

One of the first amendments expected, as early as today, may be offered by Senators Feinstein (CA) and BINGAMAN (NM). It would reduce the number of future ''temporary workers'' by 50% and permit 200,000 instead of 400,000 to enter per year. This amendment does not address our key objections to the temporary worker provision, namely, that it would be costly to the workers and complicated for employers; it would allow the families of only higher income workers to join them in the United States; and it would require workers to leave after two years and remain outside the U.S. for a year before returning. The United States needs more workers than are currently available in the domestic workforce. The flaws in the program relate not to the number of workers but to the conditions upon their entry and in their work environment.

While the U.S. Senate is in session debating the immigration bill, you will be receiving a special daily edition of The MALDEFian.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I had originally come to the floor to

offer two amendments on Social Security. However, I have yielded to the request from Senator KENNEDY to withhold, and he has told me that I will be able to offer those amendments on the first day we return and take this bill up on the floor again.

Madam President, I did wish to speak, however, on what I hope to do with this bill. I think there are some very good features of this bill. It has been negotiated really for years. The good features are the border security and we do have benchmarks that are required to be done before any temporary worker program or dealing with the backlog of people who are in our country illegally begins.

We will have benchmarks that are finite for border security. That is a good feature of this bill. It also has a temporary worker program going forward. I think it is essential, if we are going to have border security in the future in this country, that we have a temporary worker program that works. If we do not have a temporary worker program that works, we will not have border security. Many people are not putting that together, but it is essential that you put it together because if we do not have a way for people to come into this country and fill the jobs that are being unfilled because we do not have enough workers who will do those jobs, then we will never be able to control our borders.

I am supportive of those parts of the bill. What I cannot support in this bill and what I am going to try to make a positive effort to change are basically two areas. First is the amnesty portion of the Z visa. It would allow people to come to this country illegally, stay here, and if they do not wish to have a green card, they would never have to return. And that visa would be able to be renewed as long as the person wanted to stay here and work. I will offer an amendment at the appropriate time that will take the amnesty out of the bill and require that before a person can work in this country legally, if they are here illegally, they would have to go home and apply from outside the country. We will have a time that will allow that to happen in an orderly way, probably 2 years after the person gets their temporary card when they register to say they are in our country illegally, which they will be required to do. Then they would have 2 years from the time they get that first temporary card to go home and register at home to come in our country legally.

I think taking out the amnesty part of this bill would be a major step in the right direction, to say, for people who are here illegally today, they can get right with the law by applying from home, just as all future workers will have to do. So there would not be an amnesty for people who would be able to work here, stay here, and never go home. That would be my amendment which I would like to offer at the appropriate time.

The second area I think must be fixed is in the Social Security area. We all know our Social Security system is on the brink of failure. We know that in the year 2017, the system will start to pay out more than it receives. By 2041, the trust fund will be exhausted.

Now, in 2017, under the present law, we will have to make adjustments that will either increase Social Security taxes or decrease payments to Social Security recipients. If we put more people into our system who have gotten credits illegally working in this country, it is going to bring forward the year in which we have to start either lowering the payments or raising the taxes. I don't think that is right. I do not think we should give Social Security credits to people who will be Z visa holders in this country for the time they have worked illegally.

In the underlying bill, they do address the issue of fraudulent cards. I commend them for putting that in the bill. If you have paid Social Security with a fraudulent number or a card that is not yours, you will not be able to get credit for Social Security. To be very fair and honest, that is a good part of this bill, but it does not deal with the people who have a card in their own name, but they have worked illegally.

That is what one of my amendments will attempt to address, that we will also not give credit to people who have a card in their name, but they either obtained it illegally or they have overstayed a visa. So I hope we can also not give credit for that illegal time they have worked even if the card is in their name, but it was not their legal right to work. If we can do that and then start a person, when they are on the proper visa, toward getting credit, I think the American people will feel that is a fairer system.

The second area I hope to address is the new future flow of temporary workers. Now, under the bill, the temporary workers who will be coming in after the backlog of the illegal workers is dealt with, those people should not ever go into the Social Security system because, according to this bill, they will be limited to a 6-year period. It is very important that in dealing with those temporary workers, that they will not ever be eligible for Social Security, nor should they be, because they will not have the requisite number of quarters.

What my second amendment does is allow them to take what they have actually put into the Social Security system through the employee deduction. It will allow them to take that home when they leave the system. We think—I think that is a fair approach for both the person working and also the Social Security system itself, that they would get back what they put in, but they would not be eligible for our Social Security system, which would be much more costly down the road.

In addition, the Medicare deduction which is taken from the employee would also go into a fund which is already a fund in place that now allows compensation for uncompensated health care to a county hospital or to a health care provider that delivers a baby of an illegal immigrant who cannot pay or does any emergency service for an illegal immigrant today.

We know many hospitals—I know that in my home State of Texas, my hospitals in my major cities always talk about how much they are having to raise taxes on the taxpayers who live in their districts because there is so much use of the health care facilities by illegal immigrants who cannot pay. So the Medicare deduction would go into a fund that would compensate health care providers for service to foreign workers who would not be able to pay.

Those are the two amendments which I think would assure that the taxpayers of our country and the contributors to the Social Security system who have earned the right to have that safety net would not be unfairly taxed for people who have not been legally in the system or people who do not have the quarters that would be requisite. I hope we can take these amendments up. I hope they will be acceptable. If we can take the amnesty out of this bill by assuring that everyone who is here illegally will have to apply outside of our country to be able to come in legally to work, then we have set the precedent of the rule of law which we have always prided ourselves on in this country. If we can assure that the Social Security system is not also unduly burdened with quarters given for illegal work, then I think the American people will accept that we have to address this issue in a responsible way.

I have heard the outcry of people about this bill, and I think some of that outcry is justified. But I think we can fix the parts that are not in tune with the American people and also do what is right for our country going forward because there is one thing on which I think we can all agree; that is, we have a system that is broken when you have 10 to 12 million people—and that is an estimate because we do not know for sure—who are working in our country illegally. They are not being treated fairly, nor are the American people who do live by the rule of law being treated fairly. It is a system that is broken, and it is a very complicated and hard problem to fix, but that is our responsibility.

I respect those who have tried, in a bipartisan way, to put forward a bill. As a person who has written a book, as a person who has written legal briefs, I know that the person who puts out the first draft is always going to be the one who is under attack. But someone has to do it, and the people who have worked on this bill did step out and say: Here is the starting point.

Congressman MIKE PENCE and I, last year, when the House and Senate broke down in negotiations over this issue, did the same thing. We came out with

what we thought was a starting point that would be the right approach, and the principles we laid down were that we would have a guest worker program which would not include amnesty but would be a fair and workable guest worker program. It would have private sector involvement. It would have border security as our No. 1 goal. It would also preserve the integrity of our Social Security system. Congressman PENCE and I tried to do that last year. Many of the elements in the Hutchison-Pence plan are in the bill before us.

If we can perfect this bill and take the amnesty out by requiring everyone to apply outside our country—and it can be done in a responsible way mechanically because you would have some amount of time—1 or 2 years—to do it so that it would not be a glut on the system. I regret the argument that you cannot do it. I think we can. I also think we need to make a responsible effort, and that is exactly what I am going to try to do.

I hope all our colleagues will work in a positive way to try to fix the parts that we think are bad, to admit that there are some good parts. The border security and the temporary worker program are very good, and the part about the Social Security protection for fraudulent cards is good. Let's try to make it better. Let's try to make it a bill that everyone will accept as fair for America, fair for foreign workers, helps our economy, and keeps our borders secure. That is what we owe the people. I hope to make a contribution in that effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I see my friend from Vermont on his feet. I know from conversation that he wants to modify his amendment. I hope the Chair will recognize him for that purpose.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 1223, AS MODIFIED

Mr. SANDERS. Madam President, I have a modification of my amendment at the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of title VII, insert the following:

Subtitle C—American Competitiveness Scholarship Program

SEC. 711. AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this section as the ''Director'') shall award scholarships to eligible individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, health care, or computer science.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a scholarship under this section, an individual shall—

(A) be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), an alien admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), or an alien lawfully admitted to the United States for permanent residence;

(B) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(C) certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, nursing, medicine, or other clinical medical program, or technology, or science program designated by the Director.

(2) ABILITY.—Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(c) AMOUNT OF SCHOLARSHIP; RENEWAL.—

(1) AMOUNT OF SCHOLARSHIP.—The amount of a scholarship awarded under this section shall be $15,000 per year, except that no scholarship shall be greater than the annual cost of tuition and fees at the institution of higher education in which the scholarship recipient is enrolled or will enroll.

(2) RENEWAL.—The Director may renew a scholarship under this section for an eligible individual for not more than 4 years.

(d) FUNDING.—The Director shall carry out this section only with funds made available under section 286(x) of the Immigration and Nationality Act (as added by section 712) (8 U.S.C. 1356).

(e) FEDERAL REGISTER.—Not later than 60 days after the date of enactment of this Act, the Director shall publish in the Federal Register a list of eligible programs of study for a scholarship under this section.

SEC. 712. SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) (as amended by this Act) is further amended by inserting after subsection (w) the following:

''(x) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Supplemental H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this Act, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(15).

''(2) USE OF FEES FOR AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—The amounts deposited into the Supplemental H–1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 711 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 for students enrolled in a program of study leading to a degree in mathematics, engineering, health care, or computer science.''.

SEC. 713. SUPPLEMENTAL FEES.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) In each instance where the Attorney General, the Secretary of Homeland Security, or the Secretary of State is required to impose a fee pursuant to paragraph (9) or (11), the Attorney General, the Secretary of Homeland Security, or the Secretary of State, as appropriate, shall impose a supplemental fee on the employer in addition to any other fee required by such paragraph or any other provision of law, in the amount determined under subparagraph (B).

''(B) The amount of the supplemental fee shall be $3,500, except that the fee shall be ½ that amount for any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).

''(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(x).''.

Mr. KENNEDY. Madam President, I see my friend and colleague from Illinois here, as well as my colleague from Alabama. I did wish to address the Vitter amendment briefly. We are very hopeful we may be able to accept the Senator's amendment. We will know that momentarily.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 1231 TO AMENDMENT NO. 1150

Mr. DURBIN. Madam President, I wish to first describe what I am going to try to do at this moment so all Senators will know. I am going to ask unanimous consent that we set aside the pending Sanders amendment for the purpose of offering an amendment which I am going to offer and then, after a brief comment of 3 to 5 minutes, I will ask unanimous consent to return to the Sanders amendment as the pending business before the Senate. I don't wish to mislead anybody about what I am doing. This should be a total of about 5 minutes, and we will be back where we started. My amendment will be at the desk for later consideration.

I make that unanimous consent request to set aside the pending Sanders amendment for the purpose of offering my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, I had understood there would be an opportunity for me to speak after Senator SANDERS and Senator DURBIN. Are we going to be in a situation where I may not be allowed to offer an amendment?

Mr. DURBIN. I say to the Senator from Alabama through the Chair, I will be completed in 3 to 5 minutes, and we will be in exactly the same place we started. The Sanders amendment will be pending with no other requirements under the unanimous consent request.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, and Mr. GRASSLEY, proposes an amendment numbered 1231 to amendment No. 1150.

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

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

The amendment is as follows:

(Purpose: To ensure that employers make efforts to recruit American workers)

In section 218B(b) of the Immigration and Nationality Act, as added by section 403(a), strike ''Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment to which the Y nonimmigrant is sought, each'' and insert ''Each''.

In section 218B(c)(1)(G) of the Immigration and Nationality Act, as added by section 403(a), strike ''Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the Y nonimmigrant is sought—'' and insert ''That—''.

Mr. DURBIN. Madam President, I offer this amendment on behalf of myself and Senator GRASSLEY. The new Y guest worker program included in the immigration bill would require employers to recruit Americans before hiring a guest worker. That is our first obligation. If there is a job opening in America, an American should have the first chance to get it. That is the intent of the bill, but there is one loophole. The loophole allows the Secretary of Labor to declare a labor shortage and then waive the requirement of offering the job to an American. We don't define what a labor shortage is. This amendment removes that right of the Secretary of Labor.

What it means is, as there are job openings, they will always be offered first to Americans. Shouldn't that be our starting point, always offer the job first to an American, to see if an unemployed person or someone else wants to take it? Then if the job is not filled, we can consider other options. We know when it comes to H–1B visas, which are visas offered to skilled workers to come into this country to fill in gaps for engineers and architects and professionals, there have been abuses. When we had the openings for the H–1B visas, opportunities for people to come into this country, it turned out that 7 out of the 10 firms that won the right to offer H–1B visas were not American companies trying to fill spots where they couldn't find Americans. They turned out to be foreign companies that were outsourcing workers to the United States, exactly the opposite of what we had hoped for. We don't want that to happen with the temporary guest worker program. This amendment would eliminate this jobs shortage exception. It would require that in temporary guest worker positions, the first job offering always be to an American. It is simple. Senator GRASSLEY and I offer it. It is supported by the AFL–CIO and the building trades unions, the laborers and Teamsters, many other organizations. I urge my colleagues, when we return after our Memorial Day recess, to consider this amendment. It is a very important amendment to stand faithful to our first obligation, our people in America who are looking for jobs.

I ask unanimous consent to set my amendment aside and return to the Sanders amendment as the pending amendment before the Senate.

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

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I think we are in a position to accept the amendment of the Senator from Vermont as modified. What I propose to do is to speak very briefly on the Vitter amendment, and then it would be my expectation that we would move to Senator SESSIONS to have an opportunity for him to offer his amendment. He has been on the floor a great deal today trying to be recognized. He has been at a markup on Armed Services so he couldn't be here earlier.

I have been informed there are some objections to the amendment offered by the Senator from Vermont. We will have to process them and see what we will do. It is not unusual that the information given to us is that we can accept and then others come forward. But we will try to work it out.

AMENDMENT NO. 1157

Briefly, Madam President, I oppose the Vitter amendment. The core of the legislation is to provide for border security, employer verification, a guest worker program, and a way to handle the 12 million undocumented immigrants. The Vitter amendment strikes title VI, which provides for the way of handling the 12 million undocumented immigrants, which is, if not the heart of this bill, a vital organ of the bill. Without this provision, the bill doesn't have the import which is necessary to deal with the immigration problem.

The 12 million undocumented immigrants are going to be in the United States whether we deal with them in a systematic, appropriate way or not. The only question is whether we eliminate the anarchy, having them, as the expression is often used, living in the shadows, living in fear. If we systematize the approach, they come out of the shadows. They register. We will have an opportunity to identify the criminal element, deport a reasonable number when we identify those who can be, should be deported, and then deal with the balance as the bill provides with the Z visas.

Stated briefly, if you were to accept the Vitter amendment, there would be nothing left but a shell of this bill. The whole bill is an accommodation of border security, employer verification for what we do in the guest worker program, and the 12 million undocumented immigrants. For those reasons, I vigorously oppose the Vitter amendment.

I believe we are now ready for the Senator from Alabama to offer his amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, at the request of the leaders, we were in the process of trying to get some votes this afternoon. We were moving along as well because the Appropriations Committee had asked us if we would be finished by 5 o'clock. I see my friend from Alabama who has been extremely patient. He has been in the Armed Services Committee, where I should have been earlier in the afternoon. He was diligent there and arrived over here. He has important amendments on the earned-income tax credit and others. The Senator from Vermont has been here all afternoon. He has a good amendment. We had initially, at 2:15, said we would do the Vitter amendment. We were going to come back and do the Feingold amendment, but then we were told we couldn't vote on that.

We were told we couldn't vote on Vitter because there were some members of his own party who chose not to do so. But we wanted to vote on the amendment of the Senator from Vermont. Hopefully, he was going to be accepted, but that is not the case.

I hope we would have the opportunity to vote on that; then after that, to recognize the Senator from Alabama for whatever time he might need for the purpose of debate, rather than for voting. The request of the leadership is to do the supplemental. We give assurance to the Senator from Alabama that we will consider his amendment at the earliest possible time after we return.

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

Mr. KENNEDY. Yes.

Mr. DURBIN. May I ask the Senator from Massachusetts and the Senator from Pennsylvania to consider the following—if we could enter into a unanimous consent request that would allow the Senator from Alabama to lay down his amendments, to speak, and then withdraw the amendments, returning to the Sanders amendment, and have unanimous consent at a time certain that we would have a vote on the Sanders amendment; would that be agreeable?

I would like to make that unanimous consent request, if the Senator from Alabama can tell us how much time he would need.

Mr. SESSIONS. Madam President, I would prefer to have a vote on my amendment tonight, if we could do so. I would be reluctant to have another vote if we can't have a vote on the amendment I will offer.

Mr. DURBIN. Madam President, the Senator from Vermont has been here all day waiting for this opportunity and has patiently waited as several suggested rollcalls have passed by. In fact, one was to be at 5 o'clock. Without prejudicing the Senator from Alabama, I have a pending amendment, too, or had one earlier, which I am willing to wait until after the recess to consider. I think it might be a gesture of fairness to allow the Senator from Vermont to have his vote this evening, whether the Senator and I get our chance or not. We will be back after Memorial Day.

Mr. SESSIONS. It is a tough life in the pit here. If I desire to have a vote tonight myself, what would be the difficulty with that? We could do that at the same time as the vote on the Sanders amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I think we have had a good debate and discussion on the Sanders amendment. It was the request of the leadership that we have the supplemental, which has been extremely important. There is going to be action on that later this evening. They had initially asked us if we could conclude at 4 o'clock. We have been trying to conclude so that Members who want to address the supplemental would be able to address the supplemental. That is basically the reason for that. We have been here, as the Senator from Pennsylvania knows, ready to do business since 9:30 this morning. We were glad to. I had hoped—and I apologize to the Senator from Vermont because we were all set to have a rollcall on that. Then it appeared it might have been accepted. I was asked, requested by Senators to hold for a few moments to see whether it could not have been cleared. I could ask unanimous consent that the amendments of the Senator from Alabama be considered on Tuesday at a time agreeable to him.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, there will be a number of amendments I would like to have considered and a number of others that need to be considered after we come back.

I would just reluctantly state that if we have a vote, I would need and request that my vote be also tonight; otherwise, I would object to the unanimous consent request.

Mr. DURBIN. Madam President, will the Senator from Alabama yield?

Mr. SESSIONS. I am pleased to yield.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I say to the Senator, I have been informed by staff that his amendment has not been filed, and we have not seen a copy of it. Senator FEINGOLD, who earlier had an amendment, stepped aside so Senator SANDERS would have his chance. I say to the Senator from Alabama, it appears some who have been waiting all day are looking for a chance for a vote, and the Senator from Alabama is asking for consideration of an amendment that has not been filed and we have not seen.

Madam President, I say to the Senator, could I ask unanimous consent that the Senator from Alabama be recognized to offer an amendment and that he then be recognized for up to 15 minutes; that following his remarks, the Senate resume consideration of the Sanders amendment and there be 2 minutes of debate prior to a vote in relation to the Sanders amendment, with no second-degree amendment in order to the Sanders amendment prior to the vote?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, if I would be allowed to make my two amendments pending and to speak for 15 minutes, I would forgo a request for a vote tonight.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, did the Senator say two amendments?

Mr. SESSIONS. Madam President, I have two amendments. They are both on the same subject. I would rather offer both. I am not sure which one—I would never ask the Senate to vote on both, but I would like to offer both.

Mr. DURBIN. Madam President, I will renew my unanimous consent request and see if the Senator from Alabama will find it acceptable.

I ask unanimous consent that Senator SESSIONS be recognized to offer two amendments and be given up to 15 minutes to speak to those amendments; that following his remarks, the Senate resume consideration of the Sanders amendment and there be 2 minutes of debate prior a vote in relation to that amendment, equally divided, with no second-degree amendments in order to the Sanders amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. I thank the Senator from Alabama.

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

Mr. SESSIONS. Mr. President, I salute the Senator from Illinois for his expertise in extracting that agreement from this confusion.

AMENDMENT NO. 1234 TO AMENDMENT NO. 1150

Mr. President, I ask that the pending amendment be set aside and I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 1234 to amendment No. 1150.

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

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

The amendment is as follows:

(Purpose: To save American taxpayers up to $24 billion in the 10 years after passage of this Act, by preventing the earned income tax credit, which is, according to the Congressional Research Service, the largest anti-poverty entitlement program of the Federal Government, from being claimed by Y temporary workers or illegal aliens given status by this Act until they adjust to legal permanent resident status)

At the appropriate place, insert the following:

SEC. _____. LIMITATION ON CLAIMING EARNED INCOME TAX CREDIT.

Any alien who is unlawfully present in the United States, receives adjustment of status under section 601 of this Act (relating to aliens who were illegally present in the United States prior to January 1, 2007), or enters the United States to work on a Y visa under section 402 of this Act, shall not be eligible for the tax credit provided under section 32 of the Internal Revenue Code (relating to earned income) until such alien has his or her status adjusted to legal permanent resident status.

AMENDMENT NO. 1235 TO AMENDMENT NO. 1150

Mr. SESSIONS. Mr. President, I ask that the pending amendment be set aside and I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 1235 to amendment No. 1150.

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

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

The amendment is as follows:

(Purpose: To save American taxpayers up to $24 billion in the 10 years after passage of this Act, by preventing the earned income tax credit, which is, according to the Congressional Research Service, the largest anti-poverty entitlement program of the Federal Government, from being claimed by Y temporary workers or illegal aliens given status by this Act until they adjust to legal permanent resident status)

At the appropriate place, insert the following:

SEC. _____. 5-YEAR LIMITATION ON CLAIMING EARNED INCOME TAX CREDIT.

Section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) is amended by inserting ", including the tax credit provided under section 32 of the Internal Revenue Code (relating to earned income)," after "means-tested public benefit".

Mr. SESSIONS. Mr. President, one of the more significant ramifications of the immigration bill that is on the floor today is that it will confer immediately on persons in our country illegally the benefit of the earned-income tax credit. This is not a little bitty matter. The earned-income tax credit is the largest aid program for low-wage workers in America. Last year, the earned-income tax credit benefitted over 22 million people who. The average recipient who receives a benefit under the earned-income tax credit receives over $1,700 per year—a very generous event. Last year, we spent $41.2 billion on the Earned Income Tax Credit.

What this bill would do, for the people who are here illegally, is confer on them a Z status, a legal status, and under the impact of the legislation, these individuals would immediately become eligible for the earned-income tax credit.

Let me tell you why this is not good policy, it is not required by morality, and it certainly is not required of Congress as a matter of law or policy. The earned-income tax credit was created in 1975 to provide extra income to the working poor. Before welfare reform particularly, there was a widespread understanding that many people could not work, could stay at home, draw a panoply of welfare benefits, and end up making more money not working than working. It was creating a disincentive to work.

Back when President Nixon was President, Republicans—and I guess

Democrats—moved forward with the earned-income tax credit. It has grown and become a major factor for low-wage working Americans. The whole concept behind the earned-income tax credit was to encourage Americans to work, to affirm their work, to provide aid and assistance to them, unlike welfare. It is tied to their work. Now, I have to tell you, I have looked at it, and I do not think it is achieving quite what we want it to do. In fact, I would like to change that and have suggested it over the years but, regardless, that is the deal.

So how is it, then, that we would think we have an obligation to provide, as a reward to someone who came to our country illegally, a benefit they are not now receiving, did not expect to receive when they came to the country, legally or illegally, and then, just as an additional benefit and reward to their legalization, we provide a $1,700-per-year benefit? It does not make good sense to me. I think it is bad policy, and it has a huge impact on our bottom line in the budget we have to deal with.

I also note that in 1996, when we passed the Welfare Reform Act, after much effort and work—President Clinton vetoed it twice but finally signed it—an effort was made to ensure that persons who obtained a green card did not receive means-tested benefits until at least they had a green card for 5 years. In other words, if you were coming to our country as an immigrant, we wanted to be sure you were not coming for welfare benefits, but to work, and that you would not receive means-tested benefits until you had a green card for at least 5 years.

So what happened was, when they wrote that, it did not touch the earned-income tax credit. I guess that is a Finance Committee matter. It is a tax committee matter. It was not considered a normal welfare-type payment, and that was not included in the list of things a person was not allowed to get. But, in my own mind, I say to my colleagues, it is perfectly consistent in philosophy and in principle with that because the earned-income tax credit is a payment from the Federal Government to working Americans. You file a tax return and obtain the Earned Income Tax Credit after a year's work. When your work shows your income level was below a certain level in America, you reach a qualifying level, and you get a tax refund of $1,700, $1,000, $2,400, depending on the circumstances of yourself and your family. So that is what happens today for working Americans. The individuals who are in our country illegally at this moment have not been expecting to get that, have not been getting it unless they are filing fraudulently, and they should not get it. They should not get it as an additional benefit to receiving a Z visa, which allows them permanent residence in the United States and a pathway to citizenship.

That Z visa would also allow them to obtain quite a number of other benefits, such as food stamps—which would not be affected by my amendment—health care for children, and, of course, anyone who goes into a hospital who has an emergency need will be treated whether they have insurance or legal status or not. So their children would be educated in our school systems. All those things would occur. Nothing would impact those things. But it is not correct as a matter of law, as a matter of principle, and certainly it is not a matter of fiscal responsibility for this Congress to pass an immigration reform bill that confers another $18 billion to $20 billion in earned-income tax credit on people whom we just rewarded with permanent residence in our country. That is not required. There is no requirement of that.

The Congressional Research Service describes the EITC in this way:

> The earned income tax credit began in 1975 as a temporary program—

Typical of Washington, isn't it, that we start something that is temporary, and it is $40 billion a year now—

> to return a portion of the Social Security taxes paid by lower-income taxpayers and was made permanent in 1978. In the 1990s the program was transformed into a major component of Federal efforts to reduce poverty and is now the largest antipoverty entitlement program.

I bet most Americans did not know that the EITC is the largest entitlement program on the books.

Now, I have had a fairly positive view of the earned-income tax credit. I think in many ways it is a good philosophy to help Americans get out, get moving, make some work. They often start out at lower wage jobs, and it sounds bad sometimes for them, and they are not making enough to get by. This earned-income tax credit can really be a benefit to them, and if they stay at that job, if they work at it, if they are responsible and they come to work on time and do their duty effectively, most people in America get promoted. Their wages go up, and they do better and better. So I do not think it is a bad program, but it is a very expensive program, and for a number of reasons it could be operated better.

I will again say to my colleagues, I am not of the belief that it is required of us that we should confer on persons who came into our country illegally every single benefit we confer on those who wait in line and come to our country legally. I just do not think that is required. One of the things in particular I would suggest not to be conferred—should not be conferred—upon them is the extensive benefits of the earned-income tax credit.

In other words, we do not want to attract people to America on things other than their wages and salary. We have enough people who need help in America. We have a lot of people out there working who, frankly, maybe did not have a good home life. They have not been as reliable as they should have been. Maybe they have gotten in trouble a time or two. We need our American businesses to take a chance on those people. We need to help them get their lives together and establish a good work history and start making some money. The earned-income tax credit comes in as a refundable tax credit on top of that as a real bonus to them, and that is good. But it should not be an attraction to draw people into our country because most of the persons who come into America as an illegal immigrant, at least in the first years, tend to make the salary levels that qualify for the earned-income tax credit. So there will be a disproportionately high number of persons who will qualify for that.

I see my time is about up. I will reluctantly accept having a vote, as Senator KENNEDY suggested we can do early in the next week when we come back, if that will help move us along tonight. But I want to tell my colleagues to think about this amendment—really think about it. This is not a harsh amendment. This is not an amendment to hurt anybody. It is an amendment that says: OK, if you are in our country, just like the 1996 Welfare Reform Act said, and you qualify for the Z visa under this amnesty program, or whatever you would like to call what we have in this bill, you are not automatically eligible for the earned-income tax credit. We absolutely should not allow that to happen. It is not necessary. It is not right to do so. It is a raid on the Treasury of the United States. It draws money from people who have paid taxes for years.

I would have to note, under the bill that is on the Senate floor, the immigration bill before us, are individuals who have been here illegally, some of whom may have made nice incomes and are absolved from paying a portion of their back taxes. So they don't even pay all back taxes. Then we are going to give them, immediately, the next year, an earned-income tax credit that could be a very substantial amount of money, and that comes right out of the taxpayers' pockets, a billion here and a billion there and a billion here and a billion there. It does add up, and it is significant.

So I would urge my colleagues to consider this and hope that they will.

I also wanted to express my support for Senator HUTCHISON for the analysis on Social Security of persons who come here to work and who violate their stays and overstay, that they should not receive the full benefit of Social Security. One of the things you have to have if you are going to have an effective immigration policy is you must have a situation in which you don't reward people for bad behavior, for heaven's sake. We certainly are not very good at apprehending people who violate the law, who either came in illegally or overstayed and removed them from the country, but surely we ought to set up a system that says if you violate the law, the way you come or stay here, you don't get Federal taxpayer benefits and a reward as a result of

that illegal behavior. If we are not able to make those distinctions and stand with clarity on those kinds of questions, I suggest we are not able to take a stand on most any principle of law. So that worries me.

Senator CORNYN, who spoke earlier and very effectively, asked me to make this note for the record; that his modification corrected—he stated in his remarks that he made a modification to his amendment to correct the page number. He also wanted to make clear that he did also include a technical correction beyond that, and he didn't want to mislead anyone. He asked that I clarify that for him so that there would be no dispute about that.

Also, some people have suggested that the CORNYN amendment would amount to an unconstitutional ex post facto rule because of its retroactive application. Now, that is a pretty harsh thing to say about Judge CORNYN. Senator CORNYN served on the Supreme Court of the State of Texas and he would just suggest this: In order for any immigration provision to have immediate effect, it is imperative that they apply to the conduct and convictions that occurred before enactment.

The PRESIDING OFFICER. The Senator has used his 15 minutes.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 more minute, and I will wrap up.

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

Mr. SESSIONS. So, also, I would note on behalf of Senator CORNYN's amendment that if prior conduct and convictions were not covered, you would have an immigration regime that essentially welcomes the following people, and this is not how the immigration system should operate. For example, as recently as 2005—I see my time is up, and I won't go into that. I will just note that Senator CORNYN's amendment as he offered it will meet constitutional muster, and it is not subject to the criticism some have suggested, and please do support it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I be able to proceed for 5 minutes.

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

Mr. KENNEDY. Mr. President, all of the men and women who would become legal residents of the United States under the terms of this legislation are required to pay income tax like every other worker in America. What the Sessions amendment would do is really quite extraordinary and grossly unfair. It would arbitrarily deny those immigrants who have become legal residents one of the tax benefits available to every taxpayer under the Internal Revenue Code. That provision is the earned-income tax credit, a provision designed to reduce the I tax burden on low income families with children.

It is fundamentally wrong to subject immigrant workers to a different, harsher Tax Code than the one that applies to everyone else in the country. An immigrant worker should pay exactly the same income tax that every other worker earning the same pay and supporting the same size family pays—no less and no more. We should not be designing a special punitive Tax Code for immigrants that makes them more than everyone else. Yet that is exactly what the Sessions amendment seeks to do.

The Session amendment would result in highly inconsistent treatment of legal immigrant residents, and would drastically increase the amount of tax that many of these families had to pay. They would be subject to income and payroll taxes in the same manner as other workers but would be denied the use of a key element of the Tax Code that is intended to offset the relatively heavy tax burdens that low-income working families, especially those with children, otherwise would face.

Most of the EITC is simply a tax credit for the payment of other taxes, especially regressive payroll taxes. The EITC was specifically designed to offset the payroll tax burden on low-income working parents. The Treasury Department has estimated that a large majority of the EITC merely compensates for a portion of the federal income, payroll, and excise taxes paid by the low-income tax filers who qualify to receive it.

A significant share of families that receive the EITC owe federal income tax before the EITC is applied, in addition to paying payroll taxes. Low-income working immigrant families in this category who would be denied the EITC under the Sessions Amendment would consequently face a dramatic increase in their income tax bill, requiring them to pay much higher taxes than other taxpayers with similar earnings.

Other families with even less income would not receive a refund to offset the disproportionately large payroll taxes they paid, unlike other workers with comparable wages and dependents.

To qualify for the EITC, under current law, a taxpayer must satisfy the following criteria: 1., Be a US citizen or legal resident; 2., have a valid Social Security number for both the worker and any qualifying children; 3., have earned income from employment or self-employment; 4., have total income that falls below a certain level, and; 5., file an income tax return.

Current law already clearly prohibits illegal immigrants from receiving the EITC. No immigrant can receive the earned income tax credit unless he or she is a legal resident who is a low wage worker paying payroll taxes and filing an income tax return. These are men and women who are conscientiously fulfilling their responsibilities to their adopted country and they deserve to be treated like all other workers in America.

This amendment would hurt children. The United States has more children living in poverty than any other industrialized country. We need to help children, not hurt them. And they should not have to pay for the sins of their parents.

SUPPLEMENTAL APPROPRIATIONS

Mr. President, this so-called compromise doesn't do nearly enough to end the war, and I intend to vote against it. I support our troops. They have fought bravely and with great courage under extraordinarily difficult circumstances. But it is wrong for the President to send our troops to war without a plan to win the peace, and it is wrong for Congress to keep them in harm's way on the current failed course.

The best way to protect our troops is to bring this war to an end, not to pour more American lives into this endless black hole our Iraq policy has become. It is wrong for Congress to continue to defer to a Presidential decision that we know is fatally flawed.

The American people know this war is wrong. It is wrong to abdicate our responsibilities by allowing this war to drag on and on and on while our casualties mount higher and higher. The President was wrong to get us into this war, wrong to conduct it so poorly, wrong to ignore the views of the American people, and wrong to stubbornly refuse to sign legislation requiring a timetable for the orderly and responsible withdrawal of our combat troops from Iraq.

It is time to end this continuing tragic loss of American lives and begin to bring our soldiers home.

For the sake of our troops, we cannot repeat the mistakes of Vietnam and allow this war to drag on long after the American people know it is a profound mistake.

Mr. President, how much time do I have?

The PRESIDING OFFICER. There is 3 minutes 20 seconds.

Mr. KENNEDY. Mr. President, before yielding so we can have a vote on the amendment of the Senator from Vermont, I would like to respond to my friend from Alabama regarding the earned-income tax credit.

The earned-income tax credit is to help children—help children. Of all the industrialized nations of the world, we have more children living in poverty than any other Nation in the world. The earned-income tax credit is to help the children. They are not the lawbreakers; the parents are the lawbreakers. Yet this amendment will take it out on the children.

We don't do it for those who have committed murder and gone to prison. We don't do it for those who have committed aggravated assault. We don't do it for those who commit burglary, but we are going to do it for those who have been adjusted in terms of their status of being illegal. That is what the

Sessions amendment does. We don't do it for murderers, we don't do it for burglars, we don't do it for those who have committed the most egregious crimes, but we are going to do it in terms of those whose positions we are changing and altering in terms of their adjustment of status.

The people who are affected by it are the children. It doesn't seem to be the way we ought to go. But we will have a longer period of time to debate this at another time.

AMENDMENT NO. 1223

I believe now we are prepared to vote, and I suggest that we get to it as quickly as we can so that we don't have other interference.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I will be very brief. I thank Senator DURBIN and Senator KENNEDY for their support. This amendment has been modified. The H–1B program would increase from $1,500 to $5,000, a $3,500 increase. The new revenue, as I mentioned earlier, would be used to establish a scholarship program so we can begin to see young Americans get the education they need for these professions so that we do not have to go abroad to bring people in to do the jobs that American workers should be doing.

I would appreciate support for this amendment.

Mr. KENNEDY. I ask unanimous consent for 1 more minute.

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

Mr. KENNEDY. I want to commend the Senator from Vermont for this amendment. I intend to support it. Years ago I thought we ought to have it at $3,000. It went down to $1,000, and it has come back up to $1,500. The Senator has brought this up to a much more reasonable amount. I think he has made a very strong case for it. These funds will be used to make sure we get Americans being able to do those jobs. That is what the purpose is: to see we have Americans able to do those jobs, those H–1B jobs. It makes a great deal of sense. I commend the Senator.

There is one provision in here on the public hospitals, and I know he will work with us to try to address that in the conference, and I thank him for it. I hope the Senate will support his amendment.

I think we are prepared to vote on this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, just a word or two. I think it is a good amendment. I commend the Senator from Vermont. I urge my colleagues to support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Utah (Mr. HATCH), the Senator from Arizona (Mr. MCCAIN), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator form Utah (Mr. HATCH) would have voted: ''nay.''

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

The result was announced—yeas 59, nays 35, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—59

Akaka	Grassley	Murray
Alexander	Harkin	Nelson (FL)
Biden	Inouye	Obama
Bingaman	Kennedy	Pryor
Boxer	Kerry	Reed
Brown	Klobuchar	Reid
Byrd	Kohl	Rockefeller
Cantwell	Kyl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Sessions
Casey	Leahy	Shelby
Clinton	Levin	Snowe
Cochran	Lieberman	Specter
Conrad	Lincoln	Stabenow
Dodd	Lugar	Stevens
Dorgan	Martinez	Tester
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Mikulski	Wyden
Graham	Murkowski	

NAYS—35

Allard	Cornyn	Isakson
Baucus	Craig	Lott
Bayh	Crapo	McConnell
Bennett	DeMint	Nelson (NE)
Bond	Dole	Roberts
Bunning	Domenici	Smith
Burr	Ensign	Sununu
Chambliss	Enzi	Thune
Coburn	Gregg	Vitter
Coleman	Hagel	Voinovich
Collins	Hutchison	Warner
Corker	Inhofe	

NOT VOTING—6

Brownback	Johnson	Schumer
Hatch	McCain	Thomas

The amendment (No. 1223), as modified, was agreed to.

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are anticipating a vote in the next 2 or 3 minutes. We will inform the Members about that decision. We are checking with the leadership at the present time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, the Senator from Connecticut wishes to propound a unanimous consent request, and then I will propound a unanimous consent request that we will have 2 minutes evenly divided between the Senator from Louisiana and myself, and then I expect we will have a rollcall vote up or down on the Vitter amendment.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to set aside the pending amendment so I might call up an amendment and then set it aside.

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

AMENDMENT NO. 1191 TO AMENDMENT NO. 1150

(Purpose: To provide safeguards against faulty asylum procedures and to improve conditions of dention)

Mr. LIEBERMAN. Mr. President, I call up amendment No. 1191.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1191 to amendment No. 1150.

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

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

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

Mr. LIEBERMAN. Mr. President, I have come to the floor to speak about my amendment to improve our Nation's treatment of asylum seekers.

This amendment would implement the key recommendations of the congressionally established U.S. Commission on International Religious Freedom, which 2 years ago issued a report raising serious concerns about the protections offered asylum seekers arriving in this country.

I think it is worth noting that the Commission that issued this report was established by Congress in 1998 as a result of legislation first introduced by Senator SPECTER, in concert with the efforts of Senators NICKLES, BROWNBACK, myself, and several others. Senator SPECTER should be proud of that work and accomplishment. I hope we can see this amendment as one of the fruits of that labor.

The Commission reported an unacceptable risk that genuine asylum seekers were being turned away because their fears—and the real dangers—of being returned to their home countries were not fully considered.

The Commission also found that while asylum seekers are having their applications considered, they are often detained for months in maximum security prisons and jails, without ever having been fairly considered for release on bond. The Commission described conditions of detention that are completely unacceptable for a just nation to impose on people who are trying to escape war, oppression, religious persecution, even torture.

Since the Commission's report was issued, I have routinely asked officials from the Department of Homeland Security what is being done about the problems the Commission identified. I have been assured that the Department was reviewing the report's findings. The time for review is over. The time for Congress to act is now.

My amendment will implement the Commission's most important recommendations. It calls for sensible reforms that will safeguard the Nation's security, improve the efficiency of our immigration detention system, and ensure that people fleeing persecution are treated in accordance with this Nation's most basic values.

My amendment would implement quality assurance procedures to ensure that DHS officers carefully and accurately record the statements of people who may have a legitimate fear of returning to their countries.

Asylum seekers not subject to mandatory detention would be entitled to a hearing to determine if they could be released. Providing bond hearings for those asylum seekers who are low-risk will free up detention beds.

At an average cost of $90 per person per day, often much higher, detention beds have always been scarce. Provisions in the Senate legislation before us would vastly increase the numbers of aliens being held in detention. Our immigration system should prioritize available space for aliens who pose a risk of flight, a threat to public safety or are subject to mandatory detention.

The amendment also promotes secure alternatives to detention of the type DHS has already begun to implement.

For those who must remain detained, we are obliged as a compassionate society to provide humane conditions at immigration facilities and jails used by DHS. My amendment includes modest requirements to ensure decent conditions, especially for asylum seekers, families with children, and other vulnerable populations. It requires improvements in key areas, such as access to medical care and limitations on the use of solitary confinement. And it creates a more effective system within DHS for overseeing and inspecting facilities.

The origin of the United States is that of a land of refuge. Many of our Nation's founders fled here to escape persecution for their political opinions, their ethnicity, and their religion. Since that time, the United States has honored its history and founding values by standing against persecution around the world, offering refuge to those who flee from oppression, and welcoming them as contributors to a democratic society.

I hope this amendment will be viewed as a noncontroversial way the Nation can continue to honor that history.

Mr. President, I ask unanimous consent that my amendment be set aside and that the Senate return to the previous order.

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

AMENDMENT NO. 1157

Mr. KENNEDY. Mr. President, we have 1 minute each side. This will be the final vote on the immigration bill this week. We have had great cooperation. We are enormously grateful to all the Members.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, my amendment is very simple, it is very straightforward, and it is very important. It strikes title VI from the bill, which is the very controversial Z visa provision.

In my opinion, and the opinion of many people, many Americans, this is amnesty purely and simply, and that conclusion is important not because of a brand, not because of the word but because of what it means and what it will create.

It will create a magnet to increase illegal activity into the country, to encourage more of the same, more of the problem and not solve the problem. That is why we must remove this title from the bill.

The key question in this debate is will this bill fundamentally repeat the horrible mistakes of 1986 when we did amnesty but not nearly enough enforcement. I believe this bill, as it stands now, repeats that horrible mistake.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, legalization is good for national security. We need to know the names of everyone living here. That is why the Department of Homeland Security supports earned legalization. All of title VI was written with the close cooperation of Secretary Chertoff and his staff.

Legalization is good for our economic prosperity. We need every worker in this country to join the formal economy and pay their taxes. That's why the Department of Commerce supports earned legalization. All of title VI was written with the close cooperation of Secretary Gutierrez and his staff.

Legalization is consistent with American family values. Would opponents of legalization deport children and divide families?

More than 1.6 million undocumented children live in the United States.

More than 3.1 million U.S.-citizen children have at least one undocumented parent.

Legalization supports our broader reform effort. We must break America's cycle of illegality. Enforcement at the worksite and elsewhere will fail if 12 million Americans and 5 percent of U.S. workers remain in the shadows.

The American people support earned legalization. Poll after poll find that large majorities of Americans want undocumented immigrants who have lived and worked in the United States to have a chance to keep their jobs and earn legal status.

This support spans political parties and crosses demographics.

Americans understand that this is a complex problem that requires a comprehensive solution.

Mr. President, this is not 1986; 1986 was amnesty. This is not amnesty. Let's be very clear about it. Not only do you have to have a background check, but you pay fees of $5,500, you have to learn English, you have to demonstrate you paid your taxes, you have to work for the next 8 years and demonstrate that you have worked in the past if you are ever going to get a green card. You have to return home in order to get your application for a green card, and you have to go to the back of the line. None of that was 1986.

Legalization is important for our national security. We have to know who is in the United States of America. Legalization is important in terms of our economic prosperity so our economy can function well, and legalization is important for the families. Do we think we are going to deport 3.5 million American children who have parents who are undocumented? Are we going to send those people overseas?

This amendment will undermine the legislation. I hope it will be rejected by the Senate.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 1157. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Utah (Mr. HATCH), and the Senator from Wyoming (Mr. THOMAS).

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

The result was announced—yeas 29, nays 66, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—29

Alexander	DeMint	Pryor
Allard	Dole	Roberts
Baucus	Dorgan	Rockefeller
Bond	Enzi	Sessions
Bunning	Grassley	Shelby
Byrd	Inhofe	Sununu
Coburn	Landrieu	Tester
Cochran	McCaskill	Thune
Corker	McConnell	Vitter
Crapo	Nelson (NE)	

NAYS—66

Akaka	Casey	Ensign
Bayh	Chambliss	Feingold
Bennett	Clinton	Feinstein
Biden	Coleman	Graham
Bingaman	Collins	Gregg
Boxer	Conrad	Hagel
Brown	Cornyn	Harkin
Burr	Craig	Hutchison
Cantwell	Dodd	Inouye
Cardin	Domenici	Isakson
Carper	Durbin	Kennedy

Kerry	Martinez	Sanders
Klobuchar	McCain	Smith
Kohl	Menendez	Snowe
Kyl	Mikulski	Specter
Lautenberg	Murkowski	Stabenow
Leahy	Murray	Stevens
Levin	Nelson (FL)	Voinovich
Lieberman	Obama	Warner
Lincoln	Reed	Webb
Lott	Reid	Whitehouse
Lugar	Salazar	Wyden

NOT VOTING—5

Brownback	Johnson	Thomas
Hatch	Schumer	

The amendment (No. 1157) was rejected.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEXT OF AMENDMENT SUBMITTED MONDAY, MAY 21, 2007

SA 1150. Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) proposed an amendment to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. EFFECTIVE DATE TRIGGERS.

(a) With the exception of the probationary benefits conferred by section 601(h), the provisions of subtitle C of title IV, and the admission of aliens under Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)), as amended by title IV,

(1) the programs established by title IV of this Act; and

(2) the programs established by title VI of this Act that grant legal status to any individual or adjust the current status of any individual who is unlawfully present in the United States to that of an alien lawfully admitted for permanent residence,

shall become effective on the date that the Secretary submits a written certification to the President and the Congress that the following border security and other measures are funded, in place, and in operation:

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The U.S. Customs and Border Protection (CBP) Border Patrol has, in its continued effort to increase the number of agents and support staff, hired 18,000 agents;

(2) STRONG BORDER BARRIERS.—Have installed at least 200 miles of vehicle barriers, 370 miles of fencing, and 70 ground-based radar and camera towers along the southern land border of the United States, and have deployed 4 Unmanned Aerial Vehicles and supporting systems;

(3) CATCH AND RETURN.—The Department of Homeland Security is detaining all removable aliens apprehended crossing the southern border, except as specifically mandated by law or humanitarian circumstances, and U.S. Immigration and Customs Enforcement (ICE) has the resources to maintain this practice, including resources to detain up to 27,500 aliens per day on an annual basis;

(4) WORKPLACE ENFORCEMENT TOOLS.—As required through all the provisions of Title III of this Act, the Department of Homeland Security has established and is using secure and effective identification tools to prevent unauthorized workers from obtaining jobs In the United States. These tools shall include, but not be limited to, establishing—

(A) strict standards for identification documents that must be presented in the hiring process, including the use of secure documentation that contains a photograph, biometrics, and/or complies with the requirements for such documentation under the REAL ID Act; and

(B) an electronic employment eligibility verification system that queries federal and state databases to restrict fraud, identity theft, and use of false social security numbers in the hiring process by electronically providing a digitized version of the photograph on the employee's original federal or state issued document or documents for verification of the employee's identity and work eligibility; and

(5) PROCESSING APPLICATIONS OF ALIENS.—The Department of Homeland Security has received and is processing and adjudicating in a timely manner applications for Z nonimmigrant status under Title VI of this Act, including conducting all necessary background and security checks.

(b) It is the sense of Congress that the border security and other measures described in such subsection can be completed within 18 months of enactment, subject to the necessary appropriations.

(c) The President shall submit a report to Congress detailing the progress made in funding, appropriating, contractual agreements reached, and specific progress on each of the measures included in (a)(1)–(5):

(1) 90 days after the date of enactment; and

(2) every 90 days thereafter until the terms of this section have been met.

If the President determines that sufficient progress is not being made, the President shall include in the report specific funding recommendations, authorization needed, or other actions that are being undertaken by the Department.

TITLE I—BORDER ENFORCEMENT

SUBTITLE A—ASSETS FOR CONTROLLING UNITED STATES BORDERS.

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) U.S. CUSTOMS AND BORDER PROTECTION OFFICERS.—In each of the fiscal years 2008 through 2012, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty CBP officers and provide appropriate training, equipment, and support to such additional CBP officers.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2008 through 2012, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(3) DEPUTY UNITED STATES MARSHALS.—In each of the fiscal years 2008 through 2012, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that assist in matters related to immigration.

(4) RECRUITMENT OF FORMER MILITARY PERSONNEL.—

(A) IN GENERAL.—The Commissioner of United States Customs and Border Protection, in conjunction with the Secretary of Defense or a designee of the Secretary of Defense, shall establish a program to actively recruit members of the Army, Navy, Air Force, Marine Corps, and Coast Guard who have elected to separate from active duty.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report on the implementation of the recruitment program established pursuant to subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) U.S. CUSTOMS AND BORDER PROTECTION OFFICERS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2008 through 2012 to carry out paragraph (1) of subsection (a).

(2) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of the fiscal years 2008 through 2012 to carry out subsection (a)(3).

(3) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004. (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL—TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by not less than—

''(1) 2,000 in fiscal year 2007;
''(2) 2,400 in fiscal year 2008;
''(3) 2,400 in fiscal year 2009;
''(4) 2,400 in fiscal year 2010;
''(5) 2,400 in fiscal year 2011; and
''(6) 2,400 in fiscal year 2012.

''(b) NORTHERN BORDER.—In each of the fiscal years. 2008 through 2012, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations for such purpose, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the borders of the United States.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2008 through 2012 to carry out subsection (a).

SEC. 103. INFRASTRUCTURE.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subsection (a), by striking ''Attorney General, in consultation with the Commissioner of Immigration and Naturalization,'' and inserting ''Secretary of Homeland Security''; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(B) by inserting before paragraph (2), as redesignated, the following:

''(1) FENCING NEAR SAN DIEGO, CALIFORNIA.—In carrying out subsection (a), the Secretary shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.''.

SEC. 104. PORTS OF ENTRY.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of Public Law 104–208, is amended by the addition, at the end of that section, of the following new subsection:

''(e) CONSTRUCTION AND IMPROVEMENTS.—The Secretary is authorized to—

''(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

''(2) make necessary improvements to the ports of entry.''.

Subtitle B—Other Border Security Initiatives

SEC. 111. BIOMETRIC ENTRY–EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary is authorized to require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. (1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsections (a) and (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or any alien who is paroled under section 212(d)(5), seeking to or permitted to land temporarily as an alien crewman, or seeking to or permitted transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended.

(1) in subsection (a)(7); by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who fails or has failed to comply with a lawful request for biometric data under section 215(c), 235(d), or 252(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary may waive the application of subsection. (a)(7)(C) for an individual alien or class of aliens.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5; United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (1)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 and 2009 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 112. UNLAWFUL FLIGHT FROM IMMIGRATION OR CUSTOMS CONTROLS.

(a) IN GENERAL.—Section 758 of Title 18, United States Code, is amended to read as follows:

''§ 758. Unlawful Flight from Immigration or Customs Controls

''(a) EVADING A CHECKPOINT.—Any person who, while operating a motor vehicle or vessel, knowingly flees or evades a checkpoint operated by the Department of Homeland Security or any other Federal law enforcement agency, and then knowingly or recklessly disregards or disobeys the lawful command of any law enforcement agent, shall be fined under this title, imprisoned not more than five years, or both.

''(b) FAILURE TO STOP.—Any person who, while operating a motor vehicle, aircraft, or vessel, knowingly or recklessly disregards or disobeys the lawful command of an officer of the Department of Homeland Security engaged in the enforcement of the immigration, customs, or maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall be fined under this title, imprisoned not more than two years, or both.

''(c) ALTERNATIVE PENALTIES.—Notwithstanding the penalties provided in subsection (a) or (b), any person who violates such subsection shall—

''(1) be fined under this title, imprisoned not more than 10 years, or both, if the violation involved the operation of a motor vehicle, aircraft, or vessel—

''(A) in excess of the applicable or posted speed limit,

''(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel, or

''(C) in an otherwise dangerous or reckless manner;

''(2) be fined under this title, imprisoned not more than 20 years, or both, if the violation created a substantial and foreseeable risk of serious bodily injury or death to any person;

''(3) be fined under this title, imprisoned not more than 30 years, or both, if the violation caused serious bodily injury to any person; or

''(4) be fined under this title, imprisoned for any term of years or life, or both, if the violation resulted in the death of any person.

''(d) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.

''(e) FORFEITURE.—Any property, real or personal, constituting or traceable to the gross proceeds of the offense and any property, real or personal, used or intended to be used to commit or facilitate the commission of the offense shall be subject to forfeiture.

''(f) FORFEITURE PROCEDURES.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of this title, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General. Nothing in this section shall limit the authority of the Secretary to seize and forfeit motor vehicles, aircraft, or vessels under the Customs laws or any other laws of the United States.

''(g) DEFINITIONS.—For purposes of this section—

''(1) the term ''checkpoint'' includes, but is not limited to, any customs or immigration inspection at a port of entry;

''(2) the term ''lawful command'' includes, but is not limited to, a command to stop, decrease speed, alter course, or land, whether communicated orally, visually, by means of lights or sirens, or by radio, telephone, or other wire communication;

''(3) the term ''law enforcement agent'' means any Federal, State, local or tribal official authorized to enforce criminal law, and, when conveying a command covered under subsection (b) of this section, an air traffic controller;

''(4) The term ''motor vehicle'' means any motorized or self-propelled means of terrestrial transportation; and

''(5) The term ''serious bodily injury'' has the meaning given in section 2119(2) of this title.''.

SEC. 113. RELEASE OF ALIENS FROM NONCONTIGUOUS COUNTRIES.

Section 236(a)(2) (8 U.S.C. 1226(a)(2)) is amended—

(1) by striking ''on'';

(2) in subparagraph (A)—

(A) by inserting ''except as provided under subparagraph (B), upon the giving of a'' before ''bond''; and

(B) by striking ''or'' at the end;

(3) by redesignating subparagraph (6) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following:

''(B) upon the giving of a bond of not less than $5,000 with security approved by, and containing conditions prescribed by, the Secretary or the Attorney General, if the alien—

''(i) is a national of a noncontiguous country;

''(ii) has not been admitted or paroled into the United States; and

''(iii) was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the Secretary of Homeland Security; or''.

SEC. 114. SEIZURE OF CONVEYANCE WITH CONCEALED COMPARTMENT: EXPANDING THE DEFINITION OF CONVEYANCES WITH HIDDEN COMPARTMENTS SUBJECT TO FORFEITURE.

(a) IN GENERAL.—Section 1703 of Title 19, United States Code is amended—

(1) by amending the title of such section to read as follows:

''§ 1703. Seizure and forfeiture of vessels, vehicles, other conveyances and instruments of international traffic'';

(2) by amending the title of subsection (a) to read as follows:

(a) ''Vessels, vehicles, other conveyances and instruments of international traffic subject to seizure and forfeiture'';

(3) by amending the title of subsection (b) to read as follows:

''(b) Vessels, vehicles, other conveyances and instruments of international traffic defined'';

(4) by inserting '',vehicle, other conveyance or instrument of international traffic'' after the word ''vessel'' everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

''(c) Acts constituting prima facie evidence of vessel, vehicle, or other conveyance or instrument of international traffic engaged in smuggling ''For the purposes of this section, prima facie evidence that a conveyance is being, or has been, or is attempted to be employed in smuggling or to defraud the revenue of the United States shall be—

''(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display light as required by law.

''(2) in the case of a vehicle, other conveyance or instrument of international traffic, the fact that a vehicle, other conveyance or instrument of international traffic has any compartment or equipment that is built or fitted out for smuggling.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 in title i9, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

''§1703. Seizure and forfeiture of vessels, vehicles, other conveyances or instruments of international traffic.

''(a) Vessels, vehicles, other conveyances or instruments of international traffic subject to seizure and forfeiture.

''(b) Vessels, vehicles, other conveyances or instruments of international traffic defined.

''(c) Acts constituting prima facie evidence of vessel, vehicle, other conveyance or instrument of international traffic engaged in smuggling.''

Subtitle C—Other Measures

SEC. 121. DEATHS AT UNITED STATES-MEXICO BORDER.

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

SEC. 122. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term ''protected land'' means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased U.S. Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for U.S. Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the United States Fish and Wildlife Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) ANALYSIS OF DAMAGE TO PROTECTED LANDS.—The Secretary and Secretaries concerned shall develop an analysis of damage to protected lands relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service the United States Fish and Wildlife-Service, and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than one year from the date of enactment, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee or National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs,of the United States in the manner that best protects the homeland, including—

(1) units of the National Park System;

(2) National Forest System land;

(3) land under the jurisdiction of the United States Fish and Wildlife Service; and

(4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

SEC. 123. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations; and

(3) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 124. UNMANNED AIRCRAFT SYSTEMS.

(a) UNMANNED AIRCRAFT AND ASSOCIATED INFRASTRUCTURE.—The Secretary shall acquire and maintain unmanned aircraft systems for use on the border, including related equipment such as—

(1) additional sensors;

(2) critical spares;

(3) satellite command and control; and

(4) other necessary equipment for operational support.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out subsection (a)—

(A) $178,400,000 for fiscal year 2008; and

(B) $276,000,000 for fiscal year 2009.

(2) AVAILABIUTY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 125. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure

additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding-camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 126. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 127. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 136.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to

take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 128. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 129. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2008, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 130. US–VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US–VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US–VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 131. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all U.S. Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the U.S. Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all U.S. Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.

SEC. 132. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2008 through 2012.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.— The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or Welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.— There are authorizd to be appropriated $50,000,000 for each of fiscal years 2008 through 2012 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.— Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 133. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.— Not later than January 31 of each year, the Administrator of General Services, in consultation with U.S. Customs and Border Protection, shall update the Port of Entry Infrastructure Assessment Study prepared by U.S. Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.— In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) CONTENT.— Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the Natiolialland Border Security Plan required by section; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.— The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) DIVRGENCE FROM PRIORITIES.— The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexicq or Canada, compellingly alter the need for a project in the United States.

SEC. 134. NATIONAL LAND BORDER SECURITY PLAN.

(a) IN GENERAL.— Not later than 1 year after the date of the enactment of this Act, an annually thereafter, the Secretary, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern bordr or the southern border, shall subniit a National Land Border Security Plan to Congress.

(b) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.— The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.— The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 135. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.— The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTING.— Under the technology demonstration program, the Secretary shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) DEVELOPMENT OF FACILITIES.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry but. demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.— The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(l).

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the U.S. Customs and Border Protection.

SEC. 136. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the U.S. Immigration and Customs Enforcement and the U.S. Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

SEC. 137. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, at least 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 20,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States subject to available appropriations.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a), subject to available appropriations.

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(e) AUTHORIZATION OF APPROPRIATIONS.— There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 138. UNITED STATES–MEXICO BORDER ENFORCEMENT REVIEW COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established an independent commission to be known as the United States-Mexico. Border Enforcement Review Commission (referred to in this section as the ''Commission'').

(2) PURPOSES.—The purposes of the Commission are—

(A) to study the overall enforcement strategies, programs and policies of Federal agencies along the United States-Mexico border; and

(B) to make recommendations to the President and Congress with respect to such strategies, programs and policies.

(3) MEMBERSHIP.—The Commission shall be composed of 17 voting members, who shall be appointed as follows:

(A) The Governors of the States of California, New Mexico,Arizona, and Texas shall each appoint 4 voting members of whom—

(i) 1 shall be a local elected official from the State's border region;

(ii) 1 shall be a local law enforcement official from the State's border region; and

(iii) 2 shall be from the State's communities of academia, religious leaders, civic leaders or community leaders.

(B) 2 nonvoting members, of whom—

(i) 1 shall be appointed by the Secretary;

(ii) 1 shall be appointed by the Attorney General; and

(iii) 1 shall be appointed by the Secretary of State.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission shall be—

(i) individuals with expertise in migration, border enforcement and protection, civil and human rights, community relations, cross-border trade and commerce or other pertinent qualifications or experience; and

(ii) representative of a broad cross section of perspective from the region along the international border between the United States and Mexico;

(B) POLITICAL AFFILIATION.—Not more than 2 members of the Commission appointed by each Governor under paragraph (3)(A) may be members of the same political party.

(C) NONGOVERNMENTAL APPOINTEES.—An individual appointed as a voting member to the Commission may not be an officer or employee of the Federal Government.

(5) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than 6 months after the enactment of this Act. If any member of the Commission described in paragraph (3)(A) is not appointed by such date, the Commission shall carry out its duties under this section without the participation of such member.

(6) TERM OF SERVICE.—The term of office for members shall be for life of the Commission.

(7) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(8) MEETINGS.—

(A) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(9) QUORUM.—Nine members of the Commission shall constitute a quorum.

(10) CHAIR AND VICE CHAIR.—The voting members of the Commission shall elect a Chairman and Vice Chairman from among its members. The term of office shall be for the life of the Commission.

(b) DUTIES.—The Commission shall review, examine, and make recommendations regarding border enforcement policies, strategies, and programs, including recommendations regarding—

(1) the protection of human and civil rights of community residents and migrants along the international border between the United States and Mexico;

(2) the adequacy and effectiveness of human and civil rights training of enforcement personnel on such border;

(3) the adequacy of the complaint process within the agencies and programs of the Department that are employed when an individual files a grievance;

(4) the effect of the operations, technology, and enforcement infrastructure along such border on the—

(A) environment;

(B) cross border traffic and commerce; and

(C) the quality of life of border communities;

(5) local law enforcement involvement in the enforcement of Federal immigration law; and

(6) any other matters regarding border enforcement policies, strategies, and programs the Commission determines appropriate.

(c) INFORMATION AND ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION FROM FEDERAL AGENCIES.—The Commission may seek directly from any department or agency of the United States such information, including suggestions, estimates, and statistics, as allowed by law and as the Commission considers necessary to carry out the provisions of this section. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) ASSISTANCE FROM FEDERAL AGENCIES.—The Administrator of General Services shall, on a reimbursable basis, provide the Commission with administrative support and other services for the performance of the Commission's functions. The departments and agencies of the United States may provide the Commission with such services, funds, facilities, staff, and other support services as they determine advisable and as authorized by law.

(d) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the Commission shall be reimbursed for reasonable travel expenses and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

(e) REPORT.—Not later than 2 years after the date of the first meeting called pursuant to (a)(8)(A), the Commission shall submit a report to the President and Congress that contains—

(1) findings with respect to the duties of the Commission;

(2) recommendations regarding border enforcement policies, strategies, and programs;

(3) suggestions for the implementation of the Commission's recommendations; and

(4) a recommendation as to whether the Commission should continue to exist after the date of termination described in subsection (g), and if so, a description of the purposes and duties recommended to be carried out by the Commission after such date.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) SUNSET.—Unless the Commission is reauthorized by Congress, the Commission shall terminate on the date that is 90 days after the date the Commission submits the report described in subsection (e).

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) TRIAL ATTORNEYS.—In each of the fiscal years 2008 through 2012, the Secretary, subject to the availability of appropriations for such purpose, shall increase the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters by not less than 100 compared to the number of such positions for which funds were made available during the preceding fiscal year.

(2) USCIS ADJUDICATORS.—In each of the fiscal years 2008 through 2012, the Secretary, subject to the availability of appropriations for such purpose, shall increase the number of positions for adjudicators in the United States Citizenship and Immigration Service by not less than 100 compared to the number of such positions for which funds were made available during the preceding fiscal year.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 such sums as may be necessary to carry out paragraphs (1) and (2).

(b) DEPARTMENT OF JUSTICE.—

(1) JUDICIAL CLERKS.—The Attorney General shall, subject to the availability of appropriations for such purpose, appoint necessary law clerks for immigration judges and Board of Immigration Appeals members of no less than one per judge and member. A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5 (5 USCS 6301 et seq.).

(2) LITIGATION ATTORNEYS.—In each of the fiscal years 2008 through 2012, the Attorney General, subject to the availability of appropriations for such purpose, shall increase the number of positions for attorneys in the Office of Immigration Litigation by not less than 50 compared to the number of such positions for which funds were made available during the preceding fiscal year.

(3) UNITED STATES ATTORNEYS.—In each of the fiscal years 2008 through 2012, the Attorney General, subject to the availability of appropriations for such purpose, shall increase the number of attorneys in the United States Attorneys' office to litigate immigration cases in the Federal courts by not less than 50 compared to the number of such positions for which funds were made available during the preceding fiscal year.

(4) IMMIGRATION JUDGES.—In each of the fiscal years 2008 through 2012, the Attorney General, subject to the availability of appropriations for such purpose, shall—

(A) increase by not less than 20 the number of full-time immigration judges compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 80 the number of positions for personnel to support the immigration Judges described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year.

(5) BOARD OF IMMIGRATION APPEALS MEMBERS.—The Attorney General shall, subject to the availability of appropriations, increase by 10 the number of members of the Board of Immigration Appeals over the number of members serving on the date of enactment of this Act.

(6) STAFF ATTORNEYS.—In each of the fiscal years 2008 through 2012, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase the number of positions for full-time staff attorneys in the Board of Immigration Appeals by not less than 20 compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase the number of positions for personnel to support the staff attorneys described in subparagraph (A) by not less than 10 compared to the number of such positions for which funds were made available during the preceding fiscal year.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of the fiscal years 2008 through 2012 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

(c) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In each of the fiscal years 2008 through 2012, the Director of the Administrative Office of the United States Courts, subject to the availability of appropriations, shall increase the number of attorneys in the Federal Defenders Program who litigate criminal immigration cases in the Federal courts by not less than 50 compared to the number of such positions for which funds

were made available during the preceding fiscal year.

(d) LEGAL ORIENTATION PROGRAM.—

(1) CONTINUED OPERATION.—The Director of the Executive Office for Immigration Review shall continue to operate a legal orientation program to provide basic information about immigration court procedures for immigration detainees and shall expand the legal orientation program to provide such information on a nationwide basis.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out such legal orientation program.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears, except for the first reference in clause (a)(4)(B)(i), and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.'';

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date in which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ATTORNEY GENERAL REVIEW.—If the Secretary authorizes an extension of detention under subparagraph (E), the alien may seek review of that determination before the Attorney General. If the Attorney General concludes that the alien should be released, then the Secretary shall release the alien pursuant to subparagraph (1). The Attorney General, in consultation with the Secretary, shall promulgate regulations governing review under this paragraph.

''(G) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(H) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (I). If the Secretary authorizes an extension of detention under paragraph (E), the alien may seek review of that determination before the Attorney General. If the Attorney General concludes that the alien should be released, then the Secretary shall release the alien pursuant to subparagraph (I).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a

hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(I) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(J) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(K) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (H).

''(M) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding brought in a United States district court and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as a right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act, unless (a) that order was issued and the alien was subsequently released or paroled before the enactment of this Act and (b) the alien has complied with and remains in compliance with the terms and conditions of that release or parole; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law, the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law, and to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting '' murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of''; and

(4) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any conviction that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE AND REMOVAL.

(a) DEFINITION OF CRIMINAL GANG.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by inserting after subparagraph (51) the following:

''(52) The term ''criminal gang''

(A) means an ongoing group, club, organization, or association of 5 or more persons—

(i) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (b); and

(ii) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (b);

(B) offenses described in this section, whether in violation of Federal or State law or in violation of the law of a foreign country, and regardless of whether charged, are:

(i) a ''felony drug offense'' (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(ii) a felony offense involving firearms or explosives or in violation of section 931 of title 18 (relating to purchase, ownership, or possession of body armor by violent felons);

(iii) an offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to the importation of an alien for immoral purpose) of the Immigration and Nationality Act;

(iv) a felony crime of violence as defined in section 16 of title 18, which is punishable by a sentence of imprisonment of five years or more;

(v) a crime involving obstruction of justice; tampering with or retaliating against a witness, victim, or informant; or burglary;

(vi) Any conduct punishable under sections 1028 and 1029 of title 18 (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of title 18 (relating to peonage, slavery and trafficking in persons), section 1952 of title 18 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of title 18 (relating to the laundering of monetary instruments), section 1957 of title 18 (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of title 18 (relating to interstate transportation of stolen motor vehicles or stolen property);

(vii) a conspiracy to commit an offense described in subparagraphs (1)–(6).

''Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conduct occurred before, on, or after the date of enactment of this provision.''.

(b) INADMISSIBILILY.— Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(1) by redesignating subparagraph (F) as subparagraph (J); and

(2) by inserting after subparagraph (E) the following:

''(F) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe has participated in a criminal gang (as defined in section 101(a)(52)), knowing or having reason to know that such participation promoted, furthered, aided, or supported the illegal activity of the criminal gang, is inadmissible.''.

(c) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien, in or admitted to the United States, who at any time has participated in a criminal gang (as defined in section 101(a)(52)), knowing or having reason to know that such participation will promote, further, aid, or support the illegal activity of the criminal gang is deportable. The Secretary of Homeland Security or the Attorney General may in his discretion waive this subparagraph.''

(d) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (c)(2)(B), by adding at the end:

''(iii) the alien participates in, or at any time after admission has participated in, the activities of a criminal gang (as defined in section 101(a)(52)), knowing or having reason to know that such participation will promote, further, aid, or support the illegal activity of the criminal gang.''; and

(3) in subsection (d)—

(A) by striking paragraph (3); and

(B) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision.''.

(e) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(f) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.— An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowngly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance, requirements of the customs laws, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned n'ot more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSES.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(1) not less than $50 or more than $250 for each such entrv,crossing, attempted entry, or attempted crossing; or

''(2) twice the amount speCified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.''

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

(c) EFFECTIVE DATE.—Subsection (a)(4) of section 275 of the Immigration and Nationality Act, as created by this Act, shall apply only to violations of subsection (a)(l) of Section 275 committed on or after the date of enactment of this Act.

SEC. 207. ILLEGAL REENTRY.

Section 276(8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion; deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penaity provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, 'excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at anytime found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penaltis in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States;

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States; or

''(3) at the time of the prior exclusion, deportation, removal, or denial of admission alleged in the violation, the alien—

''(A) was under the age of eighteen, and

''(B) had not been convicted of a crime or adjudicated a delinquent minor by a court of the United States, or a court of a state or territory, for conduct that would constitute a felony if committed by an adult.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was

pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) FELONY.—The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(2) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(3) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(4) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT,VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18; United States Code, is amended to read as follows:

''**CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD**

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any period of 3 years or less, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport, knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, buys, sells, possesses, or uses any official material (or counterfeit of any official material) used to make a passport, including any distinctive paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''(a) IN GENERAL.—Any person who knowingly makes any false statement or representation in an application for a United States passport, or mails, prepares, presents, or signs an application for a United States passport knowing the application to contain any false statement or representation, shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) VENUE.—

''(1) An offense under subsection (a) may be prosecuted in any district,

''(A) in which the false statement or representation was made or the application for a United States passport was prepared or signed, or

''(B) in which or to which the application was mailed or presented.

''(2) An offense under subsection (a) involving an application prepared and adjudicated outside the United States may be prosecuted in the district in which the resultant passport was or would have been produced.

''(c) SAVINGS CLAUSE.—Nothing in this section may be construed to limit the venue otherwise available under sections 3237 and 3238 of this title.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person, knowing or in reckless disregard of the fact that such person is not entitled to receive a passport; or

''(3) transfers or furnishes a passport to any person for use by any person other than the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''Any person who knowingly—

''(1) uses any passport issued or designed for the use of another;

''(2) uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws or any matter the offender claims or represents is authorized by or arises under Federal immigration laws, to—

''(1) defraud any person, or

''(2) obtain or receive money or anything else of value from any person, by means of false or fraudulent pretenses, representations, or promises,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents that such person is an attorney or accredited representative (as that term is defined in section 1292.1 of title 8, Code of Federal Regulations (or any successor regulation to such section)) in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes, without lawful authority, an immigration document to another person for use by a person other than the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) Any person who, during any period of 3 years or less, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces buys, sells, or possesses any official material (or counterfeit of any official material) used to make an immigration document, including any distinctive paper, seal, hologram, image, text, symbol, stamp, engraving, or plate, shall be fined under this title, imprisoned not more than 20 years, or both.

''(d) EMPLOYMENT DOCUMENTS.—Whoever uses—

''(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor;

''(2) an identification document knowing (or having reason to know) that the document is false; or

''(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)), shall be fined under this title, imprisoned not more than 5 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.— Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of the commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter—

''(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 20 years; and

''(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 25 years.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States passport or immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of, international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States or an alien lawfully admitted for permanent residence in the United States (as those terms are defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term 'application for a United States passport' includes any document, photograph, or other piece of evidence attached to or submitted in support of the application.

''(3) The term 'false statement or representation' includes a personation or an omission.

''(4) The term 'immigration document'—

''(A) means any application, petition, affidavit, declaration, attestation, form, visa, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other official document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (A) and (B).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means—

''(A) a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or

''(B) any instrument purporting to be a document described in subparagraph (A).

''(9) The term 'to present' means to offer or submit for official processing, examination, or adjudication. Any such presentation continues until the official processing, examination, or adjudication is complete.

''(10) The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(11) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(12) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''(13) The 'use' of a passport or an immigration document referred to in section 1541(a), section 1543(b), section 1544, section 1546(a), and section 1546(b) of this chapter includes any officially authorized use; use to travel; use to demonstrate identity, residence, nationality, citizenship, or immigration status; use to seek or maintain employment; or use in any matter within the jurisdiction of the Federal government or of a State government.

''§ 1553. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—

(1) PROSECUTION GUIDELINES.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the obligations of the United States under Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).

(2) NO PRIVATE RIGHT OF ACTION.—The guidelines required by subparagraph (1), and any internal office procedures adopted pursuant thereto, are intended solely for the guidance of attorneys for the United States. This section, the guidelines required by subsection (a), and the process for determining such guidelines are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

(1) in subclause (I), by striking ', or' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting '; or'; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) section 1541, 1545, subsection (b) of section 1546, or subsection (b) of section 1547 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) a violation of (or a conspiracy or attempt to violate) section 1541, 1545, 1546, or subsection (b) of section 1547 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2008 through 2012 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and (D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(A) ineligible for the benefits of the agreement;

''(B) subject to the penalties described in subsection (d); and

''(C) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b)'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period

allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (8 U.S.C. 1324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reconsider under section 240(c)(6) or a timely motion to reopen under section 240(c)(7) is granted, an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in the United States not as an alien lawfully admitted for permanent residence'';

(2) in subsection (g)(5)—in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in the United States not as an alien lawfully admitted for permanent residence''; and

(3) in subsection (y)—

(A) in the header, by striking ''Admitted Under Nonimmigrant Visas'' and inserting ''not Lawfully Admitted for Permanent Residence'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'lawfully admitted for permanent residence' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).'';

(C) in paragraph (2), by striking ''under a nonimmigrant visa'' and inserting ''but not lawfully admitted for permanent residence''; and

(D) in paragraph (3)(A), by striking ''admitted to the United States under a nonimmigrant visa'' and inserting ''lawfully admitted to the United States but not as an alien lawfully admitted for permanent residence''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, PASSPORT, AND NATURALIZATION OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''SEC. 3291. IMMIGRATION, PASSPORT, AND NATURALIZATION OFFENSES.

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, passport, and naturalization offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

(a) Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction defined in paragraph (9) of section 7 of title 18, United States Code, except as that jurisdiction relates to the premises of United States military missions and related residences;''.

(b) CONSTRUCTION.—Nothing in this section shall be construed to limit the investigative authority of any other Federal department or agency.

SEC. 216. STREAMLINED PROCESSING OF BACKGROUND CHECKS CONDUCTED FOR IMMIGRATION BENEFITS.

(a) INFORMATION SHARING; INTERAGENCY TASK FORCE.—Section 105 (8 U.S.C. 1105) is amended by adding at the end the following:

''(e) INTERAGENCY TASK FORCE.—

''(1) IN GENERAL.—The Secretary of Homeland Security and the Attorney General shall establish an interagency task force to resolve cases in which an application or petition for an immigration benefit conferred under this Act has been delayed due to an outstanding background check investigation for more than 2 years after the date on which such application or petition was initially filed.

''(2) MEMBERSHIP.—The interagency task force established under paragraph (1) shall include representatives from Federal agencies with immigration, law enforcement, or national security responsibilities under this Act.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the Federal Bureau of Investigation such sums as are necessary for each fiscal year, 2008 through 2012 for enhancements to existing systems for conducting background and security checks necessary to support immigration security and orderly processing of applications.

(c) REPORT ON BACKGROUND AND SECURITY CHECKS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the background and security checks conducted by the Federal Bureau of Investigation on behalf of United States Citizenship and Immigration Services.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) a description of the background and security check program;

(B) a statistical breakdown of the background and security check delays associated with different types of immigration applications;

(C) a statistical breakdown of the background and security check delays by applicant country of origin; and

(D) the steps that the Director of the Federal Bureau of Investigation is taking to expedite background and security checks that have been pending for more than 180 days.

SEC. 217. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary may reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2008 through 2013 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2008;

''(B) $750,000,000 for fiscal year 2009;

''(C) $850,000,000 for fiscal year 2010; and

''(D) $950,000,000 for each of the fiscal years 2011 through 2013.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 218. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS-APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary may provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.

SEC. 219. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 trough 2012 to carry out this section.

SEC. 220. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 221. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following:

''If such training is provided by a State or political subdivision of a State to an officer or employee of such - State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following:

''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 222. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A), by amending clause (viii) to read as follows:

''(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(2) in subparagraph (B)(i), by amending subclause (II) to read as follows:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security in the Secretary's sole and unreviewable discretion determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(viii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 223 LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or.

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(b) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(c) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(d) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(e) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2008 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 224. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 225. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 226. EXPANSION OF THE JUSTICE PRISONER AND ALIEN TRANSFER SYSTEM.

Not later than 60 days after the date of enactment of this Act, the Attorney General shall issue a directive to expand the Justice Prisoner and Alien Transfer System (JPATS) so that such System provides additional services with respect to aliens who are illegally present in the United States. Such expansion should include—

(1) increasing the daily operations of such System with buses and air hubs in 3 geographic regions;

(2) allocating a set number of seats for such aliens for each metropolitan area;

(3) allowing metropolitan areas to trade or give some of seats allocated to them under the System for such aliens to other areas in their region based on the transportation needs of each area; and

(4) requiring an annual report that analyzes the number of seats that each metropolitan area is allocated under this System for such aliens and modifies such allocation if necessary.

SEC. 227. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to the authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate or amend the sentencing guidelines, policy statements, and official commentaries related to passport fraud offenses, including the offenses described in chapter 75 of title 18, United States Code, as amended by section 208 of this Act, to reflect the serious nature of such offenses.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the United States Sentencing Commission shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

SEC. 228. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary'';

(B) by inserting ''or otherwise violated any of the terms of the nonimmigrant classification in which the alien was admitted,'' before ''such visa''; and

(C) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

TITLE III—WORKSITE ENFORCEMENT

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SEC. 301. PURPOSES.

(a) To continue to prohibit the hiring, recruitment, or referral of unauthorized aliens.

(b) To require that each employer take reasonable steps to verify the identity and work authorization status of all its employees, without regard to national origin and citizenship status.

(c) To authorize the Secretary of Homeland Security to access records of other Federal agencies for the purposes of confirming identity, authenticating lawful presence and preventing identity theft and fraud related to unlawful employment.

(d) To ensure that the Commissioner of Social Security has the necessary authority to provide information to the Secretary of Homeland Security that would assist in the enforcement of the immigration laws.

(e) To authorize the Secretary of Homeland Security to confirm issuance of state identity documents, including driver's licenses, and to obtain and transmit individual photographic images held by states for identity authentication purposes.

(f) To collect information on employee hires.

(g) To electronically secure a social security number in the Employment Eligibility Verification System (EEVS) at the request of an individual who has been confirmed to be the holder of that number, and to prevent fraudulent use of the number by others.

(h) To provide for record retention of EEVS inquiries, to prevent identity fraud and employment authorization fraud.

(i) To employ fast track regulatory and procurement procedures to expedite implementation of this Title and pertinent sections of the INA for a period of two years from enactment.

(j) To establish the following:

(i) a document verification process requiring employers to inspect, copy, and retain identity and work authorization documents;

(ii) an EEVS requiring employers to obtain confirmation of an individual's identity and work authorization;

(iii) procedures for employers to register for the EEVS and to confirm work eligibility through the EEVS;

(iv) a streamlined enforcement procedure to ensure efficient adjudication of violations of this Title;

(v) a system for the imposition of civil penalties and their enforcement, remission or mitigation;

(vi) an enhancement of criminal and civil penalties;

(vii) increased coordination of information and enforcement between the Internal Revenue Service and the Department of Homeland Security regarding employers who have violations related to the employment of unauthorized aliens;

(viii) increased penalties under the Internal Revenue Code for employers who have violations relating to the employment of unauthorized aliens.

SEC. 302. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read as follows:

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing or with reckless disregard that the alien is an unauthorized alien (as defined in subsection (b)(1)) with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual without complying with the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after hiring an alien for employment, to continue to employ the alien in the United States knowing or with reckless disregard that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—For purposes of this section, an employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (b)(1)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A)).

''(A) By regulation, the Secretary may require, for purposes of ensuring compliance with the immigration laws, that an employer include in a written contract, subcontract, or exchange an effective and enforceable requirement that the contractor or subcontractor adhere to the immigration laws of the United States, including use of EEVS.

''(B) The Secretary may establish procedures by which an employer may obtain confirmation from the Secretary that the contractor or subcontractor has registered with the EEVS and is utilizing the EEVS to verify its employees.

''(C) The Secretary may establish such other requirements for employers using contractors or subcontractors as the Secretary deems necessary to prevent knowing violations of this paragraph.

''(4) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term ''employer'' includes entities in any branch of the Federal Government.

''(5) DEFENSE.—An employer that establishes that it has complied in good faith with the requirements of subsections (c)(1) through (c)(4), pertaining to document verification requirements, and subsection (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral, however:

''(A) until such time as the Secretary has required an employer to participate in the EEVS or such participation is permitted on a voluntary basis pursuant to subsection (d), a defense is established without a showing of compliance with subsection (d); and

''(B) to establish a defense, the employer must also be in compliance with any additional requirements that the Secretary may promulgate by regulation pursuant to subsections (c), (d), and (k).

''(6) An employer is presumed to have acted with knowledge or reckless disregard if the employer fails to comply with written standards, procedures or instructions issued by the Secretary. Such standards, procedures or instructions shall be objective and verifiable.

''(b) DEFINITIONS.—

''(1) DEFINITION OF UNAUTHORIZED ALIEN.—As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.

''(2) DEFINITION OF EMPLOYER.—For purposes of this section, the term ''employer'' means any person or entity hiring, recruiting, or referring an individual for employment in the United States.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—

''Any employer hiring, recruiting, or referring an individual for employment in the United States shall take all reasonable steps to verify that the individual is authorized to work in the United States, including the requirements of subsection (d) and the following paragraphs:

''(1) Attestation after examination of documentation.

''(A) IN GENERAL.—The employer must attest, under penalty of perjury and on a form prescribed by the Secretary, that it has verified the identity and work authorization status of the individual by examining:—

''(i) a document described in subparagraph (B); or

''(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

Such attestation may be manifested by a handwritten or electronic signature. An employer has complied with the requirement of this paragraph with respect to examination of documentation if the employer has followed applicable regulations and any written procedures or instructions provided by the Secretary and if a reasonable person would conclude that the documentation is genuine and establishes the employee's identity and authorization to work, taking into account any information provided to the employer by the Secretary, including photographs.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport, or passport card issued pursuant to the Secretary of State's authority under 22 U.S.C. 211a;

''(ii) permanent resident card or other document issued by the Secretary or Secretary of State to aliens authorized to work in the United States, if the document—

''(I) contains a photograph of the individual, biometric data, such as fingerprints, or such other personal identifying information relating to the individual as the Secretary finds, by regulation, sufficient for the purposes of this subsection;

''(II) is evidence of authorization for employment in the United States; and

''(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use; or

''(iii) temporary interim benefits card valid under section 218C(c) of the Immigration and Nationality Act, as amended by Section 602 of the Comprehensive Immigration Reform Act of 2007, bearing a photograph and an expiration date, and issued by the Secretary to aliens applying for temporary worker status under the Z-visa.

''(C) DOCUMENT ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph includes—

''(i) an individual's drivers license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States, provided that the issuing state or entity has certified to the Secretary of Homeland Security that it is in compliance with the minimum standards required under section 202 of the REAL ID Act of 2005 (division B of Public Law 109–13) (49 U.S.C. 30301 note) and implementing regulations issued by the Secretary of Homeland Security once those requirements become effective;

''(ii) an individual's driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States which is not compliant with section 202 of the REAL ID Act of 2005 if—

''(I) the driver's license or identity card contains the individual's photograph as well as the individual's name, date of birth, gender, height, eye color and address,

''(II) the card has been approved for this purpose in accordance with timetables and procedures established by the Secretary pursuant to subsection (c)(1)(F) of this section, and

''(III) the card is presented by the individual and examined by the employer in combination with a U.S. birth certificate, or a Certificate of Naturalization, or a Certificate of Citizenship, or such other documents as may be prescribed by the Secretary,

''(iii) for individuals under 16 years of age who are unable to present a document listed in clause (i) or (ii), documentation of personal identity of such other type as the Secretary finds provides a reliable means of identification, provided it contains security features to make it resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) other documentation evidencing identity as identified by the Secretary in his discretion, with notice to the public provided in the Federal Register, to be acceptable for purposes of this section, provided that the document, including any electronic security measures linked to the document, contains security features that make the document as resistant to tampering, counterfeiting, and fraudulent use as the documents listed in (B)(i), B(ii), or (C)(i).

''(D) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—The following documents may be accepted as evidence of employment authorization—

''(i) a social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the card is not valid for employment in the United States). The Secretary, in consultation with the Commissioner of Social Security, may require by publication of a notice in the Federal Register that only a social security account number card described in Section 305 of this Title be accepted for this purpose; or

''(ii) any other documentation evidencing authorization of employment in the United States which the Secretary declares, by publication in the Federal Register, to be acceptable for purposes of this section, provided that the document, including any electronic security measures linked to the document contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary finds that any document or class of documents described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Secretary shall, with notice to the public provided in the Federal Register, prohibit or restrict the use of that document or class of documents for purposes of this subsection.

''(F) After June 1, 2013, no driver's license or state identity card may be accepted if it does not comply with the REAL ID Act of 2005. This paragraph (c)(1)(F) shall have no effect on paragraphs (c)(1)(B), (c)(1)(C)(iii), (c)(1)(C)(iv), or (c)(1)(D).

''(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited, or referred for such employment. Such attestation may be manifested by either a hand-written or electronic signature.

''(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the employer must retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security (or persons designated by the Secretary), the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, seven years after the date of the recruiting or referral; and

''(B) in the case of the hiring of an individual—

''(i) seven years after the date of such hiring; or

''(ii) two years after the date the individual's employment is terminated, whichever is earlier.

''(4) Copying of documentation and recordkeeping required.

''(A) Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain a paper, microfiche microfilm, or electronic copy as prescribed in paragraph (3), but only (except as otherwise permitted under law) for the purposes of complying with the requirements of this subsection. Such copies shall reflect the signatures of the employer and the employee, as well as the date of receipt.

''(B) The employer shall also maintain records of Social Security Administration correspondence regarding name and number mismatches or no-matches and the steps taken to resolve such issues.

''(C) The employer shall maintain records of all actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the alien's identity or work authorization.

''(D) The employer shall maintain such records as prescribed in this subsection. The Secretary may prescribe the manner of recordkeeping and may require that additional records be kept or that additional documents be copied and maintained. The Secretary may require that these documents be transmitted electronically, and may develop automated capabilities to request such documents.

''(5) PENALTIES.—An employer that fails to comply with any requirement of this subsection shall be penalized under subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of national identification card.

''(7) The employer shall use the procedures for document verification set forth in this paragraph for all employees without regard to national origin or citizenship status.

''(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—''(1) IN GENERAL.—The Secretary, in cooperation and consultation with the Secretary of State, the Commissioner of Social Security, and the states, shall implement and specify the procedures for EEVS. The participating employers shall timely register with EEVS and shall use EEVS as described in subsection (d)(5).

''(2) IMPLEMENTATION SCHEDULE.—

''(A) As of the date of enactment of this section, the Secretary in his discretion, with notice to the public provided in the Federal Register, is authorized to require any employer or industry which the Secretary determines to be part of the critical infrastructure, a federal contractor, or directly related to the national security or homeland security of the United States to participate in the EEVS. This requirement may be applied to both newly hired and current employees. The Secretary shall notify employers subject to this subparagraph 30 days prior to EEVS.

''(B) No later than 6 months after the date of enactment of this section, the Secretary shall require additional employers or industries to participate in the EEVS. This requirement shall be applied to new employees hired, and current employees subject to reverification because of expiring work authorization documentation or expiration of immigration status, on or after the date on which the requirement takes effect. The Secretary, by notice in the Federal Register, shall designate these employers or industries, in his discretion, based upon risks to critical infrastructure, national security, immigration enforcement, or homeland security needs.

''(C) No later than 18 months after the date of enactment of this section, the Secretary shall require all employers to participate in the EEVS with respect to newly hired employees and current employees subject to reverification because of expiring work authorization documentation or expiration of immigration status.

''(D) No later than three years after the date of enactment of this section, all employers shall participate in the EEVS with respect to new employees, all employees whose identity and employment authorization have not been previously verified through EEVS, and all employees in Z status who have not previously presented a secure document evidencing their Z status. The Secretary may specify earlier dates for participation in the EEVS in his discretion for some or all classes of employer or employee.

''(E) The Secretary shall create the necessary systems and processes to monitor the functioning of the EEVS, including the volume of the workflow, the speed of processing of queries, and the speed and accuracy of responses. These systems and processes shall be audited by the Government Accountability Office months after the date of enactment of this section and 24 months after the date of enactment of this section. The Government Accountability Office shall report the results of the audits to Congress.

''(3) PARTICIPATION IN EEVS.—The Secretary has the following discretionary authority to require or to permit participation in the EEVS—

''(A) To permit any employer that is not required to participate in the EEVS to do so on a voluntary basis;

''(B) To require any employer that is required to participate in the EEVS with respect to its newly hired employees also to do so with respect to its current workforce if the Secretary has reasonable cause to believe that the employer has engaged in any violation of the immigration laws.

''(4) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required under this subsection to participate in the EEVS and fails to comply with the requirements of such program with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to that individual, and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) or (a)(2) of this section.

Subparagraph (B) shall not apply in any prosecution under subsection 274A(f)(1).

''(5) PROCEDURES FOR PARTICIPANTS IN THE EEVS.—

''(A) In general.—An employer participating in the EEVS must register in the EEVS and conform to the following procedures in the event of hiring, recruiting, or referring any individual for employment in the United States:

''(i) REGISTRATION OF EMPLOYERS.—The Secretary, through notice in the Federal Register, shall prescribe procedures that employers must follow to register in the EEVS. In prescribing these procedures the Secretary shall have authority to require employers to provide:

''(I) employer's name;

''(II) employer's Employment Identification Number (EIN);

''(III) company address;

''(IV) name, position and social security number of the employer's employees accessing the EEVS; and

''(V) such other information as the Secretary deems necessary to ensure proper use and security of the EEVS.

The Secretary shall require employers to undergo such training as the Secretary deems necessary to ensure proper use and security of the EEVS. To the extent practicable, such training shall be made available electronically.

''(ii) PROVISION OF ADDITIONAL INFORMATION.—The employer shall obtain from the individual (and the individual shall provide) and shall record in such manner as the Secretary may specify:—

''(I) an individual's social security account number,

''(II) if the individual does not attest to United States nationality under subsection (c)(2) of this section, such identification or authorization number established by the Department of Homeland Security as the Secretary of Homeland Security shall specify, and

''(III) such other information as the Secretary may require to determine the identity and work authorization of an employee.

''(iii) PRESENTATION OF DOCUMENTATION.—The employer, and the individual whose identity and employment eligibility are being confirmed, shall fulfill the requirements of subsection (c) of this section.

''(iv) PRESENTATION OF BIOMETRICS.—Employers who are enrolled in the Voluntary Advanced Verification Program to Combat Identity Theft under section 307 of this title shall, in addition to documentary evidence of identity and work eligibility, electronically provide the fingerprints of the individual to the Department of Homeland Security.

''(B) SEEKING CONFIRMATION.—

''(i) The employer shall use the EEVS to provide to the Secretary all required information in order to obtain confirmation of the identity and employment eligibility of any individual no earlier than the date of hire and no later than on the first day of employment (or recruitment or referral, as the case may be). An employer may not, however, make the starting date of an individual's employment contingent on the receipt of confirmation of the identity and employment eligibility.

''(ii) For reverification of an employee with a limited period of work authorization (including Z card holder), all required verification procedures must be complete on the date the employee's work authorization expires.

''(iii) For initial verification of an employee hired before the employer is subject to the employment eligibility verification system, all required procedures must be complete on such date as the Secretary shall specify in accordance with subparagraph (d)(2)(D).

''(iv) The Secretary shall provide, and the employer shall utilize, as part of EEVS, a method of communicating notices and requests for information or action on the part of the employer with respect to expiring work authorization or status and other matters. Additionally, the Secretary shall provide a method of notifying employers of a confirmation, nonconfirmation or a notice that further action is required (''further action notice''). The employer shall communicate to the individual that is the subject of the verification all information provided to the employer by the EEVS for communication to the individual.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) Initial response.—The verification system shall provide a confirmation, nonconfirmation, or a further action notice of an individual's identity and employment eligibility at the time of the inquiry, unless for technological reasons or due to unforeseen circumstances, the EEVS is unable to provide such confirmation or further action notice. In such situations, the system shall provide confirmation or further action notice within 3 business days of the initial inquiry. If providing confirmation or further action notice, the EEVS shall provide an appropriate code indicating such confirmation or such further action notice.

''(ii) CONFIRMATION UPON INITIAL INQUIRY.—When the employer receives an appropriate confirmation of an individual's identity and work eligibility under the EEVS, the employer shall record the confirmation in such manner as the Secretary may specify.

''(iii) FURTHER ACTION NOTICE UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

''(I) FURTHER ACTION NOTICE.—If the employer receives a further action notice of an individual's identity or work eligibility under the EEVS, the employer shall inform the individual without delay for whom the confirmation is sought of the further action notice and any procedures specified by the Secretary for addressing the further action notice. The employee must acknowledge in writing the receipt of the further action notice from the employer.

''(II) CONTEST.—Within ten business days from the date of notification to the employee, the employee must contact the appropriate agency to contest the further action notice and, if the Secretary so requires, appear in person at the appropriate Federal or state agency for purposes of verifying the individual's identity and employment authorization. The Secretary, in consultation with the Commissioner of Social Security and other appropriate Federal and State agencies, shall specify an available secondary verification procedure to confirm the validity of information provided and to provide a final confirmation or nonconfirmation. An individual contesting a further action notice must attest under penalty of perjury to his identity and employment authorization.

''(III) NO CONTEST.—If the individual does not contest the further action notice within the period specified in subparagraph (5)(C)(iii)(II), a final nonconfirmation shall issue. The employer shall then record the nonconfirmation in such manner as the Secretary may specify.

''(IV) FINALITY.—The EEVS shall provide a final confirmation or nonconfirmation within 10 business days from the date of the employee's contesting of the further action notice. As long as the employee is taking the steps required by the Secretary and the agency that the employee has contacted to resolve a further action notice, the Secretary shall extend the period of investigation until the secondary verification procedure allows the Secretary to provide final confirmation or nonconfirmation. If the employee fails to take the steps required by the Secretary and the appropriate agency, a final nonconfirmation may be issued to that employee.

''(V) RE-EXAMINATION.—Nothing in this section shall prevent the Secretary from reexamining a case where a final confirmation has been provided if subsequently received information indicates that the individual may not be work authorized.

In no case shall an employer terminate employment of an individual solely because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final and the period to timely file an administrative appeal has passed, and in the case where an administrative appeal has been denied, the period to timely file a petition for judicial review has passed. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation. An individual's failure to contest a further action notice shall not be considered an admission of guilt with respect to any violation of this section or any provision of law.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate employment (or recruitment or referral) of the individual, unless the individual files an administrative appeal of a final nonconfirmation notice under paragraph (7) within the time period prescribed in that paragraph and the Secretary or the Commissioner stays the final nonconfirmation notice pending the resolution of the administrative appeal.

''(ii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the employer continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation (unless the individual filed an administrative appeal of a final nonconfirmation notice under paragraph (7) within the time period prescribed in that paragraph and the Secretary of the Commissioner stayed the final nonconfirmation notice pending the resolution of the administrative appeal), a rebuttable presumption is created that the employer has violated subsections (a)(l)(A) and (a)(2) of this section. The previous sentence shall not apply in any prosecution under subsection (f)(1) of this section.

''(E) OBLIGATION TO RESPOND TO QUERIES AND ADDITIONAL INFORMATION.—

''(i) Employers are required to comply with requests from the Secretary through EEVS for information, including queries concerning current and former employees that relate to the functioning of the EEVS, the accuracy of the responses provided by the EEVS, and any suspected fraud or identity theft in the use of the EEVS. Failure to comply with such a request is a violation of section (a)(1)(B).

''(ii) Individuals being verified through EEVS may be required to take further action to address irregularities identified in the documents relied upon for purposes of employment verification. The employer shall communicate to the individual any such requirement for further actions and shall record the date and manner of such communication. The individual must acknowledge in writing the receipt of this communication from the employer. Failure to communicate such a requirement is a violation of section (a)(1)(B).

''(iii) The Secretary is authorized, with notice to the public provided in the Federal Register, to implement, clarify, and supplement the requirements of this paragraph. in order to facilitate the functioning of the. EEVS or to prevent fraud or identity theft in the use of the EEVS.

''(F) IMPERMISSIBLE USE OF THE EEVS.—

''(i) An employer may not use the EEVS to verify an individual prior to extending to the individual an offer of employment.

''(ii) An employer may not require an individual to verify the individual's own employment eligibility through the EEVS as a condition of extending to that individual an offer of employment. Nothing in this paragraph shall be construed to prevent an employer from encouraging an employee or a prospective employee from verifying the employee's or a prospective employee's own employment eligibility prior to obtaining employment pursuant to paragraph (5)(H).

''(iii) An employer may not terminate an individual's employment solely because that individual has been issued a further action notice.

''(iv) An employer may not take the following actions solely because an individual has been issued a further action notice:

''(I) reduce salary, bonuses or other compensation due to the employee;

''(II) suspend the employee without pay;

''(III) reduce the hours that the employee is required to work if such reduction is accompanied by a reduction in salary, bonuses or other compensation due to the employee, except that, with the agreement of the employee, an employer may provide an employee with reasonable time off without pay in order to contest and resolve the further action notice received by the employee; or

''(IV) deny the employee the training necessary to perform the employment duties for which the employee has been hired.

''(v) An employer may not, in the course of utilizing the procedures for document verification set forth in subsection (c), require that a prospective employee present additional documents or different documents than those prescribed under that subsection.

''(vi) The Secretary of Homeland Security shall develop the necessary policies and procedures to monitor employers' use of the EEVS and their compliance with the requirements set forth in this section. Employers are required to comply with requests from the Secretary for information related to any monitoring, audit or investigation undertaken pursuant to this subparagraph.

''(vii) The Secretary of Homeland Security, in consultation with the Secretary of Labor, shall establish and maintain a process by which any employee (or any prospective employee who would otherwise have been hired) who has reason to believe that an employer has violated subparagraphs (i)–(v) may file a complaint against the employer.

''(viii) Any employer found to have violated subparagraphs (i)–(v) shall pay civil penalty of up to $10,000 for each violation.

''(ix) This paragraph is not intended to, and does not, create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does it create any right of review in a judicial proceeding.

''(x) No later than 3 months after the date of enactment of this section, the Secretary of Homeland Security, in cooperation with the Secretary of Labor and the Administrator of the Small Business Administration, shall conduct a campaign to disseminate information respecting the rights and remedies prescribed under this section. Such campaign shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities and remedies under this section.

''(I) In order to carry out the campaign under this paragraph, the Secretary of Homeland Security may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach activities under the campaign.

''(II) There are authorized to be appropriated to carry out this paragraph $40,000,000 for each fiscal year 2007 through 2009.

''(G) Based on a regular review of the EEVS and the document verification procedures to identify fraudulent use and to assess the security of the documents being used to establish identity or employment authorization, the Secretary in consultation with the Commissioner of Social Security may modify by Notice published in the Federal Register the documents that must be presented to the employer, the information that must be provided to EEVS by the employer, and the procedures that must be followed by employers with respect to any aspect of the EEVS if the Secretary in his discretion concludes that the modification is necessary to ensure that EEVS accurately and reliably determines the work authorization of employees while providing protection against fraud and identity theft.

''(H) Subject to appropriate safeguards to prevent misuse of the system, the Secretary in consultation with the Commissioner of Social Security, shall establish secure procedures to permit an individual who seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the EEVS.

''(6) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No employer participating in the EEVS shall be liable under any law for any employment-related action taken with respect to the employee in good faith reliance on information provided through the confirmation system.

''(7) ADMINISTRATIVE REVIEW.—

''(A) IN GENERAL.—An individual who receives a final nonconfirmation notice may, not later than 15 days after the date that such notice is received, file an administrative appeal of such final notice. An individual who did not timely contest a further action notice may not avail himself of this paragraph. Unless the Secretary of Homeland Security, in consultation with the Commissioner of Social Security, specifies otherwise, all administrative appeals shall be filed as follows:

''(i) NATIONALS OF THE UNITED STATES—An individual claiming to be a national of the United States shall file the administrative appeal with the Commissioner.

''(ii) ALIENS.—An individual claiming to be an alien authorized to work in the United States shall file the administrative appeal with the Secretary.

''(B) REVIEW FOR ERROR.—The Secretary and the Commissioner shall each develop procedures for resolving administrative appeals regarding final nonconfirmations based upon the information that the individual has provided, including any additional evidence that was not previously considered. Appeals shall be resolved within 30 days after the individual has submitted all evidence relevant

to the appeal. The Secretary and the Commissioner may, on a case by case basis for good cause, extend this period in order to ensure accurate resolution of an appeal before him. Administrative review under this paragraph (7) shall be limited to whether the final nonconfirmation notice is supported by the weight of the evidence.

''(C) ADMINISTRATIVE RELIEF.—The relief available under this paragraph (7) is limited to an administrative order upholding, reversing, modifying, amending, or setting aside the final nonconfirmation notice. The Secretary or the Commissioner shall stay the final nonconfirmation notice pending the resolution of the administrative appeal unless the Secretary or the Commissioner determines that the administrative appeal is frivolous, unlikely to succeed on the merits, or filed for purposes of delay and terminates the stay.

''(D) DAMAGES, FEES AND COSTS.—No money damages, fees or costs may be awarded in the administrative review process, and no court shall have jurisdiction to award any damages, fees or costs relating to such administrative review under the Equal Access to Justice Act or any other law.

''(8) JUDICIAL REVIEW.—

''(A) EXCLUSIVE PROCEDURE.—Notwithstanding any other provision of law (statutory or nonstatutory) including sections 1361 and 1651 of title 28, no court shall have jurisdiction to consider any claim against the United States, or any of its agencies, officers, or employees, challenging or otherwise relating to a final nonconfirmation notice or to the EEVS, except as specifically provided by this paragraph. Judicial review of a final nonconfirmation notice is governed only by chapter 158 of title 28, except as provided below.

''(B) REQUIREMENTS FOR REVIEW OF A FINAL NONCONFIRMATION NOTICE.—With respect to review of a final nonconfirmation notice under subsection (a), the following requirements apply:

''(i) DEADLINE.—The petition for review must be filed no later than 30 days after the date of the completion of the administrative appeal.

''(ii) VENUE AND FORMS.—The petition for review shall be filed with the United States Court of Appeals for the judicial circuit wherein the petitioner resided when the final nonconfirmation notice was issued. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

''(iii) SERVICE.—The respondent is either the Secretary of Homeland Security or the Commissioner of Social Security, but not both, depending upon who issued (or affirmed) the final nonconfirmation notice. In addition to serving the respondent, the petitioner must also serve the Attorney General.

''(iv) PETITIONER'S BRIEF.—The petitioner shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result. The court of appeals may set an expedited briefing schedule.

''(v) SCOPE AND STANDARD FOR REVIEW.—The court of appeals shall decide the petition only on the administrative record on which the final nonconfirmation order is based. The burden shall be on the petitioner to show that the final nonconfirmation decision was arbitrary, capricious, not supported by substantial evidence, or otherwise not in accordance with law. Administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.

''(vi) STAY.—The court of appeals shall stay the final nonconfirmation notice pending its decision on the petition for review unless the court determines that the petition for review is frivolous, unlikely to succeed on the merits, or filed for purposes of delay,

''(C) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final nonconfirmation order only if—

''(1) the petitioner has exhausted all administrative remedies available to the alien as of right, and

''(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

''(D) LIMIT ON INJUNCTIVE RELIEF.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions in this section, other than with respect to the application of such provisions to an individual petitioner.

''(9) MANAGEMENT OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

''(A) IN GENERAL.—The Secretary is authorized to establish, manage and modify an EEVS that shall—

''(i) respond to inquiries made by participating employers at any time through the internet concerning an individual's identity and whether the individual is authorized to be employed;

''(ii) maintain records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to employers as evidence of their compliance with their obligations under the EEVS; and

''(iii) provide information to, and request action by, employers and individuals using the system, including notifying employers of the expiration or other relevant change in an employee's employment authorization, and directing an employer to convey to the employee a request to contact the appropriate Federal or State agency.

''(B) DESIGN AND OPERATION OF SYSTEM.—The EEVS shall be designed and operated—

''(i) to maximize its reliability and ease of use by employers consistent with insulating and protecting the privacy and security of the underlying information;

''(ii) to respond accurately to all inquiries made by employers on whether individuals are authorized to be employed and to register any times when the system is unable to receive inquiries;

''(iii) to maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

(iv) to allow for auditing use of the system to detect fraud and identity theft, and to preserve the security of the information in all of the system, including but not limited to the following:

''(I) to develop and use algorithms to detect potential identity theft, such as multiple uses of the same identifying information or documents;

''(II) to develop and use algorithms to detect misuse of the system by employers and employees;

''(III) to develop capabilities to detect anomalies in the use of the system that may indicate potential fraud or misuse of the system; and

''(IV) to audit documents and information submitted by potential employees to employers, including authority to conduct interviews with employers and employees;

''(v) to confirm identity and work authorization through verification of records maintained by the Secretary, other federal departments, states, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States, as determined necessary by the Secretary, including:

''(I) records maintained by the Social Security Administration as specified in (D);

''(II) birth and death records maintained by vital statistics agencies of any state or other United States jurisdiction;

''(III) passport and visa records (including photographs) maintained by the United States Department of State; and

''(IV) State driver's license or identity card information (including photographs) maintained by State department of motor vehicles; and

''(vi) to confirm electronically the issuance of the employment authorization or identity document and to display the digital photograph that the issuer placed on the document so that the employer can compare the photograph displayed to the photograph on the document presented by the employee. If in exceptional cases a photograph is not available from the issuer, the Secretary shall specify a temporary alternative procedure for confirming the authenticity of the document.

''(C) The Secretary is authorized, with notice to the public provided in the Federal Register, to issue regulations concerning operational and technical aspects of the EEVS and the efficiency, accuracy, and security of the EEVS.

''(D) ACCESS TO INFORMATION.—

''(i) Notwithstanding any other provision of law, the Secretary of Homeland Security shall have access to relevant records described at paragraph (9)(8)(v), for the purposes of preventing identity theft and fraud in the use of the EEVS and enforcing the provisions of this section governing employment verification. State or other non-federal jurisdiction that does not provide such access shall not be eligible for any grant or other program of financial assistance administered by the Secretary.

''(ii) The Secretary, in consultation with the Commissioner of Social Security and other appropriate Federal and State agencies, shall develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the records accessed pursuant to this paragraph and subparagraph (d)(5)(E)(i). The Secretary, in consultation with the Commissioner and other appropriate Federal and State agencies, shall develop and deploy appropriate privacy and security training for the Federal and State employees accessing the records pursuant to this paragraph and subparagraph (d)(5)(E)(i).

''(iii) The Chief Privacy Officer of the Department of Homeland Security shall conduct regular privacy audits of the policies and procedures established under subparagraph (9)(D)(ii), including any collection, use, dissemination, and maintenance of personally identifiable information and any associated information technology systems, as well as scope of requests for this information. The Chief Privacy Officer shall review the results of the audits and recommend to the Secretary and the Privacy and Civil Liberties Oversight Board any changes necessary to improve the privacy protections of the program.

''(E) RESPONSIBILITIES OF THE SECRETARY OF HOMELAND SECURITY.—

''(i) As part of the EEVS, the Secretary shall establish reliable, secure method,

which, operating through the EEVS and within the time periods specified, compares the name, alien identification or authorization number, or other relevant information provided in an inquiry against such information maintained or accessed by the Secretary in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, whether the alien is authorized to be employed in the United States (or, to the extent that the Secretary determines to be feasible and appropriate, whether the Secretary's records verify United States citizenship), and such other information as the Secretary may prescribe.

''(ii) As part of the EEVS, the Secretary shall establish reliable, secure method, which, operating through the EEVS, displays the digital photograph described in paragraph (d)(9)(B)(vi).

''(iii) The Secretary shall have authority to prescribe when a confirmation, nonconfirmation or further action notice shall be issued.

''(iv) The Secretary shall perform regular audits under the EEVS, as described in paragraph (d)(9)(B)(iv) of this section and shall utilize the information obtained from such audits, as well as any information obtained from the Commissioner of Social Security pursuant to section 304 of the Comprehensive Immigration Act of 2007, for the purposes of this title and of immigration enforcement in general.

''(v) The Secretary shall make appropriate arrangements to allow employers who are otherwise unable to access the EEVS to use federal government facilities or public facilities in order to utilize the EEVS.

''(F) RESPONSIBILITIES OF THE SECRETARY OF STATE.—As part of the EEVS, the Secretary of State shall provide to the Secretary access to passport and visa information as needed to confirm that passport or passport card presented under section (c)(1)(B) belongs to the subject of the EEVS check, or that passport or visa photograph matches an individual;

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretaries of Homeland Security and State shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(10) LIMITATION ON USE OF THE EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, database, or other records assembled under this subsection for any purpose other than for the enforcement and administration of the immigration laws, anti-terrorism laws, or for enforcement of Federal criminal law related to the functions of the EEVS, including prohibitions on forgery, fraud and identity theft.

''(11) UNAUTHORIZED USE OR DISCLOSURE OF INFORMATION.—Any employee of the Department of Homeland Security or another Federal or State agency who knowingly uses or discloses the information assembled under this subsection for a purpose other than one authorized under this section shall pay a civil penalty of $5,000–$50,000 for each violation.

''(12) Conforming amendment.—Public Law 104–208, Div. C, Title IV, Subtitle A, sections 401–05 are repealed, provided that nothing in this subsection shall be construed to limit the authority of the Secretary to allow or continue to allow the participation of Basic Pilot employers in the EEVS established by this subsection.

''(13) FUNDS.—In addition to any appropriated funds, the Secretary is authorized to use funds provided in sections 286(m) and (n), for the maintenance and operation of the EEVS. EEVS shall be considered an immigration adjudication service for purposes of sections 286(m) and (n).

''(14) The employer shall use the procedures for EEVS specified in this section for all employees without regard to national origin or citizenship status.

''(e) Compliance.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary of Homeland Security shall establish procedures—

''(A) for individuals and entities to file complaints respecting potential violations of subsection (a) or (g)(1);

''(B) for the investigation of those complaints which the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a) or (g)(1) as the Secretary determines to be appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

''(A) immigration officers shall have reasonable access to examine evidence of any employer being investigated; and

''(B) immigration officers designated by the Secretary may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph, the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as a contempt thereof. Failure to cooperate with such subpoena shall be subject to further penalties, including but not limited to further fines and the voiding of any mitigation of penalties or termination of proceedings under subsection (e)(3)(B).

''(3) COMPLIANCE PROCEDURES.—

''(A) PRE-PENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a civil violation of this section or the requirements of this section, including but not limited to subsections (b), (c), (d) and (k), and determines that further proceedings are warranted, the Secretary shall issue to the employer concerned a written notice of the Department's intention to issue a claim for a monetary or other penalty. Such pre-penalty notice shall:

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that he or she shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—Whenever any employer receives a written pre-penalty notice of a fine or other penalty in accordance with subparagraph (A), the employer may file, within 15 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary. If the Secretary finds that such fine, penalty, or forfeiture was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate the same upon such terms and conditions as the Secretary deems reasonable and just, or order termination of any proceedings relating thereto. Such mitigating circumstances may include, but need not be limited to, good faith compliance and participation in, or agreement to participate in, the EEVS, if not otherwise required.

This subparagraph shall not apply to an employer that has or is engaged in a pattern or practice of violations of subsection (a)(1)(A), (a)(1)(6), or (a)(2) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations, if any, offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based. If the Secretary determines that there was a violation, the Secretary shall issue the final determination with a written penalty claim. The penalty claim shall specify all charges in the information provided under clauses (i) through (iii) of subparagraph (A) and any mitigation or remission of the penalty that the Secretary deems appropriate.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of subsection (a)(1)(A) or (a)(2) shall:

''(i) pay a civil penalty of $5,000 for each unauthorized alien with respect to which each violation of either subsection (a)(1)(A) or (a)(2) occurred;

''(ii) if an employer has previously been fined under subsection (e)(4)(A), pay a civil penalty of $10,000 for each unauthorized alien with respect to which a violation of either subsection (a)(1)(A) or (a)(2) occurred; and

''(iii) if an employer has previously been fined more than once under subsection (e)(4), pay a civil penalty of $25,000 for each unauthorized alien with respect to which a violation of either subsection has occurred. This penalty shall apply, in addition to any penalties previously assessed, to employers who fail to comply with a previously issued and final order under this section.

''(iv) if an employer has previously been fined more than twice under subsection (e)(4)(A), pay a civil penalty of $75,000 for each alien with respect to which a violation of either subsection (a)(1) or (a)(2) occurred

''(v) In addition to any penalties previously assessed an employer who fails to comply with a previously issued and final order under this section shall be fined $75,000 for each violation.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with any requirement of subsection (b), (c), and (d), shall pay a civil penalty as follows:

''(i) pay a civil penalty of $1,000 for each violation;

''(ii) if an employer has previously been fined under subsection (e)(4)(6), pay a civil penalty of $2,000 for each violation; and

''(iii) if an employer has previously been fined more than once under subsection (e)(4), pay a civil penalty of $5,000 for each violation. This penalty shall apply, in addition to any penalties previously assessed, to employers who fail to comply with a previously issued and final order under this section.

''(iv) if an employer has previously been fined more than twice under subsection (e)(4)(B), pay a civil penalty of $15,000 for each violation.

''(v) In addition to any penalties previously assessed, an employer who fails to comply.

with a previously issued and final order under this section shall be fined $15,000 for each violation.

''(C) OTHER PENALTIES.—The Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the remedy provided by paragraph (g)(2). All penalties in this section may be adjusted every four years to account for inflation as provided by law.

''(D) The Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including, but not limited to, the employer's hiring volume, compliance history, good-faith implementation of a compliance program, participation in temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(5) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that it is in compliance with this section, or has instituted a program to come into compliance. Within 60 days of receiving a notice from the Secretary requiring such a certification, the employer's chief executive officer or similar official with responsibility for, and authority to bind the company on, all hiring and immigration compliance notices shall certify under penalty of perjury that the employer is in conformance with the requirements of subsections (c)(1) through (c)(4), pertaining to document verification requirements, and with subsection (d), pertaining to the EEVS (once that system is implemented according to the requirements of (d)(1)), and with any additional requirements that the Secretary may promulgate by regulation pursuant to subsections (c), (d), and (k), or that the employer has instituted a program to come into compliance with these requirements. At the request of the employer, the Secretary may extend the 60-day deadline for good cause. The Secretary is authorized to publish in the Federal Register standards or methods for such certification, require specific record-keeping practices with respect to such certifications, and audit the records thereof at any time. This authority shall not be construed to diminish or qualify any other penalty provided by this section.

''(6) JUDICIAL REVIEW.—

''(A) Notwithstanding any other provision of law (statutory or nonstatutory) including sections 1361 and 1651 of title 28, no court shall have jurisdiction to consider a final determination or penalty claim issued under subparagraph (3)(C), except as specifically provided by this paragraph. Judicial review of a final determination under paragraph (e)(4) is governed only by chapter 158 of title 28, except as specifically provided below. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The Secretary is authorized to require that petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

(B) REQUIREMENTS FOR REVIEW OF A FINAL DETERMINATION.—With respect to judicial review of a final determination or penalty claim issued under subparagraph (3)(C), the following requirements apply:

(i) DEADLINE.—The petition for review must be filed no later than 30 days after the date of the final determination or penalty claim issued under subparagraph (3)(C).

(ii) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit wherein the employer resided when the final determination or penalty claim was issued. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

(iii) SERVICE.—The respondent is either the Secretary of Homeland Security or the Commissioner of Social Security, but not both, depending upon who issued (or affirmed) the final nonconfirmation notice. In addition to serving the respondent, the petitioner must also serve the Attorney General.

(iv) PETITIONER'S BRIEF.—The petitioner shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the respondent, and the court may not extend these deadlines, except for good cause shown. If a petitioner fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

(v) SCOPE AND STANDARD FOR REVIEW.—The court of appeals shall decide the petition only on the administrative record on which the final determination is based. The burden shall be on the petitioner to show that the final determination was arbitrary, capricious, not supported by substantial evidence, or otherwise not in accordance with law. Administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.

''(C) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—A court may review a final determination under subparagraph (3)(C) only if—

(1) the petitioner has exhausted all administrative remedies available to the petitioner as of right, and

(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

''(D) LIMIT ON INJUNCTIVE RELIEF.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions in this section, other than with respect to the application of such provisions to an individual petitioner.

''(7) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (6), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(8) LIENS.—

''(A) CREATION OF LIEN.—If any employer liable for a fee or penalty under this section neglects or refuses to pay such liability and fails to file a petition for review (if applicable) as provided in paragraph 6 of this subsection, such liability is a lien in favor of the United States on all property and rights to property of such person as if the liability of such person were a liability for a tax assessed under the Internal Revenue Code of 1986. If a petition for review is filed as provided in paragraph 6 of this subsection, the lien (if any) shall arise upon the entry of a final judgment by the court. The lien continues for 20 years or until the liability is satisfied, remitted, set aside, or is terminated.

''(B) EFFECT OF FILING NOTICE OF LIEN.—Upon filing of a notice of lien in the manner in which a notice of tax lien would be filed under section 6323(f)(1) and (2) of the Internal Revenue Code of 1986, the lien shall be valid against any purchaser, holder of a security interest, mechanic's lien or judgment lien creditor, except with respect to properties or transactions specified in subsection (b), (c), or (d) of section 6323 of the Internal Revenue Code of 1986 for which a notice of tax lien properly filed on the same date would not be valid. The notice of lien shall be considered a notice of lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of a notice of a tax lien. A notice of lien that is registered, recorded, docketed, or indexed in accordance with the rules and requirements relating to judgments of the courts of the State where the notice of lien is registered, recorded, docketed, or indexed shall be considered for all purposes as the filing prescribed by this section. The provisions of section 3201(e) of chapter 176 of title 28 shall apply to liens filed as prescribed by this section.

''(C) ENFORCEMENT OF A LIEN.—A lien obtained through this process shall be considered a debt as defined by 28 U.S.C. §3002 and enforceable pursuant to the Federal Debt Collection Procedures Act.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—Any employer which engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $75,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—Whenever the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

''(h) GOVERNMENT CONTRACTS.

''(1) EMPLOYERS.—Whenever an employer who does not hold Federal contracts, grants, or cooperative agreements is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debarment from the receipt of Federal contracts, grants, or cooperative agreements for a period of up to two years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations. The

Secretary or the Attorney General shall advise the Administrator of General Services of any such debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for the period of the debarment. The Administrator of General Services, in consultation with the Secretary and Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) CONTRACTORS AND RECIPIENTS.—Whenever an employer who holds Federal contracts, grants, or cooperative agreements is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debarment from the receipt of Federal contracts, grants, or cooperative agreements for a period of up to two years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations. Prior to debarring the employer, the Secretary, in cooperation with the Administrator of General Services, shall advise all agencies holding contracts, grants, or cooperative agreements with the employer of the proceedings to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of up to two years. After consideration of the views of agencies holding contracts, grants or cooperative agreements with the employer, the Secretary may, in lieu of proceedings to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of up to two years, waive operation of this subsection, limit the duration or scope of the proposed debarment, or may refer to an appropriate lead agency the decision of whether to seek debarment of the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

''(3) Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(4) Inadvertent violations of record-keeping or verification requirements, in the absence of any other violations of this section, shall not be a basis for determining that an employer is a repeat violator for purposes of this subsection;

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law that requires the use of the EEVS in fashion that conflicts with federal policies, procedures or timetables, or that imposes civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for fee for employment, unauthorized aliens.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the general fund of the Treasury.

''(k) NO MATCH NOTICE.—

''(1) For the purpose of this subsection, no match notice is written notice from the Social Security Administration (SSA) to an employer reporting earnings on Form W–2 that employees' names or corresponding social security account numbers fail to match SSA records. The Secretary, in consultation with the Commissioner of the Social Security Administration, is authorized to establish by regulation requirements for verifying the identity and work authorization of employees who are the subject of no-match notices. The Secretary shall establish by regulation a reasonable period during which an employer must allow an employee who is subject to a no-match notice to resolve the no match notice with no adverse employment consequences to the employee. The Secretary may also establish penalties for noncompliance by regulation.

''(l) CHALLENGES TO VALIDITY—

''(1) IN GENERAL.—Any right, benefit, or claim not otherwise waived or limited pursuant to this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(A) whether this section, or any regulation issued to implement this section, violates the Constitution of the United States; or

''(B) whether such regulation issued by or under the authority of the Secretary to implement this section, is contrary to applicable provisions of this section or was issued in violation of title 5, chapter 5, United States Code.

''(2) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph must be filed no later than 90 days after the date the challenged section or regulation described in clause (i) or (ii) of subparagraph (A) is first implemented.

''(3) CLASS ACTIONS.—The court may not certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action under this section.

''(4) RULE OF CONSTRUCTION.—In determining whether the Secretary's interpretation regarding any provision of this section is contrary to law, a court shall accord to such interpretation the maximum deference permissible under the Constitution.

''(5) NO ATTORNEYS' FEES.—Notwithstanding any other provision of law, the court shall not award fees or other expenses to any person or entity based upon any action relating to this Title brought pursuant to this section (l).''

SEC. 303. EFFECTIVE DATE.

This title shall become effective on the date of enactment.

SEC. 304. DISCLOSURE OF CERTAIN TAXPAYER INFORMATION TO ASSIST IN IMMIGRATION ENFORCEMENT.

(a) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—From taxpayer identity information or other information which has been disclosed or otherwise made available to the Social Security Administration and upon written request by the Secretary of Homeland Security (in this paragraph referred to as the 'Secretary'), the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security—

''(i) the taxpayer identity information of each person who has filed an information return required by reason of section 6051 after calendar year 2005 and before the date specified in subparagraph (D) which contains—

''(I) 1 (or any greater number the Secretary shall request) taxpayer identifying number, name, and address of any employee (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

''(II) 2 (or any greater number the Secretary shall request) names, and addresses of employees (within the meaning of such section), with the same taxpayer identifying number, and the taxpayer identity of each such employee, and

''(ii) the taxpayer identity of each person who has filed an information return required by reason of section 6051 after calendar year 2005 and before the date specified in subparagraph (D) which contains the taxpayer' identifying number (assigned under section 6109) of an employee (within the meaning of section 6051)—

''(I) who is under the age of 14 (or any lesser age the Secretary shall request), according to the records maintained by the Commissioner of Social Security,

''(II) whose date of death, according to the records so maintained, occurred in calendar year preceding the calendar year for which the information return was filed,

''(III) whose taxpayer identifying number is contained in more than one (or any greater number the Secretary shall request) information return filed in such calendar year, or

''(IV) who is not authorized to work in the United States, according to the records maintained by the Commissioner of Social Security,

and the taxpayer identity and date of birth of each such employee.

''(B) REIMBURSEMENT.—The Secretary shall transfer to the Commissioner the funds necessary to cover the additional cost directly incurred by the Commissioner in carrying out the searches or manipulations requested by the Secretary.''

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstandingany other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information. to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than years in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

''The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement,'',

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (1)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)''; and

(ii) by striking ''or (20)'' each place it appears and inserting''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)'',

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out the amendments made by this section.

(c) REPEAL OF REPORTING REQUIREMENTS.—

(1) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 of the Immigration and Nationality Act (8 U.S.C. 1360) is repealed.

(2) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures made after the date of the enactment of this Act.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a)(2), shall be made with respect to calendar year 2007.

(3) REPEALS.—The repeals made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 305. INCREASING SECURITY AND INTEGRITY OF SOCIAL SECURITY CARDS.

(a) FRAUD-RESISTANT, TAMPER-RESISTANT AND WEAR-RESISTANT SOCIAL SECURITY CARDS.—

(1) ISSUANCE.—

(A) PRELIMINARY WORK.—Not later than 180 days after the date of enactment of this title, the Commissioner of Social Security shall begin work to administer and issue—fraud-resistant, tamper-resistant Social Security cards.

(B) COMPLETION.—Not later than two years after the date of enactment of this title, the Commissioner of Social Security shall only issue fraud-resistant, tamper-resistant and wear-resistant Social Security cards.

(2) AMENDMENT.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended to read—

''(i) The Commissioner of Social Security shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be fraud-resistant, tamper-resistant and wear-resistant.''

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(4) REPORT ON FEASIBILITY OF INCLUDING BIOMETRICS.—Within 180 days of enactment, the Commissioner of Social Security shall provide to Congress a report on the utility, costs and feasibility of including a photograph and other biometric information on the Social Security Card.

(b) MULTIPLE CARDS.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is further amended by adding at the end the following:

''(ii) The Commissioner of Social Security shall not issue a replacement Social Security card to any individual unless the Commissioner determines that the purpose for requiring the issuance of the replacement document is legitimate.''

SEC. 306. INCREASING SECURITY AND INTEGRITY OF IDENTITY DOCUMENTS

(a) PURPOSE.—The Secretary of Homeland Security, shall establish the State Records Improvement Grant Program (referred to in this section as the 'Program'), under which the Secretary may award grants to States for the purpose of advancing the purposes of this Act and of issuing or implementing plans to issue driver's license and identity cards that can be used for purposes of verifying identity under this Title and that comply with the state license requirements in section 202 of the REAL 10 Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note).

(b) States that do not certify their intent to comply with the REAL ID Act and implementing regulations or that do not submit a compliance plan acceptable to the Secretary are not eligible for grants under the Program. Driver's license or identification cards issued by States that do not comply with REAL ID may not be used to verify identity under this Title except under conditions approved by the Secretary.

(c) GRANTS AND CONTRACTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to a State to provide assistance to such State agency to meet the deadlines for the issuance of a driver's license which meets the requirements of section 202 of the REAL 10 Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note).

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall give priority to States whose REAL ID implementation plan is compatible with the employment verification systems, processes, and implementation schedules set forth in Section 302, as determined by the Secretary. Minimum standards for compatibility will include the ability of the State to promptly verify the document and provide access to the digital photograph displayed on the document.

(4) Where the Secretary of Homeland Security determines that compliance with REAL ID and with the requirements of the employment verification system can best be met by awarding grants or contracts to a State, a group of States, a government agency, or a private entity, the Secretary may utilize Program funds to award such a grant, grants, contract or contracts.

(5) On an expedited basis, the Secretary shall award grants or contracts for the purpose of improving the accuracy and electronic availability of states' records of births, deaths, driver's licenses, and of other records necessary for implementation of EEVS and as otherwise necessary to advance the purposes of this Act.

(d) USE OF FUNDS.—Grants or contracts awarded pursuant to the Program may be used to assist State compliance with the REAL ID requirements, including, but not limited to—

(1) upgrade and maintain technology

(2) obtain equipment;

(3) hire additional personnel;

(4) cover operational costs, including overtime; and

(5) such other resources as are available to assist that agency.

(e) APPLICATION.—

(1) IN GENERAL.—Each eligible state seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(f) CONDITIONS.—All grants under the Program shall be conditioned on the recipient providing REAL ID compliance certification and implementation plans acceptable to the Secretary which include—

(1) adopting appropriate security measures to protect against improper issuance of driver's licenses and identity cards, tampering with electronic issuance systems, and identity theft as the Secretary may prescribe;

(2) ensuring introduction and maintenance of such security features and other measures necessary to make the documents issued by recipient resistant to tampering, counterfeiting, and fraudulent use as the Secretary may prescribe; and

(3) ensuring implementation and maintenance of such safeguards for the security of the information contained on these documents as the Secretary may prescribe.

All grants shall also be conditioned on the recipient agreeing to adhere to the timetables and procedures for issuing REAL ID driver's licenses and identification cards as specified in section 274A(c)(1)(F).

All grants shall further be conditioned on the recipient agreeing to implement the requirements of this Act and any implementing regulations to the satisfaction of the Secretary of Homeland Security.

(g) AUTHORIZATION OF APPROPRIATIONS IN GENERAL.—There is authorized to be appropriated $300,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(h) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

(i) ADDITIONAL USES.—Amounts authorized under this section may also be used to assist in sharing of law enforcement information between States and the Department of Homeland Security for purposes of implementing Section 602(c), at the discretion of the Secretary.

SEC. 307. VOLUNTARY ADVANCED VERIFICATION PROGRAM TO COMBAT IDENTITY THEFT.

(a) VOLUNTARY ADVANCED VERIFICATION PROGRAM.—The Secretary shall establish and make available a voluntary program allowing employers to submit and verify an employee's fingerprints for purposes of determining the identity and work authorization of the employee.

(1) IMPLEMENTATION DATE.—No later than 18 months after the date of enactment of this Act, the Secretary shall implement the voluntary advanced verification program and make it available to employers willing to volunteer in the program.

(2) VOLUNTARY PARTICIPATION.—The fingerprint verification program is voluntary; employers are not required to participate in it.

(b) LIMITED RETENTION PERIOD FOR FINGERPRINTS.—

(1) The Secretary shall only maintain fingerprint records of U.S. Citizen that were submitted by an employer through the EEVS

for 10 business days, upon which such records shall be purged from any EEVS-related system unless the fingerprints have been ordered to be retained for purposes of a fraud or similar investigation by a government agency with criminal or other investigative authority.

(2) Exception: For purposes of preventing identity theft or other harm, a U.S. Citizen employee may request in writing that his fingerprint records be retained for employee verification purposes by the Secretary. In such instances of written consent, the Secretary may retain such fingerprint records until notified in writing by the U.S. Citizen of his withdrawal of consent, at which time the Secretary must purge such fingerprint records within 10 business days unless the fingerprints have been ordered to be retained for purposes of a fraud or similar investigation by government agency with an independent criminal or other investigative authority.

(c) LIMITED USE OF FINGERPRINTS SUBMITTED FOR PROGRAM.—The Secretary and the employer may use any fingerprints taken from the employee and transmitted for querying the EEVS solely for the purposes of verifying identity and employment eligibility during the employee verification process. Such transmitted fingerprints may not be used for any other purpose. This provision does not alter any other provisions regarding the use of non-fingerprint information in the EEVS.

(d) SAFEGUARDING OF FINGERPRINT INFORMATION.—The Secretary, subject to specifications and limitations set forth under this section and other relevant provisions of this Act, shall be responsible for safely and securely maintaining and storing all fingerprints submitted under this program.

SEC. 308. RESPONSIBILITIES OF THE SOCIAL SECURITY ADMINISTRATION.

Section 205(c)(12) of the Social Security Act, 42 U.S.C. 405(c)(2), is amended by adding at the end the following new subparagraphs:

''(I) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

''(i) As part of the verification system, the Commissioner of Social Security shall, subject to the provisions of section 274A(d) of the Immigration and Nationality Act, establish reliable, secure method that, operating through the EEVS and within the time periods specified in section 274A(d) of the Immigration and Nationality Act:

''(1) compares the name, social security account number and available citizenship information provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed;

''(2) the correspondence of the name, number, and any other identifying information;

''(3) whether the name and number belong to an individual who is deceased;

''(4) whether an individual is a national of the United States (when available); and

''(5) whether the individual has presented social security account number that is not valid for employment.

The EEVS shall not disclose or release social security information to employers through the confirmation system (other than such confirmation or nonconfirmation).

''(ii) SOCIAL SECURITY ADMINISTRATION DATABASE IMPROVEMENTS.—For purposes of preventing identity theft, protecting employees, and reducing burden on employers, and notwithstanding section 6103 of title 26, United States Code, the Commissioner of Social Security in consultation with the Secretary, shall review the Social Security Administration databases and information technology to identify any deficiencies and discrepancies related to name, birth date, citizenship status, or death records of the social security accounts and social security account holders likely to contribute to fraudulent use of documents, or identity theft, or to affect the proper functioning of the EEVS and shall correct any identified errors. The Commissioner shall ensure that a system for identifying and correcting such deficiencies and discrepancies is adopted to ensure the accuracy of the Social Security Administration's databases.

''(iii) NOTIFICATION TO 'FREEZE' USE OF SOCIAL SECURITY NUMBER.—The Commissioner of Social Security in consultation with the Secretary of Homeland Security, shall establish a secure process whereby an individual can request that the Commissioner preclude any confirmation under the EEVS based on that individual's Social Security number until it is reactivated by that individual.''

SEC. 309. IMMIGRATION ENFORCEMENT SUPPORT BY THE INTERNAL REVENUE SERVICE AND THE SOCIAL SECURITY ADMINISTRATION.

(a) TIGHTENING REQUIREMENTS FOR THE PROVISION OF SOCIAL SECURITY NUMBERS ON FORM W–2 WAGE AND TAX STATEMENTS.—

Section 6724 of the Internal Revenue Code of 1986 (relating to waiver; definitions and special rules) is amended by adding at the end the following new subsection:

''(f) Special rules with respect to social security numbers on withholding exemption certificates.

''(l) Reasonable cause waiver not to apply.

Subsection (a) shall not apply with respect to the social security account number of an employee furnished under section 6051 (a)(2).

''(2) EXCEPTION.—''(A) IN GENERAL.—Except as provided in subparagraph (B), [*paragraph (1)*] shall not apply in any case in which the employer—

''(i) receives confirmation that the discrepancy described in section 205(c)(2)(I) of the Social Security Act has been resolved, or

''(ii) corrects a clerical error made by the employer with respect to the social security account number of an employee within 60 days after notification under section 205(c)(2)(1) of the Social Security Act that the social security account number contained in wage records provided to the Social Security Administration by the employer with respect to the employee does not match the social security account number of the employee contained in relevant records otherwise maintained by the Social Security Administration.

''(B) Exception not applicable to frequent offenders. Subparagraph (A) shall not apply—

''(i) in any case in which not less than 50 of the statements required to be made by an employer pursuant to section 6051 either fail to include an employee's social security account number or include an incorrect social security account number, or

''(ii) with respect to any employer who has received written notification under section 205(c)(2)(1) of the Social Security Act during each of the 3 preceding taxable years that the social security account numbers in the wage records provided to the Social Security Administration by such employer with respect to 10 more employees do not match relevant records otherwise maintained by the Social Security Administration.''

(b) ENFORCEMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall establish a unit within the Criminal Investigation office of the Internal Revenue Service to investigate violations of the Internal Revenue Code of 1986 related to the employment of individuals who are not authorized to work in the United States.

(2) SPECIAL AGENTS; SUPPORT STAFF.—The Secretary of the Treasury shall assign to the unit a minimum of 10 full-time special agents and necessary support staff and is authorized to employ up to 200 full time special agents for this unit based on investigative requirements and work load.

(3) REPORTS.—During each of the first 5 calendar years beginning after the establishment of such unit and biennially thereafter, the unit shall transmit to Congress a report that describes its activities and includes the number of investigations and cases referred for prosecution.

(c) INCREASE IN PENALTY ON EMPLOYER FAILING TO FILE CORRECT INFORMATION RETURNS.—Section 6721 of such Code (relating to failure to file correct information returns) is amended as follows—

(1) in subsection (a)(1)—

(A) by striking ''$50'' and inserting ''$200'', and

(B) by striking ''$250,000'' and inserting ''$1,000,000'',

(2) in subsection (b)(1)(A), by striking ''$15 in lieu of $50'' and inserting ''$60 in lieu of $200'',

(3) in subsection (b)(l)(B), by striking ''$75,000'' and inserting ''$300,000'',

(4) in subsection (b)(2)(A), by striking ''$30 in lieu of $50'' and inserting ''$120 in lieu of $200'',

(5) in subsection (b)(2)(B), by striking ''$150,000'' and inserting ''$600,000'',

(6) in subsection (d)(A) in paragraph (1)—

(i) by striking '' '$100,000' for '$250,000' '' and inserting '' '$400,000' for '$1,000,000' '' in subparagraph (A),

(ii) by striking '' '$25,000' for '$75,000' '' and inserting '' '$100,000' for '$300,000' '' in subparagraph (B), and

(iii) by striking '' '$50,000' for '$150,000' '' and inserting '' '$200,000' for '$600,000' '' in subparagraph (C),

(B) in paragraph (2)(A), by striking ''$5,000,000'' and inserting ''$2,000,000'', and

(C) in the heading, by striking ''$5,000,000'' and inserting ''$2,000,000'',

(7) in subsection (e)(2)—

(A) by striking ''$100'' and inserting ''$400'',

(B) by striking ''$25,000'' and inserting ''$100,000'' in subparagraph (C)(i), and

(C) by striking ''$100,000'' and inserting ''$400,000'' in subparagraph (C)(ii), and

(8) in subsection (e)(3)(A), by striking ''$250,000'' and inserting ''$1,000,000''.

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to failures occurring after December 31, 2006.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS

(a) There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out the provisions of this Act, and the amendments made by this Act, including the following appropriations:

(1) In each of the five years beginning on the date of the enactment of this Act, the appropriations necessary to increase to a level not less than 4500 the number of personnel of the Department of Homeland Security assigned exclusively or principally to an office or offices dedicated to monitoring and enforcing compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c), including compliance with the requirements of the EEVS. These personnel shall perform the following compliance and monitoring activities:

(A) verify Employment Identification Numbers of employers participating in the EEVS;

(B) verify compliance of employers participating in the EEVS with the requirements for participation that are prescribed by the Secretary;

(C) monitor the EEVS for multiple uses of Social Security Numbers and any immigration identification numbers for evidence that could indicate identity theft or fraud;

(D) monitor the EEVS to identify discriminatory practices;

(E) monitor the EEVS to identify employers who are not using the system properly, including employers who fail to make appropriate records with respect to their queries and any notices of confirmation, nonconfirmation, or further action;

(F) identify instances where employees allege that an employer violated their privacy rights;

(G) analyze and audit the use of the EEVS and the data obtained through the EEVS to identify fraud trends, including fraud trends across industries, geographical areas, or employer size;

(H) analyze and audit the use of the EEVS and the data obtained through the EEVS to develop compliance tools as necessary to respond to changing patterns of fraud;

(I) provide employers with additional training and other information on the proper use of the EEVS;

(J) perform threshold evaluation of cases for referral to the U.S. Immigration and Customs Enforcement and to liaise with the U.S. Immigration and Customs Enforcement with respect to these referrals;

(K) any other compliance and monitoring activities that, in the Secretary's judgment, are necessary to ensure the functioning of the EEVS;

(L) investigate identity theft and fraud detected through the EEVS and undertake the necessary enforcement actions;

(M) investigate use of fraudulent documents or access to fraudulent documents through local facilitation and undertake the necessary enforcement actions;

(N) provide support to the U.S. Citizenship and Immigration Services with respect to the evaluation of cases for referral to the U.S. Immigration and Customs Enforcement;

(O) perform any other investigations that, in the Secretary's judgment, are necessary to ensure the functioning of the EEVS, and undertake any enforcement actions necessary as a result of these investigations.

(2) The appropriations necessary to acquire, install and maintain technological equipment necessary to support the functioning of the EEVS and the connectivity between U.S. Citizenship and Immigration Services and the U.S. Immigration and Customs Enforcement with respect to the sharing of information to support the EEVS and related immigration enforcement actions.

(b) There are authorized to be appropriated to Commissioner of Social Security such sums as may be necessary to carry out the provisions of this Act, including Section 308 of this Act.

TITLE IV—NEW TEMPORARY WORKER PROGRAM

SUBTITLE A—SEASONAL NON-AGRICULTURAL AND YEARROUND NON-IMMIGRANT TEMPORARY WORKERS

SEC. 401. NONIMMIGRANT TEMPORARY WORKER.

(a) IN GENERAL—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) in subparagraph (H)—

(A) by striking subclause (ii)(b);

(B) by striking 'or (iii)' and inserting ''(iii'');

(C) by striking and the alien spouse' and inserting or

(iv) the alien spouse';

(2) by striking 'or' at the end of subparagraph (U);

(3) by striking the period at the end of subparagraph (V) and inserting semi-colon; and

(4) by inserting at the end the following new subparagraphs—

''(W) [Reserved];

''(X) [Reserved]; or

''(Y) subject to section 218A, an alien having a residence in a foreign country which the alien has no intention of abandoning and who is coming temporarily to the United States—

''(i) to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(bl), (i)(c), or (iii) of subparagraph of (H), subparagraph (D), (E), (I), (L), (O), (P), or (R), or section 214(e) (if United States workers who are able, willing, and qualified to perform such labor or services cannot be found in the United States);

(ii) to perform seasonal non-agricultural labor or services; or

''(iii) as the spouse or child of an alien described in clause (i) or (ii) of this subparagraph.''

(b) REFERENCES.—All references in the immigration laws as amended by this Title to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act shall be considered reference to both that section of the Act and to section (a)(15)(Y)(ii) of the Act.

(c) EFFECTIVE DATE.—The effective date of the amendment made by subparagraph (l)(A) of subsection (a) shall be the date on which the Secretary of Homeland Security makes the certification described in section l(a) of this Act.

SEC. 402. ADMISSION OF NONIMMIGRANT WORKERS.

(a) NEW WORKERS—Chapter 2 of title II of the Act (8 U.S.C. 1181 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218A. ADMISSION OF NONIMMIGRANTS.

''(a) APPLICATIAN PROCEDURES.—

''(1) LABOR CERTIFICATION.—The Secretary of Labor shall prescribe by regulation the procedures for a United States employer to obtain a labor certification of a job opportunity under the terms set forth in section 218B.

''(2) PETITION.—The Secretary of Homeland Security shall prescribe by regulation the procedures for a United States employer to petition to the Secretary of Homeland Security for authorization to employ an alien as a Y nonimmigrant worker and violance for such authorization under the terms set forth in subsection (c).

(3)Y NONIMMIGRANT VISA.—The Secretary of State and the Secretary of Homeland Security, as appropriate, shall prescribe by regulation the procedures for an alien to apply for a Y nonimmigrant visa and the evidence required to demonstrate eligibility for such visa under the terms set forth in subsection (e).

''(4) REGULATIONS.—The regulations referenced in paragraphs (1), (2), and (3) shall describe, at a minimum—

''(A) the procedures for collection and verification of biometric data from an alien seeking a Y nonimmigrant visa or admission in Y nonimmigrant status; and

''(B) the procedure and standards for validating an employment arrangement between a United States employer and an alien seeking a visa or admission described in (A).

''(b) Application for Certification of a Job Opportunity Offered to Y Nonimmigrant Workers.—An employer desiring to employ a Y nonimmigrant worker shall, with respect to a specific opening that the employer seeks to fill with such a Y nonimmigrant, submit an application for labor certification of the job opportunity filed in accordance with the procedures established by section 218B.

''(c) PETITION TO EMPLOY NONIMMIGRANT WORKERS.—

''(1) IN GENERAL.—An employer that seeks authorization to employ a Y nonimmigrant worker must file a petition with the Secretary of Homeland Security. The petition must be accompanied by—

''(A) evidence that the employer has obtained certification under section 218B from the Secretary of Labor for the position sought to be filled by a Y nonimmigrant worker and that such certification remains valid;

''(B) evidence that the job offer was and remains valid;

''(C) the name and other biographical information of the alien beneficiary and any accompanying spouse or child; and

''(D) any biometrics from the beneficiary that the Secretary of Homeland Security may require by regulation.

''(2) TIMING OF FILING.—

''(A) IN GENERAL.—A petition under this subsection must be filed with the Secretary of Homeland Security within 180 days of the date of certification under section 218B by the Secretary of Labor of the job opportunity.

''(B) EXPIRATION OF CERTIFICATION.—If a labor certification is not filed in support of petition under this subsection with the Secretary of Homeland Security within 180 days of the date of certification by the Secretary of Labor, then the certification expires and may not support a Y nonimmigrant petition or be the basis for nonimmigrant visa issuance.

''(3) ABILITY TO REQUEST DOCUMENTATION.—The Secretary of Homeland Security may request information to verify the attestations the employer made during the labor certification process, and any other fact relevant to the adjudication of the petition.

''(4) ADJUDICATION OF PETITION.—

''(A) POST-ADJUDICATION ACTION.—After review of the petition, if the Secretary—

''(i) is satisfied that the petition meets all of the requirements of paragraph (1), and any other requirements the Secretary has prescribed in regulations, he may approve the petition and by fax, cable, electronic, or any other means assuring expedited delivery—

''(I) transmit copy of the notice of action on the petition to the petitioner; and

''(II) in the case of approved petitions, transmit notice of the approval to the Secretry of State;

''(ii) finds that the employer is not eligible or that the petition is otherwise not approvable, the Secretary may—

''(I) deny the petition without seeking additional evidence and inform the petitioner—

''(aa) that the petition was denied and the reason for the denial;

''(bb) of any available process for administrative appeal of the decision; and

.''(cc) that the denial is without prejudice to the filing of any subsequent petitions, except as provided in section 218B(e)(4);

''(II) issue a request for documentation of the attestations or any other information or evidence that is material to the petition; or

''(III) audit, investigate or otherwise review the petition in such manner as he may determine and refer evidence of fraud to appropriate law enforcement agencies based on the audit information.

(B) VALIDITY OF APPROVED PETITION.—An approved petition shall have the same period of validity as the certification described in subsection (c)(l)(A) and expire on the same date that the certification expires, except that the Secretary of Homeland Security may terminate in his discretion an approved petition—

''(i) when he determines that any material fact, including, but not limited to the proffered wage rate, the geographic location of employment, or the duties of the position, has changed in way that would invalidate the recruitment actions; or

''(ii) when he or the Secretary of Labor makes a finding of fraud or misrepresentation concerning the facts on the petition or any other representation made by the employer before the Secretary of Labor or Secretary of Homeland Security.

''(C) ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall authorize a single level of administrative review with the United States Citizenship and Immigration Services Administrative Appeals Office of a petition denial or termination.

''(d) AUTHORIZATION TO GRANT Y NONIMMIGRANT VISA—

(1) IN GENERAL.—Consular officer may grant a single-entry temporary visa to a Y nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b), (i)(b1), (i)(c), or (iii) of section 101(a)(15)(H), subparagraph (D), (E), (I), (L), (O), (P), or (R) of section 101(a)(15), or section 214(e) (if United States workers who are able, willing, and qualified to perform such labor or services cannot be found in the United States).

''(2) APPLICANTS FROM CANADA.—Notwithstanding any waivers of the visa requirement under section 212(a)(7)(B)(i)(II), a national of Canada seeking admission as a Y nonimmigrant will be inadmissible if not in possession of—

''(I) a valid Y nonimmigrant visa; or

(II) documentation of a nonimmigrant status, as described in subsection (m).

''(e) REQUIREMENTS FOR ADMISSION.—An alien shall be eligible for nonimmigrant status if the alien meets the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation described in section 101(a)(15)(Y)(i) or (Y)(ii).

''(2) EVIDENCE OF EMPLOYMENT OFFER.—The alien's evidence of employment shall be provided in accordance with the requirements issued by the Secretary of State, in consultation with the Secretary of Labor. In carrying out this paragraph, the Secretary may consider evidence from employers, employer associations, and labor representatives.

''(3) FEES.—

''(A) PROCESSING FEES.—An alien making an application for a Y nonimmigrant visa shall be required to pay, in addition to any fees charged by the Department of State for processing and adjudicating such visa application, a processing fee in an amount sufficient to recover the full cost to the Secretary of Homeland Security of administrative and other expenses associated with processing the alien's participation in the Y nonimmigrant program, including the costs of production of documentation of evidence under subsection (m).

''(B) STATE IMPACT FEE.—Aliens making an application for a Y-1 nonimmigrant visa shall pay a state impact fee of $500 and an additional $250 for each dependent accompanying or following to join the alien, not to exceed $1500 per family.

''(C) DEPOSIT AND SPENDING OF FEES.—The processing fees under subparagraph (A) shall be deposited and remain available until expended as provided by sections 286(m) and (n).

''(D) DEPOSIT AND DISPOSITION OF STATE IMPACT ASSISTANCE FUNDS.—The funds described in subparagraph (B) shall be deposited and remain available as provided by section 286(x).

''(E) CONSTRUCTION.—Nothing in this paragraph shall be construed to affect consular procedures for collection of machine-readable visa fees or reciprocal fees for the issuance of the visa.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The alien shall submit to the Secretary of State a completed application, which contains evidence that the requirements under paragraphs (1) and (2) have been met.

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Y nonimmigrant status, the Secretary of State shall require an alien to provide information concerning the alien's—

''(i) physical and mental health;

''(ii) criminal history, including all arrests and dispositions, and gang membership;

''(iii) immigration history; and

''(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

''(C) KNOWLEDGE.—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

''(i) the alien has read and understands all of the questions and statements on the application form;

''(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

''(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(6) MUST NOT BE INELIGIBLE.—The alien must not fall within a class of aliens ineligible for nonimmigrant status listed under subsection (h).

''(7) MUST NOT BE INADMISSIBLE.—The alien must not be inadmissible as a nonimmigrant to the United States under section 212, except as provided in subsection (f).

''(8) SPOUSR OR CHILD OF NONIMMIGRANT.—An alien seeking admission as a derivative Y-3 nonimmigrant must demonstrate, in addition to satisfaction of the requirements of paragraphs (2) through (6)—

''(A) that the annual wage of the principal Y nonimmigrant paid by the principal nonimmigrant's U.S. employer, combined with the annual wage of the principal Y nonimmigrant's spouse where the Y-3 nonimmigrant is a child and the Y nonimmigrant's spouse is a member of the principal Y nonimmigrant's household, is equal to or greater than 150 percent of the U.S. poverty level for a household size equal in size to that of the principal alien (including all dependents, family members supported by the principal alien, and the spouse or child seeking to accompany or join the principal alien), as determined by the Secretary of Health and Human Services for the fiscal year in which the spouse or child's application for a nonimmigrant visa is filed; and

''(B) that the alien's cost of medical care is covered by medical insurance, valid in the United States, carried by the principal Y nonimmigrant alien, the principal Y nonimmigrant's spouse (where the Y-3 nonimmigrant is a child), or the principal Y nonimmigrant alien's employer.

(f) GROUNDS OF INADMISSIBILITY.—

(1) WAIVED GROUNDS OF INADMISSIBILITY.—In determining an alien's admissibility as Y nonimmigrant, such alien shall be found to be inadmissible if the alien would be subject to the grounds of inadmissibility under section 601(d)(2).

(2) WAIVER.—The Secretary may In his discretion waive the application of any provision of section 212(a) of the Act not listed in paragraph (2) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the authority of the Secretary otherthan under this paragraph to waive the provisions of section 212(a).

(g) BACKGROUND CHECKS.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking Y nonimmigrant visa or status unless all appropriate background checks have been completed to the satisfaction of the Secretaries of State and Homeland Security.

(h) GROUNDS OF INELIGIBILITY.—

(1) IN GENERAL.—An alien is ineligible for Y nonimmigrant visa or Y nonimmigrant status if the alien is described in section 601(d)(1)(A), (D), (E), (F), or (G) of the [insert Title of Act].

(2) INELIGIBILITY OF DERIVATIVE Y-3 NONIMMIGRANTS.—An alien is ineligible for Y-3 nonimmigrant status if the principalnonimmigrant is ineligible under paragraph (1).

(3) APPLICABILITY TO GROUNDS OF INADMISSIBILITY.—Nothing in this subsection shall be construed to limit the applicability of any ground of inadmissibility under section 212.

(i) PERIOD OF AUTHORIZED ADMISSION.—

(1) IN GENERAL.—Aliens admitted to the United States as nonimmigrants shall be granted the following periods of admission:

(A) Y-1 NONIMMIGRANTS.—Except as provided in (2), aliens -granted admission as Y-1 nonimmigrants shall be granted an authorized period of admission of two years. Subject to paragraph (4), such two-year period of admission may be extended for two additional two-year periods.

(B) Y-2B NONIMMIGRANTS.—Aliens granted admission as Y-2B nonimmigrants shall be granted an authorized period of admission of 10 months.

(2) Y-1 NONIMMIGRANTS WITH Y-3 DEPENDENTS.—A Y-1 nonimmigrant who has accompanying or following-to-join derivative family members in Y-3 nonimmigrant status shall be limited to two two-year periods of admission. If the family members accompany the Y-1 nonimmigrant during the alien's first period of admission the family members may not accompany or join the Y-1 nonimmigrant during the alien's second period of admission. If the Y-1 nonimmigrant's family members accompany or follow to join the Y-1 nonimmigrant during the alien's second period of admission, but not his first period of admission, then the Y-1 nonimmigrant shall not be granted any additional periods of admission in nonimmigrant status. The period of authorized admission of Y-3 nonimmigrant shall expire on the same date as the period of authorized admission of the principal Y-1 nonimmigrant worker.

''(3) SUPPLEMENTARY PERIODS.—

(Each period of authorized admission described in paragraph (1) shall be 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 worksite and, except where such period of authorized admission has been terminated under subsection (j), a period of 14 days following the period of employment for the purpose of departure or extension based onsubsequent 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 the maximum applicable period of admission under paragraph (1).

(4) EXTENSIONS OF THE PERIOD OF ADMISSION.—

(A) IN GENERAL.—The periods of authorized admission described in paragraph (1) may not, except as provided in subparagraph (C)(2) of paragraph (1), be extended beyond the maximum period of admission set forth in that paragraph.

(B) EXTENSION OF Y–1 NONIMMIGRANT STATUS.—Y–1 nonimmigrant described in paragraph (l)(A) who has spent 24 months in the United States in Y-1 nonimmigrant status may not seek extension or be readmitted to the United States asY-1 nonimmigrant unless the alien has resided and been physically present outside the United States for the immediate prior 12 months.

(5) LIMITATION ON ADMISSION.—

(A) Y-1 NONIMMIGRANTS.—An alien who has been admitted to the United States in Y-1 nonimmigrant status for a period of two years under paragraph (l)(B), or as the Y-3 nonimmigrant spouse or child of such Y-1 nonimmigrant, may not be readmitted to the United States as Y-1 or Y-3 nonimmigrant after expiration of such period of authorized admission, regardless of whether the alien was employed or present in the United States for all orpart of such period.

(B) Y-2B NONIMMIGRANTS.—An alien who has been admitted to the United States in Y-2B nonimmigrant status may not, after expiration of the alien's period of authorized admission, be readmitted to the United States as Y nonimmigrant after expiration of the alien's period of authorized admission, regardless of whether the alien was employed or present in the United States for all or only part of such period, unless the alien has resided and been physically present outside the United States for the immediately preceding two months.

(C) READMISSION WITH NEW EMPLOYMENT.—Nothing in this paragraph shall be construed to preventY nonimmigrant, whose period of authorized admission has not yet expired or been terminated under subsection (j), and who leaves the United States in a timely fashion after completion of the employment described in the petition of the nonimmigrant's most recent employer, from reentering the United States asY nonimmigrant to work fornew employer, if the alien and the new employer have complied with all applicable requirements of this section and section 218B.

(6) INTERNATIONAL COMMUTERS.—An alien who maintains actual residence and place of abode outside the United States and commutes, on days the alien is working, into the United States to work as Y-l nonimmigrant, shall be granted an authorized period of ad mission of three years. The limitations described in paragraphs (3) and (4) shall not apply to commuters described in this paragraph.

''(j) TERMINATION.—

(1) IN GENERAL.—The period of authorized admission of a Y nonimmigrant shall terminate immediately if:

(A) the Secretary of Homeland Security determines that the alien was not eligible for such Y nonimmigrant status at the time of visa application or admission;

(B) (i) the alien commits an act that makes the alien removable from the United States 2317;

(ii) the alien becomes inadmissible under section 212 (except as provided in subsection (f)); or

(iii) the alien becomes ineligible under subsection (h) ;

(C) the alien uses the documentation of his or her Y nonimmigrant status issued under subsection (m) for unlawful or fraudulent purposes;

''(D) subject to paragraph (2), the alien is unemployed within the United States for—

(i) 60 or more consecutive days;

''(ii) in the case of a Y–1 nonimmigrant, an aggregate period of 120 days, provided that the alien's 14-day period to lawfully depart the United States shall not be considered to begin until the date that the alien has been provided notice of the termination; or

''(iii) in the case of a Y–2B nonimmigrant, an aggregate period of 30 days, provided that the alien's 14-day period to lawfully depart the United States shall not be considered to begin until the date that the alien has been provided notice of the termination;

''or;

''(E) the alien is a Y–3 nonimmigrant whose spouse or parent in Y–1 nonimmigrant status is an alien described in subparagraphs (A), (B), (C), or (D).

''(2) EXCEPTION.—The period of authorized admission of a Y nonimmigrant shall not terminate for unemployment under subparagraph (1)(D) if the alien submits documentation to the Secretary of Homeland Security that establishes that such unemployment was caused by—

''(A) a period of physical or mental disability of the alien or the spouse, son, daughter, or parent (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)) of the alien;

''(B) a period of vacation, medical leave, maternity leave, or similar leave from employment authorized by employer policy, State law, or Federal law; or

''(C) any other period of temporary unemployment that is the direct result of a force majeure event.

''(3) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under paragraph (1) shall be required to leave the United States immediately and register such departure at a designated port of departure in a manner to be prescribed by the Secretary.

''(4) INVALIDATION OF DOCUMENTATION.—Any documentation that is issued by the Secretary of Homeland Security under subsection (m) to any alien, whose period of authorized admission terminates under paragraph (1), shall automatically be rendered invalid for any purpose except departure.

''(k) VISITS OUTSIDE THE UNITED STATES.—

''(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a Y nonimmigrant—

''(i) may travel outside of the United States; and

''(ii) may be readmitted for a period not more than the remaining time left until the alien accrues the maximum period of admission set forth in subsection (i), and without having to obtain a new visa if:

''(A) the period of authorized admission has not expired or been terminated;

''(B) the alien is the bearer of valid documentary evidence of Y nonimmigrant status that satisfies the conditions set forth in subsection (m); and

''(C) the alien is not subject to the bars on extension or admission described in subsection (l).

''(B) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (A) shall not extend the most recent period of authorized admission in the United States.

''(l) BARS TO EXTENSION OR ADMISSION.—An alien may not be granted Y nonimmigrant status if—

''A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

''(B) the alien is inadmissible as a nonimmigrant, except for those grounds previously waived under subsection (f); or

''(C) the granting of such status would allow the alien to exceed limitations on stay in the United States in Y status described in subsection (i).

''(m) EVIDENCE OF NONIMMIGRANT STATUS.—Each Y nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

''(1) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

''(2) shall, during the alien's authorized period of admission under subsection (i), serve as a valid entry document for the purpose of applying for admission to the United States—

''(A) instead of a passport and visa if the alien—

''(i) is a national of a foreign territory contiguous to the United States; and

''(ii) is applying for admission at a land border port of entry; and

''(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

''(3) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

''(4) shall be issued to the Y nonimmigrant by the Secretary of Homeland Security promptly after such alien's admission to the United States as a nonimmigrant and reporting to the employer's worksite under subsection (q) or, at the discretion of the Secretary of Homeland Security, may be issued by the Secretary of State at consulate instead of a visa.

''(n) PERMANENT BARS FOR OVERSTAYS.—

''(1) IN GENERAL.—Any Y nonimmigrant who remains beyond his or her initial authorized period of admission is permanently barred from any future benefits under the immigration laws, except—

''(A) asylum under section 208(a);

''(B) withholding of removal, under section 241(b)(3); or

''(C) protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(2) EXCEPTION.—Overstay of the authorized period of admission may be excused in the discretion of the Secretary where it is demonstrated that:

''(A) the period of overstay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the period commensurate with the circumstances; and

''(B) the alien has not otherwise violated his Y nonimmigrant status.

''(o) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—

''(1) ILLEGAL ENTRY.—Any alien who after the date of the enactment of this section, unlawfully enters, attempts to enter, or crosses the border, and is physically present in the United States after such date in violation of the immigration laws, is barred permanently from any future benefits under the immigration laws, except as provided in paragraph (3) or (4).

''(2) OVERSTAY.—Any alien, other than a Y nonimmigrant, who, after the date of the enactment of this section remains unlawfully in the United States beyond the period of authorized admission, is barred for a period of ten years from any future benefits under the immigration laws, except as provided in paragraph (3) or (4).

''(3) RELIEF.—Notwithstanding the bar in paragraph (1) or (2), an alien may apply for—

''(A) asylum under section 208(a);

(B) withholding of removal under section 241(b)(3); or

''(C) protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(4) EXCEPTION.—Overstay of the authorized period of admission may be excused in

the discretion of the Secretary where it is demonstrated that:

''(A) the period of overstay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the period commensurate with the circumstances; and

''(B) the alien has not otherwise violated his nonimmigrant status.

''(p) PORTABILITY.—A Y nonimmigrant worker, who was previously issued a visa or otherwise provided Y nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

''(1) the position being offered the Y nonimmigrant has been certified by the Secretary of Labor under section 218B and the employer complies with all requirements of this section and section 218B;

''(2) the alien, after lawful admission to the United States, did not work without authorization; and

''(3) the subsequent employer has notified the Secretary of Homeland Security under subsection (q) of the Y nonimmigrant's change of employment.

''(q) REPORTING OF START AND TERMINATION OF EMPLOYMENT.—

''(1) START OF Y WORKER EMPLOYMENT.—A Y nonimmigrant shall report in the manner prescribed by the Secretary of Homeland Security to the employer whose job offer was the basis for issuance of the alien's Y nonimmigrant visa within 7 days of admission into the United States.

''(2) EMPLOYER NOTIFICATION REQUIREMENT.—An employer shall within three days make notification in the manner prescribed by the Secretary of Homeland Security, of the following events:

''(A) a Y nonimmigrant worker has reported for work pursuant to paragraph (1) after admission in Y nonimmigrant status;

''(B) a Y nonimmigrant worker has changed jobs under subsection (r) and started employment with the employer;

''(C) the employment of a Y nonimmigrant worker has terminated; or

''(D) a Y nonimmigrant worker on whose behalf the employer has filed a petition under this subsection that has been approved by the Secretary of Homeland Security has failed to report for work within three days of the employment start date agreed upon between the employer and the Y nonimmigrant.

''(3) VERIFICATION.—An employer shall provide upon request of the Secretary of Homeland Security verification that an alien who has been granted admission as a Y nonimmigrant worker was or continues to be employed by the employer.

''(4) FINE.—Any employer that fails to comply with the notification requirements of this subsection shall pay to the Secretary of Homeland Security a fine, in an amount and under procedures established by the Secretary in regulation.

''(r) NO THREATENING OF EMPLOYEES.—It shall be a violation of this section for an employer who has filed a petition under this section to threaten the alien beneficiary of such petition with the withdrawal of such petition in retaliation for the beneficiary's exercise of a right protected by section 218B.

''(s) CHANGE OF STATUS.—

''(1) IN GENERAL.—

''(A) A Y nonimmigrant may apply to change status to another nonimmigrant status, subject to section 248 and if otherwise eligible.

''(B) No alien admitted to the United States under the immigration laws in a classification other than Y nonimmigrant status may change status to Y nonimmigrant status.

''(C) An alien in Y nonimmigrant status may not change status to any other Y nonimmigrant status.

''(2) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an alien who is precluded from changing status to a particular Y nonimmigrant classification under subparagraphs (1)(B), (C), or (D) from leaving the United States and applying at a U.S. consulate for the desired nonimmigrant visa, subject to all applicable eligibility requirements; in the appropriate Y classification

''(t) VISITATION OF Y NONIMMIGRANT BY SPOUSE OR CHILD OF WITHOUT A Y–3 NONIMMIGRANT VISA.—Nothing in this section shall be construed to prohibit the spouse or child of a Y nonimmigrant worker to be admitted to the United States under any other existing legal basis for which the spouse or child may qualify.

''(u) CHANGE OF ADDRESS.—A Y nonimmigrant shall comply with the change of address reporting requirements under section 265 through electronic or paper notification.''

(b) Conforming Amendment Regarding Creation of Treasury Accounts.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by inserting at the end the following new subsections.—

''(w) TEMPORARY WORKER PROGRAM ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Temporary Worker Program Account''. Notwithstanding any other section of this Act, there shall be deposited into the account all fines and civil penalties collected under sections 218A, 218B, or 218F and Title VI of [name of Act], except as specifically provided otherwise in such sections.

''(2) USE OF FUNDS.—Amounts deposited into the Temporary Worker Program Account shall remain available until expended as follows:

''(A) for the administration of the Standing Commission on Immigration and Labor Markets, established under section 409 of the [Insert title of Act]; and

''(B) after amounts needed by the Standing Commission on Immigration and Labor Markets have been expended, for the Secretaries of Labor and Homeland Security, as follows:

''(i) one-third to the Secretary of Labor to carry out the Secretary of Labor's functions and responsibilities, including enforcement of labor standards under sections 218A, 218B, and 218F, and under applicable labor laws including the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). Such activities shall include random audits of employers that participate in the Y visa program; and

''(ii) two-thirds to the Secretary of Homeland Security to improve immigration services and enforcement.

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''State Impact Assistant Account''.

''(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the State Impact Assistance Account all State Impact Assistance fees collected under sections 218A(e)(3)(B) and section 601(e)(6)(C) of the [Insert title of Act].

''(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account may only be used to carry out the State Impact Assistance Grant Program established under paragraph (4).

''(4) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall establish the State Impact Assistance Grant Program (referred to in this subsection as the 'Program'), under which the Secretary may award grants to States to provide health and education services to noncitizens in accordance with this paragraph.

''(B) STATE ALLOCATIONS.—The Secretary of Health and Human Services shall annually allocate the amounts available in the State Impact Assistance Account among the States as follows:

''(i) NONCITIZEN POPULATION.—Eighty percent of such amounts shall be allocated so that each State receives the greater of—

''(I) $5,000,000; or

''(II) after adjusting for allocations under subclause (I), the percentage of the amount to be distributed under this clause that is equal to the noncitizen resident population of the State divided by the noncitizen resident population of all States, based on the most recent data available from the Bureau of the Census.

''(ii) HIGH GROWTH RATES.—Twenty percent of such amounts shall be allocated among the 20 States with the largest growth rates in noncitizen resident population, as determined by the Secretary of Health and Human Services, so that each such State receives the percentage of the amount distributed under this clause that is equal to—

''(I) the growth rate in the noncitizen resident population of the State during the most recent 3-year period for which data is available from the Bureau of the Census; divided by

''(II) the average growth rate in noncitizen resident population for the 20 States during such 3-year period.

''(iii) LEGISLATIVE APPROPRIATIONS.—The use of grant funds allocated to States under this paragraph shall be subject to appropriation by the legislature of each State in accordance with the terms and conditions under this paragraph.

''(C) FUNDING FOR LOCAL GOVERNMENT.—

''(i) DISTRIBUTION CRITERIA.—Grant funds received by States under this paragraph shall be distributed to units of local government based on need and function.

''(ii) MINIMUM DISTRIBUTION.—Except as provided in clause (iii), State shall distribute not less than 30 percent of the grant funds received under this paragraph to units of local government not later than 180 days after receiving such funds.

''(iii) EXCEPTION.—If an eligible unit of local government that is available to carry out the activities described in subparagraph (D) cannot be found in a State, the State does not need to comply with clause (ii).

''(iv) UNEXPENDED FUNDS.—Any grant funds distributed by a State to a unit of local government that remain unexpended as of the end of the grant period shall revert to the State for redistribution to another unit of local government.

''(D) USE OF FUNDS.—States and units of local government shall use grant funds received under this paragraph to provide health services, educational services, and related services to noncitizens within their jurisdiction directly, or through contracts with eligible services providers, including—

''(i) health care providers;

''(ii) local educational agencies; and

''(iii) charitable and religious organizations.

''(E) STATE DEFINED.—In this paragraph, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(F) CERTIFICATION.—In order to receive a payment under this section, the State shall

provide the Secretary of Health and Human Services with a certification that the State's proposed uses of the fund are consistent with (D).

''(G) ANNUAL REPORT.—The Secretary of Health and Human Services shall inform the States annually of the amount of funds available to each State under the Program.''

(c) CLERICAL AMENDMENT.—The table of contents Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of Y nonimmigrants.'.

SEC. 403. GENERAL Y NONIMMIGRANT EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A of the Immigration and Nationality Act, as added by section 402, the following:

''SEC. 218B. GENERAL Y NONIMMIGRANT EMPLOYER OBLIGATIONS.

''(a) GENERAL REQUIREMENTS.—Each employer who seeks to employ a Y nonimmigrant shall—

''(1) file in accordance with subsection (b) an application for labor certification of the position that the employer seeks to fill with a Y nonimmigrant that contains—

''(A) the attestation described in subsection (c);

''(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) include with the application filed under paragraph (1) 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; and

''(3) be required to pay, with respect to an application to employ a Y–1 worker—

''(A) an application processing fee for each alien, in an amount sufficient to recover the full cost to the Secretary of Labor of administrative and other expenses associated with adjudicating the application; and

''(B) a secondary fee, to be deposited in the Treasury in accordance with section 286(x), of—

''(i) $500, in the case of an employer employing 25 employees or less;

''(ii) $750, in the case of an employer employing between 26 and 150 employees;

''(iii) $1000, in the case of an employer employing between 151 and 500 employees; or

''(iv) $1,250, in the case of an employer employing more than 500 employees;

provided that an employer who provides a Y nonimmigrant health insurance coverage shall not be required to pay the impact fee.

''(b) REQUIRED PROCEDURE.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment to which the Y nonimmigrant is sought, each employer of Y nonimmigrants shall comply with the following requirements:

''(1) EFFORTS TO RECRUIT UNITED STATES WORKERS.—The employer involved shall recruit United States workers for the position for which labor certification is sought under this section, by—

''(A) Not later than 90 days before the date on which an application is filed under subsection (a)(1) submitting a copy of the job opportunity, including a description of the wages and other terms and conditions of employment and the minimum education, training, experience and other requirements of the job, to the designated state agency and—

''(i) authorizing the designated state agency to post the job opportunity on the Internet website established under section 414 of [Title of bill], with local job banks, and with unemployment agencies and other labor referral and recruitment sources pertinent to the job involved; and

''(ii) authorizing the designated state agency to notify labor organizations in the State in which the job is located and, if applicable, the office of the local union which represents the employees in the same or substantially equivalent job classification of the job opportunity;

''(B) posting the availability of the job opportunity for which the employer is seeking a worker in conspicuous locations at the place of employment for all employees to see for a period of time beginning not later than 90 days before the date on which an application is filed under subsection (a)(1) and ending no earlier than 14 days before such filing date;

''(C) advertising the availability of the job opportunity for which the employer is seeking a worker in one of the three highest circulation publications in the labor market that is likely to be patronized by a potential worker for not fewer than 10 consecutive days during the period of time beginning not later than 90 days before the date on which an application is filed under subsection (a)(1) and ending no earlier than 14 days before such filing date; and

''(D) advertising the availability of the job opportunity in professional, trade, or ethnic publications that are likely to be patronized by a potential worker, as recommended by the designated state agency. The employer shall not be required to advertise in more than three such recommended publications.

''(2) EFFORTS TO EMPLOY UNITED STATES WORKERS.—An employer that seeks to employ a Y nonimmigrant shall first offer the job with, at a minimum, the same wages, benefits, and working conditions, to any eligible United States worker who applies, is qualified for the job and is available at the time of need.

''(3) DEFINITION.—For purposes of this subsection, 'designated state agency' shall mean the state agency designated to perform the functions in this subsection in the area of employment in the State in which the employer is located.

''(c) APPLICATION.—An application under this section for labor certification of a position that an employer seeks to fill with a Y nonimmigrant shall be filed with the Secretary of Labor and shall include an attestation by the employer of the following:

''(1) with respect to an application for labor certification of a position that an employer seeks to fill with a Y–1 or Y–2B nonimmigrant—

''(A) PROTECTION OF UNITED STATES WORKERS.—The employment of a Y nonimmigrant—

''(i) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

''(ii) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

''(B) WAGES.—

''(i) IN GENERAL.—The Y nonimmigrant worker will be paid not less than the greater of—

''(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

''(II) the prevailing competitive wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

''(ii) CALCULATION—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

''(iii) PREVAILING COMPETITIVE WAGE LEVEL—For purposes of subclause (i)(II), the prevailing competitive wage level shall be determined as follows:

''(I) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing competitive wage shall be the wage rate set forth in the collective bargaining agreement.

''(II) If the job opportunity is not covered by such an agreement and it is on a project that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing competitive wage level shall be the appropriate statutory wage.

''(III)(aa) If the job opportunity is not covered by such an agreement and it is not on a project covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing competitive wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing competitive wage level on data from another wage survey approved by the state workforce agency under regulations promulgated by the Secretary of Labor.

''(bb) Such regulations shall require, among other things, that such surveys are statistically valid and recently conducted.

''(D) LABOR DISPUTE—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the Y nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the application, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

''(E) PROVISION OF INSURANCE—If the position for which the Y nonimmigrant is sought is not covered by the State workers' compensation law, the employer will provide, at no cost to the Y nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(F) NOTICE TO EMPLOYEES—

''(i) IN GENERAL—The employer has provided notice of the filing of the application to the bargaining representative of the employer's employees in the occupational classification and area of employment for which the Y nonimmigrant is sought.

''(ii) NO BARGAINING REPRESENTATIVE—If there is no such bargaining representative, the employer has—

''(I) posted a notice of the filing of the application in a conspicuous location at the place or places of employment for which the Y nonimmigrant is sought; or

''(II) electronically disseminated such a notice to the employer's employees in the occupational classification for which the Y nonimmigrant is sought.

''(G) RECRUITMENT—Except where the Secretary of Labor has determined that there is

a shortage of United States workers in the occupation and area of intended employment for which the Y nonimmigrant is sought—

''(i) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services described in the application; and

''(ii) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

''(I) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the application was filed with the Department of Labor and ending on the date that is 14 days before such filing date; and

''(II) the wages that the employer would be required by law to provide for the Y nonimmigrant were used in conducting recruitment.

''(H) INELIGIBILITY—The employer is not currently ineligible from using the Y nonimmigrant program described in this section.

''(I) BONAFIDE OFFER OF EMPLOYMENT—The job for which the Y nonimmigrant is sought is a bona fide job—

''(i) for which the employer needs labor or services;

''(ii) which has been and is clearly open to any United States worker; and

''(iii) for which the employer will be able to place the Y nonimmigrant on the payroll.

''(J) PUBLIC AVAILABILITY AND RECORDS RETENTION—A copy of each application filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

''(i) be provided to every Y nonimmigrant employed under the petition;

''(ii) be made available for public examination at the employer's place of business or work site;

''(iii) be made available to the Secretary of Labor during any audit; and

''(iv) remain available for examination for 5 years after the date on which the application is filed.

''(K) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of a Y nonimmigrant's separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with section 218A(q)(2).

''(L) ACTUAL NEED FOR LABOR OR SERVICES—The application was filed not more than 60 days before the date on which the employer needed labor or services for which the Y nonimmigrant is sought.

''(d) AUDIT OF ATTESTATIONS—

''(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY—The Secretary of Homeland Security shall refer all petitions approved under section 218A to the Secretary of Labor for potential audit.

''(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition referred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

''(e) INELIGIBLE EMPLOYERS.—

''(1) IN GENERAL.—In addition to any other applicable penalties under law, the Secretary of Labor and the Secretary of Homeland Security shall not, for the period described in paragraph (2), approve an employer's petition or application for a labor certification under any immigrant or nonimmigrant program if the Secretary of Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents.—

''(A) has, with respect to the application required under subsection (a), including attestations required under subsection (b)—

''(i) misrepresented a material fact;

''(ii) made a fraudulent statement; or

''(iii) failed to comply with the terms of such attestations; or

''(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor;

''(C) has been convicted of any of the offenses codified in Chapter 77 of Title 18 of the United States Code (slave labor) or any conspiracy to commit such offenses, or any human trafficking offense under state or territorial law;

''(D) has, within three years prior to the date of application:

''(i) committed any hazardous occupation orders violation resulting in injury or death under the child labor provisions contained in section 12 of the Fair Labor Standards Act and any regulation thereunder;

''(ii) been assessed a civil money penalty for any repeated or willful violation of the minimum wage provisions of section 6 of the Fair Labor Standards Act; or

''(iii) been assessed a civil money penalty for any repeated or willful violation of the overtime provisions of section 7 of the Fair Labor Standards Act or any regulations thereunder, other than a repeated violation that is self-reported; or

''(E) has, within three years prior to the date of application, received a citation for:

''(i) a willful violation; or

''(ii) repeated serious violations involving injury or death of section 5 of the Occupational Safety and Health Act, or any standard, rule, or order promulgated pursuant to section 6 of the Occupational Safety and Health Act, or any regulations prescribed pursuant to that. This subsection shall also apply to equivalent violations of a plan approved under section 18 of the Occupational Safety and Health Act.

''(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years. However, an employer who has been convicted of any of the offenses codified in Chapter 77 of Title 18 of the United States Code (slave labor) or any conspiracy to commit such offenses, or any human trafficking offense under state or territorial law shall be permanently ineligible to participate in the labor certification programs.

''(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—The Secretary of Labor may not approve any employer's application under subsection (b) if the work to be performed by the Y nonimmigrant is not agriculture based and is located in a county where the unemployment rate during the most recently completed year is more than 7 percent. An employer in a high unemployment area may petition the Secretary for a waiver of this provision. The Secretary shall promulgate regulations for the expeditious review of such waivers, which shall specify that the employer must satisfy the requirements of section (b) above and in addition must provide documentation of its recruitment efforts, including proof that it has advertised the position in one of the three publications that have the highest circulation in the labor market that is likely to be patronized by a potential worker for not fewer than 20 consecutive days under the rules and conditions set forth in section (b). An employer who has provided proof of advertising in accordance with this section shall be deemed to be in compliance with the requirements of subsection (b)(1)(D) of this section. The Secretary shall provide for a process to promptly respond to all waiver requests, and shall maintain on the Department of Labor's website an annual list of counties to which this subsection applies.

''(4) INELIGIBILITY FOR PETITIONS.—The Secretary of Labor shall inform the Secretary of Homeland Security of a determination under paragraph (1) with respect to a specific employer. The Secretary of Homeland Security shall not, for the period described in paragraph (2), approve the petitions or applications of any such employer for any immigrant or nonimmigrant program, regardless of whether such application or petition requires a labor certification.

''(f) PROHIBITION OF INDEPENDENT CONTRACTORS.—

''(1) COVERAGE.—Notwithstanding any other provision of law—

''(A) a Y nonimmigrant is prohibited from being treated as an independent contractor under any federal or state law;

''(B) no person, including an employer or labor contractor and any persons who are affiliated with or contract with an employer or labor contractor, may treat a Y nonimmigrant as an independent contractor; and

''(C) this provision shall not be construed to prevent employers who operate as independent contractors from employing Y nonimmigrants as employees.

''(2) APPLICABILITY OF LAWS.—A Y nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

''(3) TAX RESPONSIBILITIES.—With respect to each employed Y nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

''(g) WHISTLEBLOWER PROTECTION.—

''(1) PROHIBITED ACTIVITIES.—It shall be unlawful for an employer or labor contractor of a Y nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

''(A) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act or [title of bill]; or

''(B) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act or [title of bill].

''(2) RULEMAKING.—The Secretary of labor shall promulgate regulations that establish a process by which a nonimmigrant alien described in section 101(a)(15)(Y) or 101(a)(15)(H) who files a nonfrivolous complaint (as defined by the Federal Rules of Civil Procedure) regarding a violation of this Act, [title of bill] or any other Federal labor or employment law, or any other rule or regulation pertaining to such laws and is otherwise eligible to remain and work in the United States prior to the expiration of the maximum period of stay authorized for that nonimmigrant classification for a period of 120 consecutive days or such additional time period as the Secretary shall determine through rulemaking is necessary to collect information or take evidence from the nonimmigrant alien regarding a complaint or agency investigation. This period shall be allowed to exceed the maximum period of stay authorized for that nonimmigrant classification if the Secretary of labor has designated the nonimmigrant alien as a necessary witness.

''(h) LABOR RECRUITERS.—With respect to the employment of Y nonimmigrant workers—

''(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

''(A) the place of employment;

''(B) the compensation for the employment;

''(C) a description of employment activities;

''(D) the period of employment;

''(E) any other employee benefit to be provided and any costs to be charged for each benefit;

''(F) any travel or transportation expenses to be assessed;

''(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

''(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

''(I) the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including—

''(i) work related injuries and death during the period of employment;

''(ii) the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance;

''(iii) the name and the telephone number of each person who must be notified of an injury or death; and

''(iv) the time period within which such notice must be given;

''(J) any education or training to be provided or required, including—

''(i) the nature and cost of such training;

''(ii) the entity that will pay such costs; and

''(iii) whether the training is a condition of employment, continued employment, or future employment; and

''(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act and of the Trafficking Victims Protection Act of 2000, P.L. 106–486, for workers recruited abroad.

''(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide materially false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

''(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary and reasonable, which may be used in providing workers with information required under this section.

''(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

''(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement related to the requirements of this section made by that contractor or employer regarding employment under this program.

''(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation, such transportation costs shall be reasonable.

''(7) OTHER WORKER PROTECTIONS.—

''(A) NOTIFICATION.—Not less frequently than once every year, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

''(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS—

''(i) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

''(ii) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

''(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812);

''(II) an expeditious means to update registrations and renew certificates; and

''(III) any other requirements that the Secretary may prescribe.

''(iii) TERM—Unless suspended or revoked a certificate under this subparagraph shall be valid for 2 years.

''(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

''(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

''(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

''(aa) is a person who has been refused issuance or renewal of a certificate;

''(bb) has had a certificate suspended or revoked; or

''(cc) does not qualify for a certificate under this paragraph; or

''(III) the applicant for or holder of the certification has failed to comply with this Act.

''(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (j) and (k). If a foreign labor contractor who is an agent of an employer violates any provision of this subsection when acting within the scope of its agency, the employer shall be subject to remedies under subsections (j) and (k). An employer shall not be subject to remedies for violations committed by a foreign labor contractor when such contractor is acting in direct contravention of an express, written contractual provision contained in the agreement between the employer and the foreign labor contractor. An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (j) and (k).

''(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

''(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

''(F) BONDING REQUIREMENT.—The Secretary of Labor may require foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

''(i) WAIVER OF RIGHTS PROHIBITED.—Any nonimmigrant may not be required to waive any rights or protections under this Act. Nothing under this subsection shall be construed to affect the interpretation of other laws.

''(j) ENFORCEMENT.—With respect to violations of the provisions of this section relating to the employment of Y nonimmigrant workers—

''(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

''(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

''(3) REASONABLE BASIS.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable basis to believe that a violation of this section has occurred. The process established under this subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

''(4) NOTICE AND HEARING.—

''(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable basis under paragraph (3), the Secretary shall issue a notice to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(B) COMPLAINT—If the Secretary of Labor, after receiving complaint under this subsection, does not offer the aggrieved person or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved person or organization of such determination and the aggrieved person or organization may seek a hearing on the complaint under procedures established by the Secretary which comply with the requirements of section 556.

''(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

''(5) ATTORNEY'S FEES.—Complainant who prevails in an action under this section with respect to a claim related to wages or compensation for employment, or a claim for a violation of subsection (j), shall be entitled to an award of reasonable attorney's fees and costs.

''(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

''(A) to seek remedial action, including injunctive relief;

''(B) to recover the damages described in subsection (k); or

''(C) to ensure compliance with terms and conditions described in subsection (g).—

''(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

''(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

''(k) PENALTIES.—With respect to violations of the provisions of this section relating to the employment of Y–1 or Y–2B nonimmigrants—

''(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of this section, the Secretary may impose administrative remedies and penalties, including—

''(A) back wages;

''(B) benefits; and

''(C) civil monetary penalties.

''(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as. civil penalty—

''(A) for a violation of subsections (b) through (g)—

''(i) a fine in an amount not more than $2,000 per violation per affected worker and $4,000 per violation per affected worker for each subsequent violation;

''(ii) if the violation was willful, a fine in an amount not more than $5,000 per violation per affected worker;

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not more than $25,000 per violation per affected worker; and

''(B) for a violation of subsection (h)—

''(i) a fine in an amount not less than $500 and not more than $4,000 per violation per affected worker;

''(ii) if the violation was willful, a fine in an amount not less than $2,000 and not more than $5,000 per violation per affected worker; and

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than $6,000 and not more than $35,000 per violation per affected worker.

''(C) for knowingly or recklessly failing to comply with the terms of representations made in petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program, or with representations made in materials required by section (h) (concerning labor recruiters)—

''(1) a fine in an amount not more than $4,000 per affected worker; and

''(2) upon the occasion of a third offense of failure to comply with representations, a fine in an amount not to exceed $5,000 per affected worker and designation as an ineligible employer, recruiter, or broker for purposes of any immigrant or nonimmigrant program.

''(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

''(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than $35,000, or both.

''(l) Definitions—Unless otherwise provided, in this section and section 218A:

''(1) AGGRIEVED PERSON.—term 'aggrieved person' means a person adversely affected by an alleged violation of this section, including—

''(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

''(B) representative authorized by a worker whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

''(2) AREA OF EMPLOYMENT.—The terms 'area of employment' and 'area of intended employment' mean the area within normal commuting distance of the worksite or physical location at which the work of the Y worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(3) CONVENTION AGAINST TORTURE.—The term 'Convention Against Torture' shall refer to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, as implemented by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Pub. L. 105–277, 112 Stat. 2681, 2681–821).

''(4) DERIVATIVE Y NONIMMIGRANT.—The term 'derivative' Y nonimmigrant means an alien described at paragraph (Y)(iii) of subsection 101(a)(15).

''(5) ELIGIBLE; ELIGIBLE INDIVIDUAL.—The term 'eligible,' when used with respect to an individual, or 'eligible individual', means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

''(6) EMPLOY; EMPLOYEE; EMPLOYER.—The terms 'employ', 'employee', and 'employer' have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

''(7) FELONY.—The term 'felony', with regard to a conviction in a foreign jurisdiction, means a crime for which sentence of one year or longer in prison may be imposed.

''(8) FORCE MAJEURE EVENT.—The term 'force majeure event' shall mean an event that is beyond the control of either party, including, without limitation, hurricanes, earthquakes, act of terrorism, war, fire, civil disorder or other events of a similar or different kind.

''(9) FOREIGN LABOR CONTRACTOR.—The term 'foreign labor contractor' means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

''(10) FOREIGN LABOR CONTRACTING ACTIVITY.—The term 'foreign labor contracting activity' means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 10 1(a)(15)(H)(ii)(c).

''(11) FULL TIME.—The term 'full time,' with respect to a job in agricultural labor or services, means any job in which the individual is employed 5.75 or more hours per day; and for any job, means in any period of authorized admission or portion of such period, employment or study for at least 90% of the total number of work-hours in such period, calculated at a rate of 1,575 work-hours per year (1,438 work-hours per year for agricultural employment). Each credit-hour of study shall be counted as the equivalent of 50 work-hours.

''(12) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(14) MISDEMEANOR.—The term 'misdemeanor', with regard to a conviction in a foreign jurisdiction, means a crime for which a sentence of no more than 364 days in prison may be imposed.

''(15) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218B 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.

''(16) 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.

''(17) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(18) SEPARATION FROM EMPLOYMENT.—The term 'separation from employment' means the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee's rights under a collective bargaining agreement or other employment contract.

''(19) UNITED STATES WORKER.—The term 'United States worker' means an employee who is—

''(A) a citizen or national of the United States; or

''(B) an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) admitted as a refugee under section 207;

''(iii) granted asylum under section 208; or

''(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.''.

''(20) Y NONIMMIGRANT; Y NONIMMIGRANT WORKER

''(A) The term 'Y nonimmigrant' means an alien admitted to the United States under paragraph (Y)(i) or (Y)(ii) of subsection 101(a)(15), or the spouse or child of such nonimmigrant in derivative status under (Y)(iii);

''(B) The term 'Y nonimmigrant worker' means an alien admitted to the United States under paragraph (Y)(i) or (Y)(ii) of subsection 101(a)(15); and

''(21) Y–1 NONIMMIGRANT; Y–1 WORKER.—The term 'Y–1 nonimmigrant' or 'Y–1 worker' means an alien admitted to the United States under paragraph (i) of subsection 101(a)(15)(Y).

''(23) Y–2B NONIMMIGRANT; Y–2B WORKER.—The term 'Y–2B nonimmigrant' or 'Y–2B worker' means an alien admitted to the United States under paragraph (ii) of subsection 101(a)(15)(Y).

''(24) Y–3 NONIMMIGRANT.—The term 'Y–3 nonimmigrant' means an alien admitted to the United States under paragraph (iii) of subsection 101(a)(15)(Y).'

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 402, the following:

''Sec. 218B. Employer obligations.''.

Subtitle B—Seasonal Agricultural Nonimmigrant Temporary Workers

SEC. 404. 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 inserting the following after section 218B:

''SEC. 218C. 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) 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 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 job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at, a minimum, the benefits, wages, and working conditions required by section 218E to all workers employed in the job opportunities for which the employer has applied for an H–2A worker 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 has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE 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 worksites 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 workforce agency which serves the area of intended employment and authorize the posting of the job opportunity on its 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 H–2A 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 H–2A 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 a indiscriminatory manner.

''(V) UNITED STATES WORKER.—For purpose of this subparagraph, the term ''United States worker'' means an alien described in section 218G(14) except an alien admitted or otherwise provided status under section 101(a)(15)(Z).

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in

writing to comply with the requirements of this section and sections 218E, 218F, and 218G.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, 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 flied under subsection (a). 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. 218D. 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 218C(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218C(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 set out in 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 in agricultural 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 WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite 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 218C(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 2007 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 ¾ 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, 2009, 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, report that addresses—

''(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; 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) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four 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) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

''(v) INTERIM REPORT.—The Commission shall issue an interim report, published in the Federal Register, with opportunity and comment, for a period of at least 90 days.

''(vi) FINAL REPORT.—After considering recommendations from interested persons (including an opportunity for comment from the public and affected States), the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii) not later than December 31, 2009.

''(vii) 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 ¾ 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 '¾ 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 218C(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 218C, or section 218E 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.

''(f) EVIDENCE ON NONIMMIGRANT STATUS.—Each H–2A nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

''(1) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

''(2) shall, during the alien's authorized period of admission as an H–2A nonimmigrant, serve as a valid entry document for the purpose of applying for admission to the United States—

''(A) instead of a passport and visa if the alien—

''(i) is a national of a foreign territory contiguous to the United States; and

''(ii) is applying for admission at a land border port of entry; or

''(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

''(3) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

''(4) shall be issued to the H–2A nonimmigrant by the Secretary promptly after such alien's admission to the United States as an H–2A nonimmigrant and reporting to the employer's worksite under or, at the discretion of the Secretary, may be issued by the Secretary of State at a consulate instead of a visa.

''SEC. 218E. 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 218C(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 218C, and section 218D, 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)(8). 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 218C(e)(2)(B), not to exceed 10 months except as specified in paragraph (2), supplemented by a period of not more than a week before the beginning of the period of employment for the purpose of travel to the worksite 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) OPTIONAL PERIOD FOR NON-SEASONAL AGRICULTURAL WORKERS.—Notwithstanding

any other provision of law, an alien being admitted to perform agricultural non-seasonal work may, at the employer's option, be admitted for the period and pursuant to the terms specified in Section 218A(i)(1)(A), including the rules and limitations specified in Section 218A(i)(2), (3), (4), and (5). The spouse and children of an alien admitted pursuant to the terms of this paragraph may be admitted only in accordance with the terms set forth in Section 218A(e)(8).

''(3) OTHER WORKERS.—Notwithstanding any other provision of law, an alien admitted to perform agricultural non-seasonal work as an sheep herder, goat herder, horse worker, or dairy worker may, at the option of the employer, be admitted for a period not to exceed three years. An alien admitted pursuant to the terms of this paragraph may not be accompanied or subsequently joined by dependents, including a spouse or child in derivative nonimmigrant status.

''(4) 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 218C(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 the alien's 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 to date that is more than 10 months 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 AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions), other than a worker admitted pursuant to subsection (d)(2), is 10 months.

''(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 1/5 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.

''SEC. 218F. 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 218C(b), or an employer's misrepresentation of material facts in an application under section 218C(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, failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218C(b),substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218C(b), or a material misrepresentation of fact in an application under section 218C(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, willful failure to meet a condition of section 218C(b), willful misrepresentation of a material fact in an application under section 218C(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, willful failure to meet a condition of section 218C(b) or a willful misrepresentation of a material fact in an application under section 218C(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 218C(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 218C(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 218D(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 218D(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 complaint under this section, under section 218C or 218D.

''(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 218D(b)(1).

''(2) The reimbursement of transportation as required under section 218D(b)(2).

''(3) The payment of wages required under section 218D(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218C(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218D(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218D(b)(4).

''(6) The motor vehicle safety requirements under section 218D(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, 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 nonbinding 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 over 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.

''(C) In determining the amount of damages to be awarded under subparagraph (A), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

''(7) WORKERS' COMPENSATION BENEFITS.—

''(A) EXCLUSIVE REMEDY.—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) RELATIONSHIP TO OTHER RELIEF.—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.

''(C) CONSIDERATIONS.—In determining the amount of damages to be awarded under subparagraph (A), a court may consider whether an attempt was made to resolve the issues in dispute prior to resorting to litigation.

''(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 218C(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 218C or 218D or any rule or regulation pertaining to section 218C or 218D, 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 218C or 218D 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 218C(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 218C and 218D, 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 unles 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 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. 218G. DEFINITIONS.

''For purposes of this section and section 218C, 218D, 218E, and 218F:

''(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 or the performance of agricultural labor or services decribed in 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 or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying 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 218D(b)(4)(D)), or temporary suspension of employment 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, similar employment opportunity with the same employer (or, in the case of a placement of worker with another employer under section 218C(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 218C 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.—Except as otherwise provided, 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 national of the United States, an alien lawfully admitted for permanent residence, 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. 218C. H–2A employer applications.
''Sec. 218D. H–2A employment requirements.
''Sec. 218E. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218F. Worker protections and labor standards enforcement.
''Sec. 218G. Definitions.''.

SEC. 405. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust schedule of fees for the employment of aliens pursuant to the amendment made by section 404(a) of this Act and collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect fee rate based on the number of job opportunities indicated in the employer's application under section 218C of the Immigration and Nationality Act, as amended by section 404 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 404(a) of this Act to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such 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 final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law all proceeds resulting from the payment of the fees pursuant to the amendment made by section 404(a) of this Act 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 218C and 218E of the Immigration and Nationality Act as amended and added, respectively, by section 404 of this Act and the provisions of this Act.

SEC. 406. REGULATIONS.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this Act and the amendments made by this Act.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—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 Act and the amendments made by this Act.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—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 Act and the amendments made by this Act.

(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 218C, 218D, 218E, 218F, and 218G of the Immigration and Nationality Act, as amended or added by section 404 of this Act, shall take effect on the effective date of section 404 and shall be issued not later than year after the date of enactment of this Act, or the date such regulations are promulgated, whichever is sooner.

SEC. 407. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit 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, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218E(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218E(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 623;

(5) the number of such aliens whose status was adjusted under section 623;

(6) the number of aliens who applied for permanent residence pursuant to section 214A(j) of the Immigration and Nationality Act, as amended by 623(b); and

(7) the number of such aliens who were approved for permanent residence pursuant to section 214A(j) of the Immigration and Nationality Act, as amended by 623(b).

(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 Act.

SEC. 408. EFFECTIVE DATE.

Except as otherwise provided, sections 404 and 405 shall take effect 1 year after the date of the enactment of this Act, or the date such regulations are promulgated, whichever is sooner.

SEC. 409. NUMERICAL LIMITATIONS.

Section 214(g) of the Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)'';

(B) by striking subparagraph (B) and inserting the following:

''(B) under section 101(a)(15)(Y)(i), may not exceed—

''(i) 400,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and.

''(iii) 600,000 for any fiscal year; or

''(C) under section 101(a)(15)(Y)(iii), may not exceed twenty percent of the annual limit on admissions of aliens under section 101(a)(15)(Y)(i) for that fiscal year; or

''(D) under section 101(a)(15)(Y)(ii)(II), may not exceed—

''(i) 100,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth. in paragraph (2); and

''(iii) 200,000 for any fiscal year.'';

and

(2) by renumbering paragraph (2) as paragraph (3), and renumbering all subsequent paragraphs accordingly, and inserting the following as paragraph (2):

''(2) MARKET-BASED ADJUSTMENT.—With respect to the numerical limitation set in subparagraph (A)(ii), (B)(ii), or (D)(ii) of paragraph (1)—

''(A) if the total number of visas allocated for that fiscal year are allotted within the first half of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(B) if the total number of visas allocated for that fiscal year are allotted within the second half of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

''(C) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''

(3) in paragraph (9)(A)—''By striking ''an alien who has already been counted toward the numerical limitation of paragraph (i)(B) during fiscal year 2004, 2005, or 2006 shall not be again be counted toward such limitation during fiscal year 2007.'' and inserting ''an alien who has been present in the United States as an H–2B nonimmigrant during any 1 of 3 fiscal years immediately preceding the fiscal year of the approved start date of a petition for a nonimmigrant worker described in Section 101(a)(15)(H)(ii)(b) shall not be counted toward such limitation for the fiscal year in which the petition is approved. Such alien shall be considered a returning worker.''.

SEC. 410. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL—The Secretary of State, in cooperation with the Secretary and the Attorney General, may, as a condition of authorizing the grant of nonimmigrant visas for Y nonimmigrants who are citizens or nationals of any foreign country, negotiate with each such country to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) Requirements of Bilateral Agreements—It is the sense of Congress that each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(8) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems;

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien's home country for returning workers; and

(6) agree to such other terms as the Secretary of State considers appropriate and necessary.

SEC. 411. COMPLIANCE INVESTIGATORS.

(a) The Secretary of Labor, subject to the availability of appropriations for such purpose, shall increase, by not less than 200 per year for each of the five fiscal years after the date of enactment of [name of bill], the number of positions for compliance investigators and attorneys dedicated to the enforcement of labor standards, including those contained in sections 218A, 218B, and 218C, the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) in geographic and occupational areas in which a high percentage of workers are Y nonimmigrants.

SEC. 412. STANDING COMMISSION ON IMMIGRATION AND LABOR MARKETS.

(a) ESTABLISHMENT OF COMMISSION.—

(1) IN GENERAL.—There is established an independent Federal agency within the Executive Branch to be known as the Standing Commission on Immigration and Labor Markets (referred to in this section as the ''Commission'').

[(2) PURPOSES.—The purposes of the Commission are—

(A) to study nonimmigrant programs and the numerical limits imposed by law on admission of nonimmigrants;

(B) to study the numerical limits imposed by law on immigrant visas;

(C) to study the allocation of immigrant visas through the merit-based system;

(D) to make recommendations to the President and Congress with respect to such programs.]

(3) MEMBERSHIP.—The Commission shall be composed of—

(A) 6 voting members—

(i) who shall be appointed by the President, with the advice and consent of the Senate, not later than 6 months after the establishment of the Y Nonimmigrant Worker Program;

(ii) who shall serve for 3-year staggered terms, which can be extended for 1 additional 3-year term;

(iii) who shall select a Chair from among the voting members to serve a 2-year term, which can be extended for 1 additional 2-year term;

(iv) who shall have expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience;

(v) who may not be an employee of the Federal Government or of any State or local government; and

(vi) not more than 3 of whom may be members of the same political party.

(B) 7 ex-officio members, including—

(i) the Secretary;

(ii) the Secretary of State;

(iii) the Attorney General;

(iv) the Secretary of Labor;

(v) the Secretary of Commerce;

(vi) the Secretary of Health and Human Services; and

(vii) the Secretary of Agriculture.

(4) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(5) MEETINGS.—

(A) INITIAL MEETING.—The Commission shall meet and begin carrying out the duties described in subsection (b) as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Commission shall meet at least once per quarter upon the call of the Chair or majority of its members.

(C) QUORUM.—Four voting members of the Commission shall constitute a quorum.

(b) DUTIES OF THE COMMISSION.—The Commission shall—

(1) examine and analyze—

(A) the development and implementation of the programs;

(B) the criteria for the admission of nonimmigrant workers;

(C) the formula for determining the annual numerical limitations of nonimmigrant workers;

(D) the impact of nonimmigrant workers on immigration;

(E) the impact of nonimmigrant workers on the economy, unemployment rate, wages, workforce, and businesses of the United States;

(F) the numerical limits imposed by law on immigrant visas and its effect on the economy, unemployment rate, wages, workforce, and businesses of the United States;

(G) the allocation of immigrant visas through the evaluation system established by Title V of this Act; and

(F) any other matters regarding the programs that the Commission considers appropriate;

(2) not later than 18 months after the date of enactment, and every year thereafter, submit a report to the President and Congress that—

(A) contains the findings of the analysis conducted under paragraph (1);

(B) makes recommendations regarding the necessary adjustments to the programs studied to meet the labor market needs of the United States; and

(C) makes other recommendations regarding the programs, including legislative or administrative action, that the Commission determines to be in the national interest.

(c) INFORMATION AND ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The head of any Federal department or agency that receives a request from the Commission for information, including suggestions, estimates, and statistics, as the Commission considers necessary to carry out the provisions of this section, shall furnish such information to the Commission, to the extent allowed by law.

(2) ASSISTANCE.—

(A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall, on a reimbursable basis, provide the Commission with administrative support and other services for the performance of the Commission's functions.

(B) OTHER FEDERAL AGENCIES.—The departments and agencies of the United States may provide the Commission with such services, funds, facilities, staff, and other support services as the heads of such departments and agencies determine advisable and authorized by law.

(d) PERSONNEL MATTERS.—

(1) STAFF.—

(A) APPOINTMENT AND COMPENSATION.—The Chair, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions.

(B) FEDERAL EMPLOYEES.—

(i) IN GENERAL.—Except as provided under clause (ii), the executive director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of such title.

(ii) COMMISSION MEMBERS.—Clause (i) shall not apply to members of the Commission.

(2) DETAILEES.—Any employee of the Federal Government may be detailed to the Commission without reimbursement from the Commission. Such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) CONSULTANT SERVICES.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title 5.

(e) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—Each voting member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(f) FUNDING.—Fees and fines deposited into the Temporary Worker Program Account under section 286(w) of the Immigration and Nationality Act, as added by section 402 of [name of the Act], may be used by the Commission to carry out its duties under this section.

SEC. 412. AGENCY REPRESENTATION AND COORDINATION.

Section 274A(e) (8 U.S.C. 1324a(e) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(B) in subparagraph (B), by striking ''and'' and inserting a semicolon;

(C) in subparagraph (C), by striking ''paragraph (2).'' and inserting ''paragraph (1); and''; and

(D) by inserting after subparagraph (C) the following:

''(D) United States Immigration and Customs Enforcement officials may not misrepresent to employees or employers that they are a member of any agency or organization that provides domestic violence services, enforces health and safety law, provides health care services, or any other services intended to protect life and safety.''

SEC. 413. BILATERAL EFFORTS WITH MEXICO TO REDUCE MIGRATION PRESSURES AND COSTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Migration from Mexico to the United States is directly linked to the degree of economic opportunity and the standard of living in Mexico.

(2) Mexico comprises a prime source of migration to the United States.

(3) Remittances from Mexican citizens working in the United States reached a record high of nearly $17,000,000,000 in 2004.

(4) Migration patterns may be reduced from Mexico to the United States by addressing the degree of economic opportunity available to Mexican citizens.

(5) Many Mexican assets are held extra-legally and cannot be readily used as collateral for loans.

(6) A majority of Mexican businesses are small or medium size with limited access to financial capital.

(7) These factors constitute a major impediment to broad-based economic growth in Mexico.

(8) Approximately 20 percent of Mexico's population works in agriculture, with the majority of this population working on small farms and few on large commercial enterprises.

(9) The Partnership for Prosperity is a bilateral initiative launched jointly by the President of the United States and the President of Mexico in 2001, which aims to boost the social and economic standards of Mexican citizens, particularly in regions where economic growth has lagged and emigration has increased.

(10) The Presidents of Mexico and the United States and the Prime Minister of Canada, at their trilateral summit on March 23, 2005, agreed to promote economic growth, competitiveness, and quality of life in the agreement on Security and Prosperity Partnership of North America.

(b) SENSE OF CONGRESS REGARDING PARTNERSHIP FOR PROSPERITY.—It is the sense of Congress that the United States and Mexico should accelerate the implementation of the Partnership for Prosperity to help generate economic growth and improve the standard of living in Mexico, which will lead to reduced migration, by—

(1) increasing access for poor and under served populations in Mexico to the financial services sector, including credit unions;

(2) assisting Mexican efforts to formalize its extra-legal sector, including the issuance of formal land titles, to enable Mexican citizens to use their assets to procure capital;

(3) facilitating Mexican efforts to establish an effective rural lending system for small- and medium-sized farmers that will—

(A) provide long term credit to borrowers;

(B) develop a viable network of regional and local intermediary lending institutions; and

(C) extend financing for alternative rural economic activities beyond direct agricultural production;

(4) expanding efforts to reduce the transaction costs of remittance flows in order to increase the pool of savings available to help finance domestic investment in Mexico;

(5) encouraging Mexican corporations to adopt internationally recognized corporate governance practices, including anticorruption and transparency principles;

(6) enhancing Mexican efforts to strengthen governance at all levels, including efforts to improve transparency and accountability, and to eliminate corruption, which is the single biggest obstacle to development;

(7) assisting the Government of Mexico in implementing all provisions of the Inter-American Convention Against Corruption (ratified by Mexico on May 27, 1997) and urging the Government of Mexico to participate fully in the Convention's formal implementation monitoring mechanism;

(8) helping the Government of Mexico to strengthen education and training opportunities throughout the country, with a particular emphasis on improving rural education; and

(9) encouraging the Government of Mexico to create incentives for persons who have migrated to the United States to return to Mexico.

(c) SENSE OF CONGRESS REGARDING BILATERAL PARTNERSHIP ON HEALTH CARE.—It is the sense of Congress that the Government of the United States and the Government of Mexico should enter into a partnership to examine uncompensated and burdensome health care costs incurred by the United States due to legal and illegal immigration, including—

(1) increasing health care access for poor and under served populations in Mexico;

(2) assisting Mexico in increasing its emergency and trauma health care facilities along the border, with emphasis on expanding prenatal care in the United States-Mexico border region;

(3) facilitating the return of stable, incapacitated workers temporarily employed in the United States to Mexico in order to receive extended, long-term care in their home country; and

(4) helping the Government of Mexico to establish a program with the private sector

to cover the health care needs of Mexican nationals temporarily employed in the United States.

SEC. 414. WILLING WORKER-WILLING EMPLOYER ELECTRONIC DATABASE.

(a) ELECTRONIC JOB REGISTRY LINK.—

(1) The Secretary of Labor shall establish a publicly accessible Web page on the internet website of the Department of Labor that provides a single Internet link to each State workforce agency's statewide electronic registry of jobs available throughout the United States to United States workers.

(2) The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records by the employer for the purpose of audit or investigations.

(3) The Secretary of Labor shall ensure that job opportunities advertised on a State workforce agency statewide electronic job registry established under this section are accessible—

(A) by the State workforce agencies, which may further disseminate job opportunity information to interested parties; and.

(B) through the internet, for access by workers, employers, labor organizations and other interested parties.

(4) The Secretary of Labor may work with private companies and nonprofit organizations in the development and operation of the job registry link and system under paragraph (1).

(b) ELECTRONIC REGISTRY OF CERTIFIED APPLICATIONS.—

(1) The Secretary of Labor shall compile, on a current basis, a registry (by employer and by occupational classification) of the approved labor certification applications filed under this program. Such registry shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such registry publicly available through an Internet website.

(2) The Secretary of Labor may consult with the Secretary of Homeland Security, and others as appropriate, in the establishment of the registry described in paragraph (1) to ensure its compatibility with any system designed to track nonimmigrant employment that is operated and maintained by the Secretary of Homeland Security.

(3) The Secretary of Labor shall ensure that job opportunities advertised on the electronic job registry established under this subsection are accessible by the State workforce agencies, which may further disseminate job opportunity information to other interested parties.

SEC. 415. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Y nonimmigrant status.

SEC. 416. CONTRACTING.

Nothing in this section shall be construed to limit the authority of the Secretary of Homeland Security or Secretary of Labor to contract with or license United States entities, as provided for in regulation, to implement any provision of this title, either entirely or in part, to the extent that each Secretary in his discretion determines that such implementation is feasible, cost-effective, secure, and in the interest of the United States. However, nothing in this provision shall be construed to alter or amend any of the requirements of OMB Circular A–76 or any other current law governing federal contracting. Any inherently governmental work already performed by employees of the Department of Homeland Security or the Department of Labor, or any inherently governmental work generated by the requirements of this legislation, shall continue to be performed by federal employees, and any current commercial work, or new commercial work generated by the requirements of this legislation, that is subject to public-private competition under OMB Circular A–76 or any other relevant law shall continue to be subject to public-private competition.

SEC. 417. FEDERAL RULEMAKING REQUIREMENTS.

(a) The Secretaries of Labor and Homeland Security shall each issue an interim final rule within six months of the date of enactment of this subtitle to implement this title and the amendments made by this title. Each such interim final rule shall become effective immediately upon publication in the Federal Register. Each such interim final rule shall sunset two years after issuance unless the relevant Secretary issues a final rule within two years of the issuance of the interim final rule.

(b) The exemption provided under subsection (a) shall sunset no later than two years after the date of enactment of this title, provided that, such sunset shall not be construed to impose any requirements on, or affect the validity of, any rule issued or other action taken by either Secretary under such exemption.

Subtitle C—Nonimmigrant Visa Reform

SEC. 418. STUDENT VISAS

(a) IN GENERAL.—Section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''who is'' and inserting, ''who is—''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training for an aggregate period of not more a than 24 months and related to such alien's major area of study, where such alien has been lawfully enrolled on a full time basis as a nonimmigrant under clause (i) or (iv) at a college, university, conservatory, or seminary described in subclause (i)(I) for one full academic year and such employment occurs:

''(aa) during the student's annual vacation and at other times when school is not in session, if the student is currently enrolled, and is eligible for registration and intends to register for the next term or session;

''(bb) while school is in session, provided that practical training does not exceed 20 hours a week while school is in session; or

''(cc) within a 26-month period after completion of all course requirements for the degree (excluding thesis or equivalent);''; and

(D) by striking ''Attorney General'' the two times that phrase appears and inserting ''Secretary of Homeland Security''.

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon; and

(3) by adding at the end the following:

''(iv) an alien described in clause (i), except that the alien is not required to have a residence in a foreign country that the alien has no intention of abandoning, who has been accepted at and plans to attend an accredited graduate program in mathematics, engineering, information technology, or the natural sciences in the United States for the purpose of obtaining an advanced degree; and

''(v) an alien who maintains actual residence and place of abode in the alien's country of nationality, who is described in clause (i), except that the alien's actual course of study may involve distance learning program, for which the alien is temporarily visiting the United States for a period not to exceed 30 days;''.

(b) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS—

(1) IN GENERAL.—An alien admitted as a nonimmigrant student described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full-time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States workers to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for hearing, may be disqualified for a period of no more than 5 years from employing an alien student under paragraph (1).

(3) SOCIAL SECURITY.—Any employment engaged in by a student pursuant to paragraph (1) of this subsection shall, for purposes of section 210 of the Social Security Act (42 U.S.C. 410) and section 3121 of the Internal Revenue Code (26 U.S.C. 3121), not be considered to be for a purpose related to section 101(a)(15)(F) of the Immigration and Nationality Act.

(c) CLARIFYING THE IMMIGRANT INTENT PROVISION.—Subsection (b) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended—

(1) by striking the parenthetical phrase ''(other than nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) except subclause (b1) of such section)'' in the first sentence; and

(2) by striking ''under section 101(a)(15)'' and inserting in its place ''under the immigration laws.''.

(d) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Subsection (h) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended—

(1) by inserting ''(F)(iv),'' following ''(H)(i)(b) or (c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting in its place ''if the alien had been admitted as, provided status as, or obtained a change of status'';

SEC. 419. H–1B STREAMLINING AND SIMPLIFICATION

(a) H–1B AMENDMENTS.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1) by deleting clauses (i) through (vii) of subparagraph (A) and inserting in their place—

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous

fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year; or''

(2) in paragraph (9), as renumbered by Section 405—

(A) by striking ''The annual numeric limitations described in clause (i) shall not exceed'' from subclause (ii) of subparagraph (B) and inserting the following: ''Without respect to the annual numeric limitation described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:'';

(B) by striking subparagraphs (B)(iv); and

(C) by striking subparagraph (D).

(b) REQUIRING A DEGREE.—Paragraph (2) of section 214(i) of the Immigration and Nationality Act (8 U.S.C. 1184(i)) is amended—

(1) by deleting the comma at the end of subparagraph (A) and inserting in its place ''; and''; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

''(B) attainment of a bachelor's or higher degree in the specific specialty from an educational institution in the United States accredited by nationally recognized accrediting agency or association (or an equivalent degree from foreign educational institution that is equivalent to such an institution) as a minimum for entry into the occupation in the United States.''

(c) PROVISION OF W–2 FORMS.—Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)), as renumbered by Section 405, is amended to read as follows:

''(5) In the case of a nonimmigrant described in section 1101(a)(15)(H)(i)(b) of this title—

''(A) The period of authorized admission as such a nonimmigrant may not exceed six years; [Provided that, this provision shall not apply to such a nonimmigrant who has filed a petition for an immigrant visa under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in one-year increments until such time as a final decision is made on the alien's lawful permanent residence];

''(B) If the alien is granted an initial period of admission less than six years, any subsequent application for an extension of stay for such alien must include the Form W–2 Wage and Tax Statement filed by the employer for such employee, and such other form or information relating to such employment as the Secretary of Homeland Security may in his discretion specify, with respect to such nonimmigrant alien employee for the period of admission granted to the alien.

''(C) Notwithstanding section 6103 of title 26, United States Code, or any other law, the Commissioner of Internal Revenue or the Commissioner of the Social Security Administration shall upon request of the Scretary confirm whether the Form W–2 Wage and Tax Statement filed by the employer under clause (i) matches a Form W–2 Wage and Tax Statement filed with the Internal Revenue Service or the Social Security Administration, as the case may be.''

(d) EXTENSION OF H–1B STATUS FOR MERIT-BASED ADJUSTMENT APPLICANTS.—

(1) Section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) is amended by inserting before the period:

''; Provided that, this provision shall not apply to such a nonimmigrant who has filed a petition for an immigrant visa accompanied by qualifying employer recommendation under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in one-year increments until such time as a final decision is made on the alien's lawful permanent residence.''

(2) Sections 106(a) and 106(b) of the American Competitiveness in the Twenty-First Century Act of 2000—Immigration Services and Infrastructure Improvements Act of 2000, Public Law 106–313, are hereby repealed.

SEC. 420. H–1B EMPLOYER REQUIREMENTS

(a) APPLICATION OF NONDISPLACEMENT AND GOOD FAITH RECRUITMENT REQUIREMENTS TO ALL H–1B EMPLOYERS—

(1) AMENDMENTS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E);

(I) in clause (i), by striking ''(E)(i) In the case of an application described in clause (ii), the'' and inserting ''(E) The''; ''and''

(II) by striking clause (ii);

(ii) in subparagraph (F), by striking 'In the case of' and all that follows through 'where—' and inserting the following: '[The employer will not place the nonimmigrant with another employer if—'; and

(iii) in subparagraph (G), by striking 'In the case of an application described in subparagraph (E)(ii), subject' and inserting 'Subject';

(B) in paragraph (2)—

(i) in subparagraph (E), by striking 'If an H–1B-dependent employer' and inserting 'If an employer that employs H–1B nonimmigrants'; and

(ii) in subparagraph (F), by striking 'The preceding sentence shall apply to an employer regardless of whether or not the employer is an H–1B-dependent employer.'; and

(C) by striking paragraph (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to applications filed on or after the date of the enactment of this Act.

(b) NONDISPLACEMENT REQUIREMENT.—

(i) EXTENDING TIME PERIOD FOR NONDISPLACEMENT.—Section 212(n) of such Act, as amended by subsection (a), is further amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking '90 days' each place it appears and inserting '180 days';

(ii) in subparagraph (F)(ii), by striking '90 days' each place it appears and inserting '180 days'; and

(B) in paragraph (2)(C)(iii), by striking '90 days' each place it appears and inserting '180 days'.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall apply to applications filed on or after the date of the enactment of this Act; and

(B) shall not apply to displacements for periods occurring more than 90 days before such date.

(c) H–1B Nonimmigrants Not Admitted for Jobs Advertised or Offered Only to H–1B Nonimmigrants—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(1) by inserting after subparagraph (G) the following:

(H)(i) The employer has not advertised the available jobs specified in the application in an advertisement that states or indicates that—

'(I) the job or jobs are only available to persons who are or who may become H–1B nonimmigrants; or

'(II) persons who are or who may become H–1B nonimmigrants shall receive priority or a preference in the hiring process.

'(ii) The employer has not only recruited persons who are, or who may become, H–1B nonimmigrants to fill the job or jobs.'; and

(2) in the undesignated paragraph at the end, by striking 'The employer' and inserting the following:

'(K) The employer'.

(d) LIMIT ON PERCENTAGE OF H–1B EMPLOYEES—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(l), the following:

'(1) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H–1B nonimmigrants.'.

SEC. 421. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K) of the Immigration and Nationality Act, as redesignated by section 2(d)(2), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after 'D.C.';

(2) by inserting 'clear indicators of fraud, misrepresentation of material fact,' after 'completeness';

(3) by striking 'or obviously inaccurate' and inserting ', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate';

(4) by striking 'within days of' and inserting 'not later than 14 days after'; and

(5) by adding at the end the following: 'If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing under paragraph (2).

(b) Investigations by Department of Labor—Section 212(n)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking '12 months' and inserting '24 months'; and

(B) by striking 'The Secretary shall conduct' and all that follows and inserting 'Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.';

(2) in subparagraph (C)(i)—

(A) by striking 'a condition of paragraph (1)(B), (1)(E), or (1)(F)' and inserting 'a condition under subparagraph (B), (C)(i), (E), (F), (H), (I), or (J) of paragraph (1)'; and

(B) by striking '(1)(C)' and inserting '(1)(C)(ii)';

(3) in subparagraph (G)—

(A) in clause (i), by striking 'if the Secretary' and all that follows and inserting 'with regard to the employer's compliance with the requirements of this subsection.';

(B) in clause (ii), by striking 'and whose identity' and all that follows through 'failure or failures.' and inserting 'the Secretary of Labor may conduct an investigation into the employer's compliance with the requirements of this subsection.';

(C) in clause (iii), by striking the last sentence;

(D) by striking clauses (iv) and (v);

(E) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(F) in clause (iv), as redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(G) by amending clause (v), as redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not

required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.''.

(H) in clause (vi), as redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(I) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under subparagraph (C).''; and

(4) by striking subparagraph (H).

(c) INFORMATION SHARING BETWEEN DEPARTMENT OF LABOR AND DEPARTMENT OF HOMELAND SECURITY.—Section 212(n)(2) of such Act, as amended by this section, is further amended by inserting after subparagraph (G) the following:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by H–1B employers as part of the adjudication process that indicates that the employer is not complying with H–1B visa program requirements. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

(d) AUDITS.—Section 212(n)(2)(A) of such Act, as amended by this section, is further amended by adding at the end the following: ''The Secretary may conduct surveys of the degree to which employers comply with the requirements under this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ H–1B nonimmigrants during the applicable calendar year.

''(e) PENALTIES.—Section 212(n)(2)(C) of such Act, as amended by this section, is further amended—

(1) in clause (i)(I), by striking ''$1,000'' and inserting ''$2,000'';

(2) in clause (ii)(I), by striking ''$5,000'' and inserting ''$10,000''; and

(3) in clause (vi)(III), by striking ''$1,000'' and inserting ''$2,000''.

(f) INFORMATION PROVIDED TO H–1B NONIMMIGRANTS UPON VISA ISSUANCE.—Section 212(n) of such Act, as amended by this section, is further amended by inserting after paragraph (2) the following:

''(3)(A) Upon issuing an H–1B visa to an applicant outside the United States, the issuing office shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer obligations and workers' rights.''.

''(B) Upon the issuance of an H–1B visa to an alien inside the United States, the officer of the Department of Homeland Security shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer's obligations and workers' rights.''.

SEC. 422. L–1 VISA FRAUD AND ABUSE PROTECTIONS

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case of an alien spouse admitted under section 101(a)(15)(L), who'' and inserting ''Except as provided in subparagraph (H), if an alien spouse admitted under section 101(a)(15)(L)''; and

''(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for up to 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the preceding 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the preceding 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a petition subsequently filed on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(iv) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify a company or facility's existence in the United States and abroad.''.

(b) INVESTIGATIONS AND AUDITS BY DEPARTMENT OF HOMELAND SECURITY.—

(1) DEPARTMENT OF HOMELAND SECURITY INVESTIGATIONS.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(I)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary of Homeland Security receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance, with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5.

''(iii) The Secretary of Homeland Security shall establish procedure for any person desiring to provide to the Secretary of Homeland Security information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary of Homeland Security and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary of Homeland Security receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary of Homeland Security shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary of Homeland Security, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary of Homeland Security, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under section 214(c)(2)(J).''.

(2) AUDITS.—Section 214(c)(2)(I) of such Act, as added by paragraph (1), is amended by adding at the end the following:

''(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H-1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting ''(L),'' after ''(H),''.

(c) PENALTIES.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(J)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)——

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

''(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)——

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

''(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)——

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the employer shall be liable to employees harmed for lost wages and benefits.''.

SEC. 423. WHISTLEBLOWER PROTECTIONS.

(a) H-1B Whistleblower Protections—Section 212(n)(2)(C)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)(C)(iv)) is amended——

(1) by inserting ''take, fail to take, or threaten to take or fail to take, a personnel action, or'' before ''to intimidate,'';

(2) by adding at the end the following: ''An employer that violates this clause shall be liable to the employees harmed by such violation for lost compensation, including back pay.''.

(b) L-1 Whistleblower Protections—Section 214(c)(2) of such Act, as amended by section 4, is further amended by adding at the end the following:

''(L)(i) It is a violation of this subparagrah for an employer who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L) to take, fail to take, or threaten to take or fail to take, a personnel action, or to intimidate, threaten, restrain, coerce, blacklist, discharge, or discriminate in any other manner against an employee because the employee——

''(I) has disclosed information that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection; or

''(II) cooperates or seeks to cooperate with the requirements of this subsection, or any rule or regulation pertaining to this subsection.

''(ii) An employer that violates this subparagraph shall be liable to the employees harmed by such violation for lost wages and benefits.

''(iii) In this subparagraph, the term 'employee' includes—

''(I) current employee;

''(II) a former employee; and

''(III) an applicant for employment.'.

SEC. 424. LIMITATIONS ON APPROVAL OF L-l PETITIONS FOR START-UP COMPANIES

Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended——

(a) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(b) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(c) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to be employed in a new office, the petition may be approved for a period not to exceed 12 months only if the alien has not been the beneficiary of two or more petitions under this subparagraph within the immediately preceding two years and only if the employer operating the new office has——

''(I) an adequate business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has substantially complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition if requested by the Secretary;

''(VI) evidence, that the importing employer, from the date of petition approval under clause (i), has been doing business at the new office through regular, systematic, and continuous provision of goods or services;

''(VII) a statement of the duties the beneficiary has performed at the new office during the approval period under clause (i) and the duties the beneficiary will perform at the new office during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new office, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed managerial or executive capacity;

''(X) evidence of the financial status of the new office; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) A new office employing the beneficiary of an L–1 petition approved under this subparagraph must do business through regular, systematic, and continuous provision of goods or services for the entire period of petition approval.

''(iv) Notwithstanding clause (iii) or subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may in his discretion approve a subsequently filed petition on behalf of the beneficiary to continue employment at the office described in this subsection for a period beyond the initially granted 12-month period if the importing employer has been doing business at the new office through regular, systematic, and continuous provision of goods or services for the 6 months immediately preceding the date of extension petition filing and demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances, as determined by the Secretary in his discretion.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 12-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish procedures with the Department of State to verify a company or office's existence in the United States and abroad.''

SEC. 425. MEDICAL SERVICES IN UNDERSERVED AREAS

(a) PERMANENT AUTHORIZATION OF THE CONRAD PROGRAM.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) ((as amended by section 1(a) of Public Law 108–441 and section 2 of Public Law 109–477)) is amended by striking 'and before June 1, 2008.'.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on June 1, 2007.

(b) PILOT PROGRAM REQUIREMENTS—Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) is amended—

(1) by adding at the end the following:

''(4)(A) Notwithstanding paragraph (1)(B), the Secretary of Homeland Security may grant up to a total of 50 waivers for a State under section 212(e) in a fiscal year if, after the first 30 such waivers for the State are granted in that fiscal year—

''(i) an interested State agency requests a waiver; and

''(ii) the requirements under subparagraph (B) are met.

''(B) The requirements under this subparagraph are met if—

''(i) fewer than 20 percent of the physician vacancies in the health professional shortage areas of the State, as designated by the Secretary of Health and Human Services, were filled in the most recent fiscal year;

''(ii) all of the waivers allotted for the State under paragraph (1)(B)) were used in the most recent fiscal year; and

''(iii) all underserved highly rural States—

''(I) used the minimum guaranteed number of waivers under section 212(e) in health professional shortage areas in the most recent fiscal year; or

''(II) all agreed to waive the right to receive the minimum guaranteed number of such waivers.

''(C) In this paragraph:

''(i) The term ''health professional shortage area'' has the meaning given the term in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1));

''(ii) The term ''underserved highly rural State'' means a State with at least 30 counties with a population density of not more than 10 people per square mile, based on the latest available decennial census conducted by the Bureau of Census.

''(iii) The term ''minimum guaranteed number'' means—

''(I) for the first fiscal year of the pilot program, 15;

''(II) for each subsequent fiscal year, the sum of—

(aa) the minimum guaranteed number for the second fiscal year; and

(bb) 3, if any State received additional waivers under this paragraph in the first fiscal year.

''(III) for the third fiscal year, the sum of—

(aa) the minimum guaranteed number for the second fiscal year; and

(bb) 3, if any State received additional waivers under this paragraph in the first fiscal year.

(c) TERMINATION DATE.—The authority provided by the amendents made by subsection (b) shall expire on September 30, 2011.

(d) Section 212(j) of the Immigration and Nationality Act (8 U.S.C. 1182(j)) is amended by—

(1) revising the preamble of paragraph (2) to read ''An alien who has graduated from medical school and who is coming to the United States to practice primary care or specialty medicine as a member of the medical profession may not be admitted as a nonimmigrant under section 1101(a)(15)(H)(i)(b) of this title unless—''

(2) redesignating paragraph (2) as paragraph (3);

(3) adding new paragraph (2) to read—

''(2)(A) An alien who is coming to the United States to receive graduate medical education or training (or seeks to acquire status as a nonimmigrant under section 1101(a)(15)(J) to receive graduate medical education or training) may not change status under section 1258 to a nonimmigrant under section 1101(a)(15)(H)(i)(b) until the alien graduates from the medical education or training program and meets the requirements of paragraph (3)(B).

''(B) Any occupation that an alien described in paragraph (2)(A) may be employed in while receiving graduate medical education or training shall not be deemed a ''specialty occupation'' within the meaning of section 1184(i) for purposes of section 1101(a)(15)(H)(i)(b).''

(e) Section 101(a)(15)(J) is amended by adding ''(except an alien coming to the United States to receive graduate medical education or training)'' after ''abandoning''.

(f) Section 214(h) of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended by inserting ''(E) (J) who is coming to the United States to receive graduate medical education or training,'' after ''subparagraph'' where that term first appears.

(g) MEDICAL RESIDENTS INELIGIBLE FOR H–1B NONIMMIGRANT STATUS.—Section 214(i) of the Immigration and Nationality Act (8 U.S.C. 1184(i)) is amended to read—

''(1) Except as provided in paragraph (3), for purposes of section 101(a)(15)(H)(i)(b), section 101(a)(15)(E)(iii), and paragraph (2), the term ''specialty occupation''—

''(A) means an occupation that requires—

''(i) theoretical and practical application of a body of highly specialized knowledge, and

''(ii) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States; and

''(B) shall not include graduate medical education or training.''

(h) Section 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)) is amended—

(1) in paragraph (1)(C)(i) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in paragraph (1)(C) by striking subclause (ii) and inserting the following:

''(ii) the alien has accepted employment with the health facility or health care organization and agrees to continue to work for a total of not less than 3 years; and

''(iii) the alien begins employment within 90 days of:

''(I) receiving such waiver; or

''(II) receiving nonimmigrant status or employment authorization pursuant to an application filed under paragraph (2)(A) (if such application is filed with 90 days of eligibility of completing graduate medical education or training under a program approved pursuant to section 212(j)(1));

''whichever is latest.''

(3) by striking at the end ''.'', inserting ''; or'' and adding new paragraph (1)(E) to read—

''(E) in the case of a request by an interested State agency, the alien agrees to practice primary care or specialty medicine care, for a continuous period of 2 years, only at a federally qualified health facility, health care organization or center, or in a rural health clinic that is located in:

''(i) a geographic area which is designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

''(ii) a State that utilized less than 10 of the total allotted waivers for the State under paragraph (1)(B) (excluding the number of waivers available pursuant to paragraph (1)(D)(ii)) in the most recent fiscal year.''

(4) in paragraph (2), by amending subparagraph (A) to read as follows:

''(A) Nothwithstanding section 248(a)(2), upon submission of a request to an interested Federal agency or an interested State agency for recommendation of a waiver under this section by a physician who is maintaining valid nonimmigrant status under section 101(a)(15)(J), the Secretary of Homeland Security may accept as properly filed an application to change the status of such physician to [any applicable nonimmigrant status]. Upon favorable recommendation by the Secretary of State of such request, and approval by the Secretary of Homeland Security the waiver under this section, the Secretary of Homeland Security may change the status of such physician to that of [an appropriate nonimmigrant status.]''

(5) in paragraph (3)(A) amended by inserting ''requirement of or'' before ''agreement entered into.''

(i) PERIOD OF AUTHORIZED ADMISSION FOR PHYSICIANS ON H–1B VISAS WHO WORK IN MEDICALLY UNDERSERVED COMMUNITIES.—

Section 214(g)(5), as renumbered by Section 405 and amended by Section 719(c), is further amended by adding at the end the following new subparagraph:

''(D) The period of authorized admission under subparagraph (A) shall not apply to an alien physician who fulfills the requirements of section 214(l)(1)(E) and who has practiced primary or specialty care in a medically underserved community for a continuous period of 5 years.''

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title, and the amendments made by this title.

TITLE V—Immigration Benefits

SEC. 501. REBALANCING OF IMMIGRANT VISA ALLOCATION.

''(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) of the Immigration and Nationality Act (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

''(1) For each fiscal year until visas needed for petitions described in section 503(f)(2) of the [Insert title of Act] become available, the worldwide level of family-sponsored immigrants under this subsection is 567,000 for petitions for classifications under 203(a), plus any immigrant visas not required for the class specified in (d)

''(2) Except as provided in paragraph (1), the worldwide level of family-sponsored immigrants under this subsection for fiscal year is 127,000, plus any immigrant visas not required for the class specified in (d).

(b) MERIT-BASED IMMIGRANTS—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF MERIT-BASED, SPECIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—

''(1) IN GENERAL.—The worldwide level of merit-based, special and employment creation immigrants under this subsection for a fiscal year—

''(A) for the first five fiscal years shall be equal to the number of immigrant visas made available to aliens seeking immigrant visas under section 203(b) of this Act for fiscal year 2005, plus any immigrant visas not required for the class specified in (c), of which:

(i) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

(ii) 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved at the time of the effective date of this section, per Section 502(d) of the [Insert title of Act].

''(B) stating in the sixth fiscal year, shall be equal to 140,000 for each fiscal year until aliens described in section 101(a)(15)(Z) of this Act first become eligible for an immigrant visa, plus any immigrant visas not required for the class specified in (c), of which:

(i) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

(ii) no more than 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved at the time of the effective date of this section, per Section 502(d) of the [Insert title of Act].

''(C)(i) 380,000, for each fiscal year starting in the first fiscal year in which aliens described in section 101(a)(15)(Z) of this Act become eligible for an immigrant visa, of which at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y), plus any immigrant visas not required for the class specified in (c); plus

''(ii) the temporary supplemental allocation of additional visas described in paragraph (2) for nonimmigrants described in section 101(a)(15)(Z).

''(2) TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas described in this paragraph is as follows:

''(A) for the first five fiscal years in which aliens described in section 101(a)(15)(Z) of

this Act are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(3) of [Insert title of Act];

''(B) in the sixth fiscal year in which aliens described in section 101(a)(15)(Z) of this Act are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(3) of [Insert title of Act]; and

''(C) starting in the seventh fiscal year in which aliens described in section 101(a)(15)(Z) of this Act are eligible for an immigrant visa, the number equal to the number of Z nonimmigrants who became aliens admitted for permanent residence based on the merit-based evaluation system in the prior fiscal year until no further Z nonimmigrants adjust status;

''(3) TERMINATION OF TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas shall terminate when the number of visas calculated pursuant to paragraph (2)(C) is zero.

''(4) LIMITATION.—The temporary supplemental visas in paragraph (2) shall not be awarded to any individual other than an individual described in section 101(a)(15)(Z).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

SEC. 502. INCREASING AMERICAN COMPETITIVENESS THROUGH A MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States benefits from a work force that has diverse skills, experience and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended by—

(1) striking paragraphs (1), (2), and (3) and inserting the following:

''(1) MERIT-BASED IMMIGRANTS.—Visas shall first be made available in a number not to exceed 95 percent of such worldwide level, plus any visas not required for the classes in paragraphs (2) and (3), to qualified immigrants selected through a merit-based evaluation system.

''(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

Category	Description	Max pts
Employment		**47**
Occupation	U.S. employment in Specialty Occupation (DoL definition)—**20 pts** U.S. employment in High Demand Occupation (BLS largest 10-yr job growth, top 30)	
National interest/critical infrastructure—	**16 pts**	
Employer endorsement	U.S. employment in STEM or health occupation, current for at least 1 year—**8 pts** (extraordinary or ordinary) A U.S. employer willing to pay 50% of LPR applicaiton fee either 1) offers a job, or 2) attests for a current employee—**6 pts**	
Experience	Years of work for U.S. firm—**2 pts/year (max 10 pts)**	
Age of worker	Worker's age: 25–39—**3 pts**	
Education	M.D., M.B.A., Graduate degree, etc.—**20**	**28**
(terminal degree)	Bachelor's degree—**16 PTS** Associate's degree—**10 pts** High School diploma or GED—**6 pts** Completed certified Perkins Vocational Education program—**5 pts** Education program—**5 pts** Completed DoL Registered Apprenticeship—**8 pts** STEM, assoc & above—**8 pts**	
English & civics	native speaker of English or TOEFL score of 75 or higher—**15 pts** TOEFL score of 60–74—**10 pts** Pass USCIS Citizenship Tests in English & Civics—**6 pts**	**15**
Extended family (Applied if threshold of 55 in above categories.)		
	Adult (21 or older) son or daughter of USC—**8 pts** Adult (21 or older) son or daughter of LPR—**6 pts** Sibling of USC or LPR—**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005—**2 pts**	**10**
Supplemental schedule for Zs		**100**
Agriculture National Interest	Worked in agriculture for 3 years, 150 days per year—21 pts Worked in agriculture for 4 years (150 days for 3 years, 100 days for 1 year)—23 pts Worked in agriculture for 5 years, 100 days per year—25 points	**25**
U.S. employment exp.	Year of lawful employment—1 pt	**15**
Home ownership	Own place of residence—1 pt/year owned	**5**
Medical Insurance	Current medical insurance for entire family	**5**

''(B) The Secretary of Homeland Security, after consultation with the Secretaries of Commerce and Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

''(C) The Standing Commission on Immigration and Labor Markets established pursuant to Section 407 of the [Insert title of Act] shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

''(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the [Insert title of Act] should criteria that are established by the [Insert title of Act] should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) of this Act are eligible for an immigrant visa.

''(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary's sole and unreviewable discretion.

''(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date of such application. Such denial shall not preclude the petitioner from filing successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny petition when denial is appropriate under other provisions of law, including but not limited to sections 204(c).''.

(2) redesignating paragraph (4) as paragraph (2), by striking ''7.1 percent'' and inserting ''4,200'', and striking ''5,000'' and inserting ''2,500'';

(3) redesignating paragraph (5) as paragraph (3), by striking ''7.1 percent''; and inserting ''2,800'', and striking ''3,000'' and inserting ''1,500'';

(4) redesignating paragraph (6) as paragraph (4).

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by striking subparagraphs (E) and (F).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment, unless such date is less than 270 days after the date of enactment, in which case the amendments shall take effect on the first day of the following fiscal year.

(2) PENDING AND APPROVED PETITIONS AND APPLICATIONS.—Petitions for an employment-based visa filed for classification under section 203(b)(1), (2), or (3) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) that were filed prior to the date of the introduction of the [Insert title of Act] and were pending or approved at the time of the effective date of this section, shall be treated as if such provision remained effective and an approved petition may serve as the basis for issuance of an immigrant visa. Aliens with applications for labor certification pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act shall preserve the immigrant visa priority date accorded by the date of filing of such labor certification application.

(e) CONFORMING AMENDMENTS.—

(1) Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by striking ''employment-based'' each place it appears and inserting ''merit-based''.

(2) Section 202 of the Immigration and Nationality Act (8 U.S.C. 1152) is amended by striking ''employment-based'' each place it appears and inserting ''merit-based''.

(3) Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended by:

(A) striking the heading and first sentence and inserting the following:

''(b) Preference allocation for merit-based, special and employment creation immigrants. Aliens subject to the worldwide level specified in section 201(d) for merit-based, special and employment creation immigrants in a fiscal year shall be allotted visas as follows:'';

(B) striking ''employment based'' and inserting ''merit-based'' and striking ''each of paragraphs (1) through (3)'' and inserting ''paragraph (1)'' in subparagraph (6)(B)(i); and

(C) striking ''employment based'' and inserting ''paragraph (1)'' in subparagraph (6)(B)(iii).

(4) Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended by striking subparagraph (D).

(5) Section 213A(f) of the Immigration and Nationality Act (8.U.S.C. 1183a(f)) is amended by:

(A) striking subparagraph (4);

(B) striking subparagraph (5) and inserting the following:

''(4) NON-PETITIONING CASES.—Such term also includes an individual who does not meet the requirement of paragraph (l)(D) but who is a spouse, parent, mother in law, father in law, sibling, child (if at least 18 years of age), son, daughter, son in law, daughter in law, sister in law, brother in law, grandparent, or grandchild of sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

(A) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

(B) the Secretary of Homeland Security has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.'';

(C) redesignating subparagraph (6) as subparagraph (5); and

(D) striking ''(6)'' and inserting ''(5)'' in subparagraph (1)(E).

(6) Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by striking paragraph (5).

(7) Section 218(g)(3) of the Immigration and Nationality Act (8 U.S.C. 1188) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(8)(A) Section 207(c)(3) of the Immigration and Nationality Act (8 U.S.C; 1157(c)(3)) is amended by striking ''(5),'' in the first sentence.

(B) Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by striking ''(5),'' in the second sentence

C) Section 210(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1160(c)(2)(A)) is amended by striking ''paragraphs (5) and,'' and inserting ''paragraph''

(D) Section 237(a)(1)(H)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)(i)(II)) is amended by striking ''paragraphs (5) and,'' and inserting ''paragraph''

(E) Section 245(h)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(A) is amended by striking ''(5)(a),''

(F) Section 245A(d)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(d)(2)(A)) is amended by striking ''paragraphs (5) and,'' and inserting ''paragraph''

(H) Section 286(s)(6) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(6) is amended by striking ''and section 212(a)(5)(A)''

(f) REFERENCES TO SECRETARY OF HOMELAND SECURITY.—

(1) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(2) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by striking ''Attorney General'' each place it appears, except for section 204(f)(4)(B), and inserting ''Secretary of Homeland Security''.

SEC. 503.—REDUCING CHAIN MIGRATION AND PERMITTING PETITIONS BY NATIONALS

(a) CAP EXEMPT CATEGORIES.—Paragraph (1) of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)) is amended by adding the following two new subparagraphs at the end:

''(F) Aliens admitted under section 211(a) on the basis of prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(G) Aliens born to an alien lawfully admitted for permanent residence during temporary visit abroad.''.

(b) IMMEDIATE RELATIVES.—

(1) IMMEDIATE RELATIVE REDEFINED.—Paragraph (2) of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)) is amended to read as follows:

''(2) IMMEDIATE RELATIVES.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'immediate relative' means child or spouse who is accompanying or following to join the alien).

''(B) SPOUSE OF DECEASED U.S. CITIZEN.—An alien who was the spouse of a citizen of the United States and not legally separated from the citizen at the time of the citizen's death, who was married to the citizen for not less than 2 years at the time of the citizen's death (or, if married for less than 2 years at the time of the citizen's death, who proves by preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit), and each child of such alien, may be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(i) years after such date; or

''(ii) the date on which the spouse remarries.

''(C) BATTERED SPOUSE OR CHILD.—An alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(2) PETITION.—Section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i)'' and inserting ''in section 201(b)(2)(B)''.

(c) PREFERENCE CATEGORIES.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended:

(1) By striking paragraph (1) and inserting the following:

''(1) Parents of citizen of the United States if the citizen is at least 21 years of age. Qualified immigrants who are the parents of citizen of the United States where the citizen is at least 21 years of age shall be allocated visas in a number not to exceed 40,000, plus any visa not required for the classes specified in paragraph (3), or''.

(2) By striking paragraph (2) and inserting the following:

''(2) Spouses or children of an alien lawfully admitted for permanent residence or a national. Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or noncitizen national of the United States as defined in section 101(a)(22)(8) of this Act who is resident in the United States shall be allocated visas in number not to exceed 87,000, plus any visas not required for the class specified in paragraph (1)''.

(3) By striking paragraph (3) and inserting the following:

''(3) Family-sponsored immigrants who are beneficiaries of family-based visa petitions filed before May 1, 2005. Immigrant visas totaling 440,000 shall be allotted visas as follows:

''(A) Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas totaling 70,400 immigrant visas, plus any visas not required for the class specified in (D).

''(B) Qualified immigrants who are the unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence, shall be allocated visas totaling 110,000 immigrant visas, plus any visas not required for the class specified in (A).

''(C) Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas totaling 70,400 immigrant visas, plus any visas not required for the class specified in (A) and (B).

''(D) Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas totaling 189,200 immigrant visas, plus any visas not required for the class specified in (A),(B), and (C).''.

(4) By striking paragraph (4).

(d) PETITION.—Section 204(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(i)) is amended by striking '', (3), or (4)'' after ''paragraph (1)''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

(2) PENDING AND APPROVED PETITIONS.—Petitions for family-sponsored visa filed for classification under section 203(a)(1), (2)(B), (3), or (4) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) which were filed before May 1, 2005, regardless of whether the petitions have been approved before May 1, 2005, shall be treated as if such provision remained in effect, and an approved petition may be the basis of an immigrant visa pursuant to section 203(a)(3).

(f) DETERMINATIONS OF NUMBER OF INTENDING LAWFUL PERMANENT RESIDENTS.—

(1) SURVEY OF PENDING AND APPROVED FAMILY-BASED PETITIONS.—The Secretary of Homeland Security may require a submission from petitioners with approved or pending family-based petitions filed for classification under section 203(a)(1), (2)(B), (3), or (4) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) filed on or before May 1, 2005 to determine that the petitioner and the beneficiary have a continuing commitment to the petition for the alien relative under the classification. In the event the Secretary requires a submission pursuant to this section, the Secretary shall take reasonable steps to provide notice of such a requirement. In the event that the petitioner or beneficiary is no longer committed to the beneficiary obtaining an immigrant visa under this classification or if the petitioner does not respond to the request for a submission, the Secretary of Homeland Security may deny the petition if the petition has not been adjudicated or revoke the petition without additional notice pursuant to section 205 if it has been approved.

(2) FIRST SURVEY OF Z NONIMMIGRANT INTENDS TO ADJUST STATUS.—The Secretary shall establish procedures by which nonimmigrants described in section 101(a)(15)(Z) who seek to become aliens lawfully admitted for permanent residence under the merit-based immigrant system shall establish their eligibility, pay any applicable fees and penalties, and file their petitions. No later than the conclusion of the eighth fiscal year after the effective date of section 218D of the Immigration and Nationality Act, the Secretary will determine the total number of qualified applicants who have followed the procedures set forth in this section. The number calculated pursuant to this paragrap shall be 20 percent of the total number of qualified applicants. The Secretary will calculate the number of visas needed per year.

(3) SECOND SURVEY OF Z NONIMMIGRANTS INTENDING TO ADJUST STATUS.—No later than the conclusion of the thirteenth fiscal year after the effective date of section 218D of the Immigration and Nationality Act, the Secretary will determine the total number of qualified applicants not described in paragraph (2) who have followed the procedures set forth in this section. The number calculated pursuant to this paragraph shall be the lesser of:

(A) the number qualified applicants, as determined by the Secretary pursuant to this paragraph; and

(B) the number calculated pursuant to paragraph (2).

(g) CONFORMING AMENDMENTS.—

(1) Section 212(d)(12)(6) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(12)(B)) is amended by striking ''201(b)(2)(A)'' and inserting ''201(b)(2)'';

(2) Section 101(a)(15)(K) of the Immigration and Nationality Act (8 .S.C. 1101(a)(15)(K)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)(2)'';

(3) Section 204(a) of the Immigration and Nationality Act (8 U.S.C. 1154(a)) is amended by striking ''201(b)(2)(A)(i)'' each place it appears and inserting ''201(b)(2)'';

(4) Section 214(r)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(r)(3)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)(2)'';

SEC. 504. CREATION OF PROCESS FOR IMMIGRATION OF FAMILY MEMBERS IN HARDSHIP CASES.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by adding a new section 203A reading:

''SEC. 203A——. IMMIGRANT VISAS FOR HARDSHIP CASES.

''(a) IN GENERAL.—Immigrant visas under this section may not exceed 5,000 per fiscal year.

''(b) DETERMINATION OF ELIGIBILITY.—The Secretary of Homeland Security may grant an immigrant visa to an applicant who satisfies the following qualifications:

''(1) FAMILY RELATIONSHIP.—Visas under this section will be given to aliens who are:

''(A) the unmarried sons or daughters of citizens of the United States;

''(B) the unmarried sons or the unmarried daughters of aliens lawfully admitted for permanent residence;

''(C) the married sons or married daughters of citizens of the United States; or

''(D) the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age,

''(2) NECESSARY HARDSHIP.—The petitioner must demonstrate to the satisfaction of the Secretary of Homeland Security that the lack of an immigrant visa under this clause would result in extreme hardship to the petitioner or the beneficiary that cannot be relieved by temporary visits as a nonimmigrant.

''(3) INELIGIBILITY TO IMMIGRATE THROUGH OTHER MEANS.—The alien described in clause (1) must be ineligible to immigrate or adjust status through other means, including but not limited to obtaining an immigrant visa filed for classification under section 201(b)(2)(A) or section 203 (a) or (b) of this Act, and obtaining cancellation of removal under section 240A(b) of this Act determination under this section that an alien is eligible to immigrate through other means does not foreclose or restrict any later determination on the question of eligibility by the Secretary of Homeland Security or the Attorney General.

''(c) PROCESSING OF APPLICATIONS.—

''(1) An alien selected for an immigrant visa pursuant to this section shall remain eligible to receive such visa only if the alien files an application for an immigrant visa or an application for adjustment of status within the fiscal year in which the visa becomes available, or at such reasonable time as the Secretary may specify after the end of the fiscal year for petitions approved in the last quarter of the fiscal year.

''(2) All petitions for an immigrant visa under this section shall automatically terminate if not granted within the fiscal year in which they were filed. The Secretary may in his discretion establish such reasonable application period or other procedures for filing petitions as he may deem necessary in order to ensure their orderly processing within the fiscal year of filing.

''(3) The secretary may reserve up to 2,500 of the immigrant visas under this section for approval in the period between March 31 and September 30 of fiscal year.

''(d) Decisions whether an alien qualifies for an immigrant visa under this section are in the unreviewable discretion of the Secretary''.

SEC. 505. ELIMINATION OF DIVERSITY VISA PROGRAM

(a) Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting ''and'' at the end of paragraph (1);

(B) by striking ''; and'' at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (e).

(b) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) in subsection (d), by striking ''(a), (b), or (c),'' and inserting ''(a) or (b),'';

(3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)'' ; and

(5) in subsection (g), by striking ''(a), (b), and (c)'' and inserting ''(a) and (b)''.

(c) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I);

(2) by redesignating subparagraphs (J), (K), and (L) of subsection (a)(l) as subparagraphs (I), (J), and (K), respectively; and

(3) in subsection (e), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''.

(d) REPEAL OF TEMPORARY REDUCTION IN VISAS FOR OTHER WORKERS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act, as amended (Public Law 105–100; U.S.C. 1153 note), is repealed.

(e) EFFECTIVE DATE.—

(1) The amendments made by this section shall take effect on October 1, 2008;

(2) No alien may receive lawful permanent resident status based an the diversity visa program on or after the effective date of this section.

(f) CONFORMING AMENDMENTS.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153 (a)) is amended by redesignating paragraphs (d), (e), (f), (g), and (h) as paragraphs (c), (d), (e), (f), and (g), respectively.

SEC. 506. FAMILY VISITOR VISAS.

(a) Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is amended to read as follows:

''(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he or she has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure. The requirement that the alien have a residence in a foreign country which the alien has no intention of abandoning shall not apply to an alien described in section 214(s) who is seeking to enter as a temporary visitor for pleasure;''.

(b) Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

''(s) Parent Visitor Visas

''(1) IN GENERAL.—The parent of United States citizen at least 21 years of age, or the spouse or child of an alien in nonimmigrant status under 101(a)(15)(Y)(i), demonstrating satisfaction of the requirements of this subsection may be granted nonimmigrant visa under section 101(a)(15)(B) as temporary visitor for pleasure.

''(2) REQUIREMENTS.—An alien seeking nonimmigrant visa under this subsection must demonstrate through presentation of such documentation as the Secretary may by regulations prescribe, that—

''(A) the alien's United States citizen son or daughter who is at least 21 years of age or the alien's spouse or parent in nonimmigrant status under l01(a)(15)(Y)(i), is sponsoring the alien's visit to the United States;

''(B) the sponsoring United States citizen, or spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), has, according to such procedures as the Secretary may by regulations prescribe, posted on behalf of the alien a bond in the amount of $1,000, which shall be forfeit if the alien overstays the authorized period of admission (except as provided in subparagraph (5)(B)) or otherwise violates the terms and conditions of his or her nonimmigrant status; and

''(C) the alien, the sponsoring United States citizen son or daughter, or the spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), possesses the ability and financial means to return the alien to his or her country of residence.

''(3) TERMS AND CONDITIONS.—An alien admitted as a visitor for pleasure under the provisions of this subsection—

''(A) may not stay in the United States for an aggregate period in excess of 30 days within any calendar year.

''(B) must, according to such procedures as the Secretary may by regulations prescribe, register with the Secretary upon departure from the United States; and

''(C) may not be issued employment authorization by the Secretary or be employed.

''(4) CERTIFICATION.—

''(A) REPORT.—No later than January 1 of each year, the Secretary of Homeland Security shall submit a written report to Congress estimating the percentage of aliens admitted to the United States during the preceding fiscal year as visitors for pleasure under the terms and conditions of this subsection who have remained in the United States beyond their authorized period of admission (except as provided in subparagraph (S)(B)). When preparing this report, the Secretary shall determine which countries, if any, have a disproportionately high rate of nationals overstaying their period of authorized admission under this subsection.

''(B) TERMINATION OF ELIGIBILITY OF NATIONALS OF CERTAIN COUNTRIES.—Except as provided in subparagraph (C), if the Secretary reports under subparagraph (A) for two consecutive fiscal years that the percentage of aliens overstaying their period of authorized admission exceeds 7 percent, the Secretary may, in his discretion, determine that no more visas under this section may be issued for those countries whose nationals have a disproportionately high rate of aliens overstaying their period of authorized admission under this subsection.

''(C) TERMINATION OF THE PROGRAM.—Notwithstanding subparagraph (B), if the Secretary reports under subparagraph (A) for two consecutive fiscal years that the percentage of aliens overstaying their period of

authorized admission under this subsection exceeds 7% and the percentage is not significantly affected by countries whose nationals have a disproportionately high rate of aliens overstaying their period of authorized admission, the Secretary may, in his discretion, determine that no more visas may be issued under this subsection as of the date of the second consecutive report described in subparagraph (A) finding an overstay rate in excess of 7%.

''(D) EFFECT ON EXISTING VISAS.—In the event the Secretary determines to that no more visas shall be issued under subparagraphs (B) or (C); all visas previously issued under this subsection and still valid on the date that the Secretary determines that no more visas should be issued shall expire on the visa's date of expiration or 12 months after the date of the determination, whichever is soonest.

''(5) PERMANENT BARS FOR OVERSTAYS.—

''(A) IN GENERAL.—Any alien admitted as visitor for pleasure under the terms and conditions of this subsection who remains in the United States beyond his or her authorized period of admission is permanently barred from any future immigration benefits under the immigration laws, except—

''(i) asylum under section 208(a);

''(ii) withholding of removal under section 241(b)(3); or

''(iii) protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(B) EXCEPTION.—Overstay of the authorized period of admission granted to aliens admitted as visitors for pleasure under the terms and conditions of this subsection may be excused in the discretion of the Secretary where it is demonstrated that:

''(i) the period of overstay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the period commensurate with the circumstance; and

''(ii) the alien has not otherwise violated his or her nonimmigrant status.

''(6) BAR ON SPONSOR OF OVERSTAY.—The United States citizen or Y–1 nonimmigrant sponsor of an alien—

''(A) admitted as visitor for pleasure under the terms and conditions of this subsection, and

''(B) who remains in the United States beyond his or her authorized period of admission, shall be permanently barred from sponsoring that alien or any other alien for admission as a visitor for pleasure under the terms and conditions of this subsection, and, in the case of a Y–1 nonimmigrant sponsor, shall have his Y–1 nonimmigrant status terminated.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed, except as provided in this subsection, to make inapplicable the requirements for admissibility and eligibility, as well as the terms and conditions of admission, as a nonimmigrant under section 101(a)(15)(B).''.

SEC. 507. PREVENTION OF VISA FRAUD.

(a) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding a paragraph at the end:

''(h) FRAUD PREVENTION.—The Secretary of Homeland Security may audit and evaluate the information furnished as part of the applications filed under subsection (a) and refer evidence of fraud to appropriate law enforcement agencies based on the audit information.''

(b) Sections 286(v)(2)(B) and (C) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(B), (C)) are amended to read as follows:

''(B) SECRETARY OF HOMELAND SECURITY.—One-third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to prevent and detect immigration benefit fraud, including but not limited to fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15).

''(C) SECRETARY OF LABOR.—One third of the amounts deposited into the Fraud Prevention and Detection Account shall remain available to the Secretary of Labor until expended for enforcement programs, and activities described in section 212(n), and for enforcement programs, and fraud detection and prevention activities not otherwise authorized under 212(n), to be conducted by the Secretary of Labor that focus on industries likely to employ nonimmigrants.''

SEC. 508. INCREASING PER-COUNTRY LIMITS FOR FAMILY-BASED AND EMPLOYMENT-BASED IMMIGRANTS.

(a) Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a) is amended by amending paragraph (2) to read as follows:

''(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND MERIT-BASED IMMIGRANTS.—Subject to paragraphs (3), (4), (5), (6), and (7), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsections (a) and (b) of section 203 in any fiscal year may not exceed 10 percent (in the case of a single foreign state) or 3 percent (in the case of dependent area) of the total number of such visas made available under such subsections in that fiscal year;

(b) Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a) is amended by adding at the end the following:

''(6) RULES FOR CERTAIN FAMILY-BASED PETITION FILED BEFORE MAY 1, 2005.—In the event that the per country levels in paragraph (2) prevent the use of otherwise available visas described in section 201(c)(1)(B), then the per country level will not apply for such visas.

''(7) EXCEPTION FOR Z NONIMMIGRANTS.—Paragraph (2) shall not apply to aliens who are nonimmigrants described in section 101(a)(15)(Z) of this Act who are eligible to seek lawful permanent resident status based on a petition for classification under section 203(b)(1) of this Act.''.

TITLE VI—NONIMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS

SEC. 601.

(a) IN GENERAL.—Notwithstanding any other provision of law, (including section 244(h) of the Immigration and Nationality Act (hereinafter ''the Act'') (8 U.S.C. 1254a(h)), the Secretary may permit an alien, or dependent of such alien, described in this section, to remain lawfully in the United States under the conditions set forth in this Title.

(b) DEFINITION OF NONIMMIGRANTS.—Section 101(a)(15) of the Act (8 U.S.C. 1101(a)(15)) is amended by inserting at the end the following new subparagraph—

''(Z) subject to Title VI of the [Insert title of Act], an alien who—

''(i) is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, is employed, and seeks to continue performing labor, services or education; or

''(ii) is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, and

''(I) is the spouse or parent (65 years of age or older) of an alien described in (i); or

''(II) was within two years of the date on which [NAME OF THIS ACT] was introduced, the spouse of an allen who was subsequently classified as a Z nonimmigrant under this section, or is eligible for such classification, if—

''(aa) the termination of the relationship with such spouse was connected to domestic violence; and

''(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent who is a Z nonimmigrant.

''(iii) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph, is physically present in the United States, has maintained continuous physical presence in the United States since January 1, 2007, and was born to or legally adopted by at least one parent who is at the time of application described in (i) or (ii).''.

(c) PRESENCE IN THE UNITED STATES.—

(1) IN GENERAL—The alien shall establish that the alien was not present in lawful status in the United States on January 1, 2007, under any classification described in section 101(a)(15) of the Act (8 U.S.C. 1101(a)(15) or any other immlgration status made available under a treaty or other multinational agreement that has been ratified by the Senate.

(2) CONTINUOUS PRESENCE.—For purposes of this section, an absence from the United States without authorization for a continuous period of 90 days or more than 180 days in the aggregate shall constitute a break in continuous physical presence.

(d) OTHER CRITERIA.—

(1) GROUNDS OF INELIGIBILITY.—An alien is ineligible for Z nonimmigrant status if the Secretary determines that the alien—

(A)(1) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)}, except as provided in paragraph (2);

(2) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien.

(B) is subject to the execution of an outstanding administratively final order of removal, deportation, or exclusion;

(C) is described in or is subject to section 241(61)(5) of the Act;

(D) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(E) is an alien—

(i) for whom there are reasonable grounds for believing that the alien has committed a serious criminal offense as described in section 101(h) of the Act outside the United States before arrivlng in the. United States; or

(ii) for whom there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

(F) has been convicted of—

(i) a felony;

(ii) an aggravated felony as defined at section 101(a)(43) of the Act;

(iii) 3 or more misdemeanors under Federal or State law; or

(iv) a serious criminal offense as descried in section 101(h) of the Act;

(G) has entered or attempted to enter the United States illegally on or after January 1, 2007; and

(H) with respect to an applicant for Z–2 or Z–3 nonimmigrant status, a Z–2 nonimmigrant, or a Z–3 nonimmigrant who is under 18 years of age, the alien is ineligible for nonimmigrant status if the principal Z–1 nonimmigrant Z–1 nonimmigrant status applicant is ineligible.

(I) The Secretary may in his discretion waive ineligibility under subparagraph (B) or (C) if the alien has not been physically removed from the United States and if the alien demonstrates that his departure from

the United States would result in extreme hardship to the alien or the alien's spouse, parent or child.

(2) GROUNDS OF INADMISSIBILITY—

(A) IN GENERAL.—In determining an alien's admissibility under paragraph (1)(A)—

(i) paragraphs (6)(A)(i) (with respect to an alien present in the United States without being admitted or paroled before the date of application, but not with respect to an alien who has arrived in the United States on or after January 1, 2007), (6)(B), (6)(C)(i), (6)(C)(II), (6)(D), (6)(F), (6)(G), (7), (9)(B), (9)(C)(i)(I), and (10)(B) of section 212(a) of the Act shall not apply, but only with respect to conduct occurring or arising before the date of application;

(ii) the Secretary may not waive—

(I) subparagraph (A), (B), (C), (D)(ii), (E), (F), (G), (H), or (I) of section 212(a)(2) of the Act (relating to criminals);

(II) section 212(a)(3) of the Act (relating to security and related grounds);

(III) with respect to an application for Z nonimmigrant status, section 212(a)(6)(i) of the Act;

(IV) paragraph (6)(A)(i) of section 212(a) of the Act (with respect to any entries occurring on or after January 1, 2007);

(V) section 212(a)(9)(C)(i)(II);

(VI) subparagraph (A), (C), or (D) of section 212(a)(10) of the Act (relating to polygamists, child abductors, and unlawful voters);

(iii) the Secretary may in his discretion waive the application of any provision of section 212(a) of the Act not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest; and

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this paragraph to waive the provisions of section 212(a) of the Act.

(e) ELIGIBILITY REQUIREMENTS.—To be eligible for Z nonimmigrant status an alien shall meet the following and any other applicable requirements set forth in this section:

(1) ELIGIBILITY.—The alien must not fall within a class of aliens ineligible for Z nonimmigrant status listed under subsection (d)(1).

(2) ADMISSIBILITY.—The alien must not be inadmissible as a nonimmigrant to the United States under section 212, except as provided in subsection (d)(2), regardless of whether the alien has previously been admitted to the United States.

(3) PRESENCE.—To be eligible for Z–1 or Z–2 nonimmigrant status, or for nonimmigrant status under section 101(a)(15)(Z)(iii)(I), the alien must—

(A) have been physically present in the United States before January 1, 2007, and have maintained continuous physical presence in the United States since that date;

(B) be physically present in the United States on the date of application for Z nonimmigrant status; and

(C) be on January 1, 2007, and on the date of application for Z nonimmigrant status, not present in lawful status in the United States under any classification described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) or any other immigration status made available under a treaty or other multinational agreement that has been ratified by the Senate.

(4) EMPLOYMENT.—An alien seeking Z–1 nonimmigrant status must be employed in the United States on the date of filing of the application for Z–l nonimmigrant status.

(6) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(I) An alien making an initial application for Z nonimmigrant status shall be required to pay a processing fee in an amount sufficient to recover the full cost of adjudicating the application; but no more than $1,500 for single Z nonimmigrant.

(ii) An alien applying for extension of his Z nonimmigrant status shall be required to pay a processing fee in an amount sufficient to cover administrative and other expenses associated with processing the extension application; but no more than $1,500 for a single Z nonimmigrant.

(B) PENALTIES.—

(i) An alien making an initial application for Z–1 nonimmigrant status shall be required to pay, in addition to the processing fee in subparagraph (A), a penalty of $1,000.

(ii) A Z–1 nonimmigrant making an initial application for Z–1 nonimmigrant status shall be required to pay a $500 penalty for each alien seeking Z–2 or Z–3 nonimmigrant status derivative to the 2–1 applicant.

(iii) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–l nonimmigrant, and who changes status to that of a Z–l nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–l nonimmigrants.

(C) STATE IMPACT ASSISTANCE FEE.—In addition to any other amounts required to be paid under this subsection, a Z–1 nonimmigrant making an initial application for Z–1 nonimmigrant status shall be required to pay a State impact assistance fee equal to $500.

(D) DEPOSIT AND SPENDING OF FEES.—The processing fees under subparagraph (A) shall be deposited and remain available until expended as provided by sections 286(m) and (n).

(E) DEPOSIT, ALLOCATION, AND SPENDING OF PENALTIES.—

(i) DEPOSIT OF PENALTIES.—The penalty under subparagraph (B) shall be deposited and remain available as provided by section 286(w).

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The funds under subparagraph (C) shall be deposited and remain available as provided by section 286(x).

(7) INTERVIEW.—An applicant for Z nonimmigrant status must appear to be interviewed.

(8) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) that such alien has registered under that Act.

(f) APPLICATION PROCEDURES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall prescribe by notice in the Federal Register, in accordance with the procedures described in section 610 of the [NAME OF THIS ACT], the procedures for an alien in the United States to apply for Z nonimmigrant status and the evidence required to demonstrate eligibility for such status.

(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security, or such other entities as are authorized by the Secretary to accept applications under the procedures established under this subsection, shall accept applications from aliens for nonimmigrant status for a period of one year starting the first day of the first month beginning no more than 180 days after the date of enactment of this section. If, during the one-year initial period for the receipt of applications for Z nonimmigrant status, the Secretary of Homeland Security determines that additional time is required to register applicants for Z nonimmigrant status, the Secretary may in his discretion extend the period for accepting applications by up to 12 months.

(3) BIOMETRIC DATA.—Each alien applying for Z nonimmigrant status must submit biometric data in accordance with procedures established by the Secretary of Homeland Security.

(g) CONTENT OF APPLICATION FILED BY ALIEN.—

(1) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Z nonimmigrant status.

(2) APPLICATION INFORMATION.—

(A) IN GENERAL.—The application form shall request such information as the Secretary deems necessary and appropriate, including but not limited to, information concerning the alien's physical and mental health; complete criminal history, including all arrests and dispositions; gang membership, renunciation of gang affiliation; immigration history; employment history; and claims to United States citizenship.

(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

(A) SUBMISSION OF FINGERPRINTS.—The Secretary may not accord Z nonimmigrant status unless the alien submits fingerprints and other biometric data in accordance with procedures established by the Secretary.

(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints and other biometric data provided by the alien to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under this section.

(h) TREATMENT OF APPLICANTS.—

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status shall, upon submission of any evidence required under paragraphs (f) and (g) and after the Secretary has conducted appropriate background checks, to include name and fingerprint checks, that have not by the end of the next business day produced information rendering the applicant ineligible—

(A) be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

(B) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

(C) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z nonimmigrant status; and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY BENEFITS.—No probationary benefits shall be issued to an alien until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner.

(3) CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under paragraph (4).

(4) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien described in paragraph (1) with a counterfeit-resistant document that reflects the benefits and status set forth in paragraph (h)(1). The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed. All documentary evidence of probationary benefits shall expire no later than six months after the date on which the Secretary begins

to approve applications for Z nonimmigrant status.

(5) BEFORE APPLICATION PERIOD.—If an alien is apprehended between the date of enactment and the date on which the period for initial registration closes under subsection (f)(2), and the alien can establish prima facie eligibility for Z nonimmigrant status, the Secretary shall provide the alien with a reasonable opportunity to file an application under this section after such regulations are promulgated.

(6) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Act, if the Secretary determines that an alien who is in removal proceedings is prima facie eligible for Z nonimmigrant status, then the Secretary shall affirmatively communicate such determination to the immigration judge. The immigration judge shall then terminate or administratively close such proceedings and permit the alien a reasonable opportunity to apply for such classification.

(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of documentation of status, as described in subsection (j), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

(2) EVIDENCE OF CONTINUOUS PHYSICAL PRESENCE, EMPLOYMENT, OR EDUCATION.—

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under Section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall—

(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of

(I) presence or employment required under this section, or

(II) a requirement for any other benefit under the immigration laws.

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (i) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

(i) bank records;

(ii) business records;

(iii) employer records;

(iv) records of a labor union or day labor center;

(v) remittance records;

(vi) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(aa) the name, address, and telephone number of the affiant;

(bb) the nature and duration of the relationship between the affiant and the alien; and

(cc) other verification or information.

(D) ADDITIONAL DOCUMENTS.—The Secretary may—

(i) designate additional documents to evidence the required period of presence, employment, or study; and

(ii) set such terms and conditions on the use of affidavits as is necessary to verify and confirm the identity of any affiant or otherwise prevent fraudulent submissions.

(3) BURDEN OF PROOF.—An alien who is applying for a Z nonimmigrant visa under this section shall prove, by a preponderance of the evidence, that the alien has satisfied the requirements of this section.

(4) DENIAL OF APPLICATION.—

(i) An alien who fails to satisfy the eligibility requirements for a Z nonimmigrant visa shall have his application denied and may not file additional applications.

(ii) An alien who fails to submit requested initial evidence, including requested biometric data, and requested additional evidence by the date required by the Secretary shall, except where the alien demonstrates to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful, have his application considered abandoned. Such application shall be denied and the alien may not file additional applications.

(j) EVIDENCE OF NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Documentary evidence of nonimmigrant status shall be issued to each Z nonimmigrant.

(2) FEATURES OF DOCUMENTATION.—Documentary evidence of Z nonimmigrant status:

(A) shall be machine-readable, tamper-resistant, and shall contain digitized photograph and other biometric identifiers that can be authenticated;

(B) shall be designed in consultation with U.S. Immigration and Customs Enforcement's Forensic Document Laboratory;

(C) shall, during the alien's authorized period of admission under subsection (k), serve as valid travel and entry document for the purpose of applying for admission to the United States where the alien is applying for admission at a Port of Entry.

(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

(E) shall be issued to the nonimmigrant by the Secretory of Homeland Security promptly after final adjudication of such aliens application for Z nonimmigrant status, except that an alien may not be granted permanent Z nonimmigrant status until all appropriate background checks on the alien are completed to the satisfaction of the Secretary of Homeland Security.

(k) PERIOD OF AUTHORIZED ADMISSION.—

(1) INITIAL PERIOD.—The initial period of authorized admission as a Z nonimmigrant shall be four years.

(2) EXTENSIONS.—

(A) IN GENERAL.—Z nonimmigrant may seek an indefinite number of four-year extensions of the initial period of authorized admission.

(B) REQUIREMENTS.—In order to be eligible for an extension of the initial or any subsequent period of authorized admission under this paragraph, an alien must satisfy the following requirements:

(i) ELIGIBILITY.—The alien must demonstrate continuing eligibility for nonimmigrant status;

(ii) ENGLISH LANGUAGE AND CIVICS.—

''(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in sections 312(a)(1) and (2) by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass the naturalization test described in sections 312(a)(1) and (2). The alien may make up to three attempts to demonstrate such understanding and knowledge but must satisfy this requirement prior to the expiration of the second extension of Z nonimmigrant status.

(III) EXCEPTION.—The requirement of subclauses (1) and (II) shall not apply to any parson who, on the date of the filing of the person's application for an extension of nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to comply therewith;

(bb) is over fifty years of age and has been living the United States for periods totaling at least twenty years, or

(cc) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years.

(iii) EMPLOYMENT.—With respect to an extension of Z–1 or Z–3 nonimmigrant status an alien must demonstrate satisfaction of the employment or study requirements provided in subsection (m) during the alien's most recent authorized period of stay as of the date of application; and

(iv) FEES.—The alien must pay processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,500 for a single Z nonimmigrant.

(C) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien applying for extension of Z nonimmigrant status may be required to submit to a renewed security and law enforcement background check that must be completed to the satisfaction of the Secretary of Homeland Security before such extension may be granted.

(D) TIMELY FILING AND MAINTENANCE OF STATUS.

(i) IN GENERAL.—An extension of stay under this paragraph, or a change of status to another nonimmigrant status under subsection (I), may not be approved for an applicant who failed to maintain Z nonimmigrant status or where such status expired or terminated before the application was filed.

(ii) EXCEPTION.—Failure to file before the period of previously authorized status expired or terminated may be excused in the discretion of the Secretary and without separate application, with any extension granted from the date the previously authorized stay expired, where it is demonstrated at the time of filing that:

(I) the delay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the delay commensurate with the circumstances; and

(II) the alien has not otherwise violated his Z nonimmigrant status.

(iii) EXEMPTIONS FROM PENALTY AND EMPLOYMENT REQUIREMENTS.—An alien demonstrating extraordinary circumstances under clause (ii), including the spouse of a Z-1 nonimmigrant who has been battered or has been the subject of extreme cruelty perpetrated by the Z-1 nonimmigrant, and who is changing to Z-1 nonimmigrant status, may be exempted by the Secretary, in his discretion, from—

(I) the requirements under subsection (m) for period of up to 180 days; and

(II) the penalty provisions of section (e)(6)(B)(iii), except that the alien must pay the penalty under section (e)(6)(B) at the time of application for the alien's first subsequent extension of Z–1 nonimmigrant status.

(E) BARS TO EXTENSION.—Except as provided in subparagraph (D), a Z nonimmigrant shall not be eligible to extend such nonimmigrant status if:

(i) the alien has violated any term or condition of his or her Z nonimmigrant status, including but not limited to failing to comply with the change of address reporting requirements under section 265;

(ii) the period of authorized admission of the Z nonimmigrant has been terminated for any reason; or

(iii) with respect to a Z–2 or Z–3 nonimmigrant, the principal allen's Z–1 nonimmigrant status has been terminated.

(l) CHANGE OF STATUS.—

(1) CHANGE FROM NONIMMIGRANT STATUS.—

(A) IN GENERAL.—A Z nonimmigrant may not change status under section 248 to another nonimmigrant status, except another Z nonimmigrant status or status under subparagraph (U) of section 101(a)(15).

(B) CHANGE FROM Z–A STATUS.— A Z–A nonimmigrant may change status to Z nonimmigrant status at the time of renewal referenced in section 214A(j)(1)(C) of the Immigration and Nationality Act.

(C) LIMIT ON CHANGES.—A Z nonimmigrant may not change status more than one time per 365-day period. The Secretary may, in his discretion, waive the application of this subparagraph to an alien if it is established to the satisfaction of the Secretary that application of this subparagraph would result in extreme hardship to the alien.

(2) NO CHANGE TO Z NONIMMIGRANT STATUS.—A nonimmigrant under the immigration laws may not change status under section 248 to Z nonimmigrant status.

(m) EMPLOYMENT.—

(1) Z–L AND Z–3 NONIMMIGRANTS.—

(A) IN GENERAL.—Z–l and Z–3 nonimmigrants shall be authorized to work in the United States.

(B) CONTINUOUS EMPLOYMENT REQUIREMENT.—All requirements that an alien be employed or seeking employment for purposes of this Title shall not apply to an alien who is under 16 years or over 65 years of age. A Z–l or Z–3 nonimmigrant between 16 and 65 years of age must remain continuously employed full time in the United States as a condition of such nonimmigrant status, except where—

(i) the alien is pursuing full course of study at an established college, university, seminary, conservatory, trade school, academic high school, elementary school, or other academic institution or language training program;

(ii) the alien is employed while also engaged in study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or language training program;

(iii) the alien cannot demonstrate employment because of a physical or mental disability (as defined under section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)) or as a result of pregnancy if such condition is evidenced by the submission of documentation prescribed by the Secretary; or

(iv) the alien's ability to work has been temporarily interrupted by an event that the Secretary has determined to be a force majeure interruption.

(2) Z–2 Nonimmigrants.—Z–2 nonimmigrants shall be authorized to work in the United States.

(3) PORTABILITY.—Nothing in this subsection shall be construed to limit the ability of a Z nonimmigrant to change employers during the alien's period of authorized admission.

(n) TRAVEL OUTSIDE THE UNITED STATES.—

(1) IN GENERAL—AZ NONIMMIGRANT.—

(A) may travel outside of the United States; and

(B) may be readmitted (if otherwise admissible) without having to obtain a visa if:

(i) the alien's most recent period of authorized admission has not expired;

(ii) the alien is the bearer of valid documentary evidence of Z nonimmigrant status that satisfies the conditions set forth in section (j); and

(iii) the alien is not subject to the bars on extension described in subsection (k)(2)(E).

(2) ADMISSIBILITY—On seeking readmission to the United States after travel outside the United States an alien granted Z nonimmigrant status must establish that he or she is not inadmissible, except as provided by subsection (d)(2).

(3) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under paragraph (1) shall not extend the most recent period of authorized admission in the United States under subsection (k).

(o) TERMINATION OF BENEFITS.—

(1) IN GENERAL.—Any benefit provided to a Z nonimmigrant or an applicant for Z nonimmigrant status under this section shall terminate if—

(A) the Secretary determines that the alien is ineligible for such classification and all review procedures under section 603 of the [Insert title of Act] have been exhausted or waived by the alien;

(B)(i) the alien is found removable from the United States under section 237 of the Immigration and Nationality Act (8 U.S.C. 1227);

(ii) the alien becomes inadmissible under section 212 (except as provided in subsection (d)(2), or

(iii) the alien becomes ineligible under subsection (d)(l);

(C) the alien has used documentation issued under this section for unlawful or fraudulent purposes;

(D) in the case of the spouse or child of an alien applying for a Z nonimmigrant visa or classified as a Z nonimmigrant under this section, the benefits for the principal alien are terminated;

(E) with respect to a Z–l or Z–3 nonimmigrant, the employment or study requirements under subsection (m) have been violated; or

(F) with respect to probationary benefits, the alien's application for Z nonimmigrant status is denied.

(2) DENIAL OF IMMIGRANT VISA OR ADJUSTMENT APPLICATION.—Any application for an immigrant visa or adjustment of status to lawful permanent resident status made under this section by an alien whose Z nonimmigrant status is terminated under paragraph (1) shall be denied.

(3) DEPARTURE FROM THE UNITED STATES.—Any alien whose period of authorized admission or probationary benefits is terminated under paragraph (1), as well as the alien's Z–2 or Z–3 nonimmigrant dependents, shall depart the United States immediately.

(4) INVALIDATION OF DOCUMENTATION.—Any documentation that is issued by the Secretary of Homeland Security under subsection (j) or pursuant to subsection (h)(4) to any alien, whose period of authorized admission terminates under paragraph (1), shall automatically be rendered invalid for any purpose except departure.

(p) REVOCATION.—If, at any time after an alien has obtained status under section 601 of the [Insert title of Act] but not yet adjusted such status to that of an alien lawfully admitted for permanent residence under section 602, the Secretary may, for good and sufficient cause, if it appears that the alien was not in fact eligible for status under section 601, revoke the alien's status following appropriate notice to the alien.

(q) DISSEMINATION OF INFORMATION ON Z PROGRAM.—During the 2 year period immediately after the issuance of regulations implementing this title, the Secretary, in cooperation with entities approved by the Secretary, shall broadly disseminate information respecting Z classification under this section and the requirements to be satisfied to obtain such classification. The Secretary shall disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in no fewer than the top five principal languages, as determined by the Secretary in his discretion, spoken by aliens who would qualify for classification under this section, including to television, radio, and print media to which such aliens would have access.

(r) DEFINITIONS.—In this title and section 214A of the Immigration and Nationality Act:

(1)Z NONIMMIGRANT; Z NONIMMIGRANT WORKER.—The term 'Z nonimmigrant worker' means an alien admitted to the United States under paragraph (Z) of subsection 101(a)(15). The term does not include aliens granted probationary benefits under subsection (h) and whose applications for nonimmigrant status under section 101(a)(15)(Z) of the Act have not yet been adjudicated.

(2) Z–1 NONIMMIGRANT; Z–1 WORKER.—The term 'Z–1 nonimmigrant' or 'Z–1 worker' means an alien admitted to the United States under paragraph (i)(I) of subsection 10 1(a)(15)(Z).

(3) Z–A NONIMMIGRANT; Z–A WORKER.—The term 'Z–A nonimmigrant' or 'Z–A worker' means an alien admitted to the United States under paragraph (ii)(II) of subsection 101(a)(15)(Z).

(4) Z–2 NONIMMIGRANT.—The term 'Z–2 nonimmigrant' means an alien admitted to the United States under paragraph (ii) of subsection 101(a)(15)(Z).

(5) Z–3 NONIMMIGRANT; Z–3 WORKER.—The term 'Z–3 nonimmigrant' or 'Z–3 worker' means an alien admitted to the United States under paragraph (iii) of subsection 101(a)(15)(z).

SEC. 602. EARNED ADJUSTMENT FOR Z STATUS ALIENS.

(a) LAWFUL PERMANENT RESIDENCE.—

(1) Z–1 NONIMMIGRANTS.—

(A) PROHIBITION ON IMMIGRANT VISA.—A Z–1 nonimmigrant may not be issued an immigrant visa pursuant to sections 221 and 222.

(B) ADJUSTMENT.—Notwithstanding sections 245(a) and (c), the status of any Z–1 nonimmigrant may be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence.

(C) REQUIREMENTS.—A Z–1 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, including the merit requirements set forth in section 203(b)(1)(A)[INSERT CITE], the following requirements:

(i) STATUS.—The alien must be in valid Z–1 nonimmigrant status;

(ii) CONSULAR APPLICATION.—

(I) IN GENERAL.—A Z–1 nonimmigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence must be filed in person with a United States consulate abroad.

(II) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, a Z–1 nonimmigrant applying for adjustment of status under this paragraph shall make an application at a consular office in the alien's country of origin. A consular office in a country that is not Z–1 nonimmigrant's

country of origin may as a matter of discretion, or shall at the direction of the Secretary of State, accept an application for adjustment of status from such an alien.

(iii) APPROVED PETITION.—The alien must be the beneficiary of an approved petition under section 204 of the Act or have an approved petition that was filed pursuant to the evaluation system under section 203(b)(1)(A) of the Act;

(iv) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(v) FEES AND PENALTIES.—In addition to the fees payable to the Secretary of Homeland Security and Secretary of State in connection with the filing of an immigrant petition and application for adjustment of status, a Z–1 head of household must pay a $4,000 penalty at the time of submission of any immigrant petition on his behalf, regardless of whether the alien submits such petition on his own behalf or the alien is the beneficiary of an immigrant petition filed by another party; and

(D) EXEMPTIONS.—Section 602(a)(1)(c)(ii) shall not apply to an alien who, on the date on which the application for adjustment of status is filed under this section, is exempted from the employment requirements under subsection (m)(l)(B)(iii).

(E) FAILURE TO ESTABLISH LAWFUL ADMISSION TO THE UNITED STATES.—Unless exempted under subparagraph (D), a Z immigrant who fails to depart and reenter the United States in accordance with paragraph (1) may not become a lawful permanent resident under this section.

(2) Z–2 AND Z–3 NONIMMIGRANTS.—

(A) RESTRICTION ON VISA ISSUANCE OR ADJUSTMENT.—An application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence of a Z–2 nonimmigrant or a Z–3 nonimmigrant under 18 years of age may not be approved before the adjustment of status of the alien's principal Z–1 nonimmigrant.

(B) ADJUSTMENT OF STATUS.—

(i) ADJUSTMENT.—Notwithstanding sections 245(a) and (c), the status of any Z–2 or Z–3 nonimmigrant may be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence.

(ii) REQUIREMENTS.—A Z–2 or Z–3 nonimmigrant may adjust status to that of an alien lawfully admitted for permanent residence upon satisfying, in addition to all other requirements imposed by law, the following requirements:

(I) STATUS.—The alien must be in valid Z–2 or Z–3 nonimmigrant status;

(II) APPROVED PETITION.—The alien must be the beneficiary of an approved petition under section 204 of the Act or have an approved petition that was filed pursuant to the merit-based evaluation system under section 203(b)(1)(A) of the Act;

(III) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(IV) FEES.—The alien must pay the fees payable to the Secretary of Homeland Security and Secretary of State in connection with the filing of an immigrant petition and application for an immigrant visa; and

(3) MAINTENANCE OF WAIVERS OF INADMISSIBILITY.—The grounds of inadmissibility not applicable under section (d)(2) shall also be considered inapplicable for purposes of admission as an immigrant or adjustment pursuant to this subsection.

(4) APPLICATION OF OTHER LAW.—In processing applications under this subsection on behalf of aliens who have been battered or subjected to extreme cruelty, the Secretary shall apply—

(A) the provisions under section 204(a)(1)(J) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(J)); and

(B) the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

(5) BACK OF THE LINE.—An alien may not adjust status to that of a lawful permanent resident under this section until 30 days after an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 of the Act that were filed before May 1, 2005.

(6) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted under this section shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

(7) MEDICAL EXAMINATION.—An applicant for earned adjustment shall undergo an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

(8) PAYMENT OF INCOME TAXES.—

(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the applicant shall satisfy any applicable Federal tax Liability accrued during the period of status by establishing that—

(i) no such tax liability exists;

(ii) all outstanding liabilities have been paid; or

(iii) the applicant has entered into, and is in compliance with, an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(B) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to—

(i) the applicant, upon request, to establish the payment of all taxes required under this subsection; or

(ii) the Secretary, upon request, regarding the payment of Federal taxes by an alien applying for benefit under this section.

(9) DEPOSIT OF FEES.—Fees collected under this paragraph shall be deposited into the Immigration Examination Fee Account and shall remain available as provided under subsections (m) and (n) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

(10) DEPOSIT OF PENALTIES.—Penalties collected under this paragraph shall be deposited into the Temporary Worker Program Account and shall remain available as provided under section 286(w) of the Immigration and Nationality Act.

SEC. 603. ADMINISTRATIVE REVIEW, REMOVAL PROCEEDINGS, AND JUDICIAL REVIEW FOR ALIENS WHO HAVE APPLIED FOR LEGAL STATUS.

(a) ADMINISTRATIVE REVIEW FOR ALIENS WHO HAVE APPLIED FOR STATUS UNDER THIS TITLE.—

(1) EXCLUSIVE REVIEW.—Administrative review of a determination respecting nonimmigrant status under this title shall be conducted solely in accordance with this subsection.

(2) ADMINISTRATIVE APPELLATE REVIEW.—Except as provided in subparagraph (b)(2), an alien whose status under this title has been denied, terminated, or revoked may file not more than one appeal of the denial, termination, or rescission with the Secretary not later than 30 calendar days after the date of the decision or mailing thereof, whichever occurs later in time. The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of a denial, termination, or rescission of status under [this Act].

(3) 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 newly discovered or previously unavailable evidence as the administrative appellate review authority may decide to consider at the time of the determination.

(4) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the administrative appellate review process the alien may file not more than one motion to reopen or to reconsider. The Secretary's decision whether to consider any such motion is committed to the Secretary's discretion.

(b) REMOVAL OF ALIENS WHO HAVE BEEN DENIED STATUS UNDER THIS TITLE.—

(1) SELF-INITIATED REMOVAL.—Any alien who receives a denial under subsection (a) may request, not later than 30 calendar days after the date of the denial or the mailing thereof, whichever occurs later in time, that the Secretary place the alien in removal proceedings. The Secretary shall place the alien in removal proceedings to which the alien would otherwise be subject, unless the alien is subject to an administratively final order of removal, provided that no court shall have jurisdiction to review the timing of the Secretary's initiation of such proceedings. If the alien is subject to an administratively final order of removal, the alien may seek review of the denial under this section pursuant to subsection 242(h) as though the order of removal had been entered on the date of the denial, provided that the court shall not review the order of removal except as otherwise provided by law.

(2) ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

(i) AGGRAVATED FELONS.—Notwithstanding any other provision of this Act, an alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clause (1)(F)(ii) of subsection 601(d) of [this Act] because the alien has been convicted of an aggravated felony, as defined in paragraph 101(a)(43) of the INA, may be placed forthwith in proceedings pursuant to section 238(b) of the INA.

(ii) OTHER CRIMINALS.—Notwithstanding any other provision of this Act, any other alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clauses (1)(F)(i), (iii), or (iv) of subsection [CITE: 601(d)] of [this Act] may be placed forthwith in removal proceedings under section 240 of the INA.

(iii) FINAL DENIAL, TERMINATION OR RESCISSION.—The Secretary's denial, termination, or rescission of the status of any alien described in clauses (i) and (ii) of this subparagraph shall be final for purposes of subparagraph 242(h)(3)(C) of the INA and shall represent the exhaustion of all review procedures for purposes of subsections 601(h) (relating to treatment of applicants) and 601(o) (relating to termination of proceedings) of this Act, notwithstanding paragraph (a)(2) of this section.

(3) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the removal process under this subsection the alien may file not more than one motion to reopen or to reconsider. The Secretary's or Attorney General's decision whether to consider any such motion is committed to the Attorney General's discretion.

(c) JUDICIAL REVIEW.—Section 242 of the Immigration and Nationality Act is amended by adding at the end the following subsection (h):

''(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINATIONS RELATING TO STATUS UNDER TITLE VI OF [THIS ACT].

''(1) EXCLUSIVE REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, and except as provided in this subsection, no court shall have jurisdiction to review a determination respecting an application for status under title VI of [this Act], including, without limitation, denial, termination, or rescission of such status.

''(2) NO REVIEW FOR LATE FILINGS.—An alien may not file an application for status under title VI of [this Act] beyond the period for receipt of such applications established by subsection 601(f) thereof. The denial of any application filed beyond the expiration of the period established by that subsection shall not be subject to judicial review or remedy.

''(3) REVIEW OF A DENIAL, TERMINATION, OR RESCISSION OF STATUS UNDER TITLE VI OF [THIS ACT].—A denial, termination, or rescission of status under subsection 601 of [this Act] may be reviewed only in conjunction with the judicial review of an order of removal under this section, provided that:

''(A) the venue provision set forth in (b)(2) shall govern;

''(B) the deadline for filing the petition for review in (b)(l) shall control;

''(C) the alien has exhausted all administrative remedies available to the alien as of right, including but not limited to the timely filing of an administrative appeal pursuant to subsection 603(a) of [this Act];

''(D) the court shall decide a challenge to the denial of status only on the administrative record on which the Secretary's denial, termination, or rescission was based;

''(E) LIMITATION ON REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court reviewing denial, termination, or rescission of status under Title VI of [this Act] may review any discretionary decision or action of the Secretary regarding any application for or termination or rescission of such status; and

''(F) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—The alien may file not more than one motion to reopen or to reconsider in proceedings brought under this section.

''(4) STANDARD FOR JUDICIAL REVIEW.—Judicial review of the Secretary's denial, termination, or rescission of status under title VI of [this Act] relating to any alien shall be based solely upon the administrative record before the Secretary when he enters final denial, termination, or rescission. The administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. The legal determinations are conclusive unless manifestly contrary to law.

''(5) CHALLENGES ON VALIDITY OF THE SYSTEM.—

''(A) IN GENERAL.—Any claim that title VI of [this Act], or any regulation, written policy, or written directive issued or unwritten policy or practice initiated by or under the authority of the Secretary of Homeland Security to implement that title, violates the Constitution of the United States or is otherwise in violation of law is available exclusively in an action instituted in the United States District Court for the District of Columbia in accordance with the procedures prescribed in this paragraph. Nothing in this subparagraph shall preclude an applicant for status under title VI of [this Act] from asserting that an action taken or decision made by the Secretary with respect to his status under that title was contrary to law in proceeding under section 603 of [this Act] and paragraph (b)(2) of this section.

''(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph,

''(i) must, if it asserts a claim that title VI of [this Act] or any regulation, written policy, or written directive issued by or under the authority of the Secretary to implement that title violates the Constitution or is otherwise unlawful, be filed no later than one year after the date of the publication or promulgation of the challenged regulation, policy or directive or, in cases challenging the validity of the Act, within one year of enactment; and

''(ii) must, if it asserts a claim that an unwritten policy or practice initiated by or under the authority of the Secretary violates the Constitution or is otherwise unlawful, be filed no later than one year after the plaintiff knew or reasonably should have known of the unwritten policy or practice.

''(C) CLASS ACTIONS.—Any claim described in subparagraph (A) that is brought as a class action shall be brought in conformity with Public Law 109–2 and the Federal Rules of Civil Procedure.

''(D) PRECLUSIVE EFFECT.—The final disposition of any claim brought under subparagraph (5)(A) shall be preclusive of any such claim asserted in a subsequent proceeding under this subsection or under subsection 603 [of this Act].

''(E) EXHAUSTION AND STAY OF PROCEEDINGS.—No claim brought under this paragraph shall require the plaintiff to exhaust administrative remedies under subsection 603 of [this Act], but nothing shall prevent the court from staying proceedings under this paragraph to permit the Secretary to evaluate an allegation of an unwritten policy or practice or to take corrective action. In issuing such a stay, the court shall take into account any harm the stay may cause to the claimant. The court shall have no authority to stay proceedings initiated under any other section of the INA.''.

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer, employee or contractor of such agency or bureau, may—

(1) use the information furnished by an applicant under section 601[and 602] of the [—] or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, any subsequent application to extend such status under section 601 of such Act, or to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act;

(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) EXCEPTIONS TO CONFIDENTIALITY.—

(1) Subsection (a) shall not apply with respect to—

(A) an alien whose application has been denied, terminated or revoked based on the Secretary's finding that the alien—

(i) is inadmissible under sections 212(a)(2), (3), (6)(C)(i) (with respect to information furnished by an applicant under section 601 or 602 of the [—]), or (6)(E) of the Act;

(ii) is deportable under sections 237(a)(1)(E), (l)(G), (2), or (4) of the Act;

(iii) was physically removed and is subject to reinstatement pursuant to section 241(a)(5).

(B) an alien whose application for Z nonimmigrant status has been denied, terminated, or revoked under section 601(d)(1)(F);

(C) an alien whom the Secretary determines has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in particular social group, or political opinion;

(D) an alien whom the Secretary determines has, in connection with his application under sections 601 or 602, engaged in fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document;

(E) an alien who has knowingly and voluntarily waived in writing the confidentiality provisions in subsection (a); or

(F) an order from a court of competent jurisdiction.

(2) Nothing in this subsection shall require the Secretary to commence removal proceedings against an alien whose application has been denied, terminated, or revoked based on the Secretary's finding that the alien is inadmissible or deportable.

(c) AUTHORIZED DISCLOSURES.—Information furnished on or derived from an application described in subsection (a) may be disclosed to—

(1) a law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate information furnished as part of any application filed under sections 601 and 602, of [—], any application to extend such status under section 601(k) of such Act, or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602 of [—], then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the application for status pursuant to sections 601 or 602 to make a determination on any petition or application.

(g) PENALTIES.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections 601 or 602, 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.

SEC. 605. EMPLOYER PROTECTIONS.

(a) Copies of employment records or other evidence of employment provided by an alien or by an alien's employer in support of an alien's application for Z nonimmigrant status shall not be used in prosecution or investigation (civil or criminal) of that employer

under section 247A (8 U.S.C. 1324a) or the tax laws of the United States for the prior unlawful employment of that alien, regardless of the adjudication of such application or reconsideration by the Secretary of such alien's prima facie eligibility determination.

(b) APPLICABILITY OF OTHER LAW.—Nothing in this section may be used to shield an employer from liability under section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) or any other labor or employment law.

SEC. 606. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Z nonimmigrant status or any probationary benefits based upon application for such status.

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR YEARS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by:

(1) amending subsection (c) by deleting ''For'' and inserting ''Except as provided in subsection (e), for''; and

(2) adding at the end the following new subsections:

''(d)(1) Except as provided in paragraph (2) and subsection (e), for purposes of this section and for purposes of determining a qualifying quarter of coverage under 8 U.S.C. 1612(b)(2)(B), no quarter of coverage shall be credited if, with respect to any individual who is assigned a social security account number after 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who satisfies the criterion specified in subsection (c)(2).

''(e) Subsection (d) shall not apply with respect to a determination under subsection (a) or (b) for a deceased individual in the case of a child who is a United States citizen and who is applying for child's insurance benefits under section 202(d) based on the wages and self-employment income of such deceased individual.''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting '';and''; and

(3) by adding at the end the following new paragraph:

''(3) in computing the average indexed monthly earnings of an individual, there shall not be counted any wages or self-employment income for any year for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''

(c) EFFECTIVE DATE—The amendment made by subsection (a) that provides for a new section 214(e) of the Social Security Act shall be effective with respect to applications for benefits filed after the sixth month following the month this Act is enacted.

SEC. 608. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in Section 601(e)(6)(B) and Section 602(a)(1)(C)(v) through an installment payment plan.

(b) Any penalties received under this title with respect to an application for Z–l nonimmigrant status shall be used in the following order of priority:

(1) shall be credited as offsetting collections to appropriations provided pursuant to section 611 for the fiscal year in which this Act is enacted and the subsequent fiscal year; and

(2) shall be deposited and remain available as otherwise provided under this title.

SEC. 609. LIMITATIONS ON ELIGIBILITY.

(a) IN GENERAL.—An alien is not ineligible for any immigration benefit under any provision of this title, or any amendment made by this title, solely on the basis that the alien violated section 1543, 1544, or 1546 of title 18, United States Code, or any amendments made by the [NAME OF THIS ACT), during the period beginning on the date of the enactment of such Act and ending on the date on which the alien applies for any benefits under this title, except with respect to any forgery, fraud or misrepresentation on the application for Z nonimmigrant status filed by the alien.

(b) PROSECUTION.—An alien who commits a violation of section 1.543, 1544, or 1546 of such title or any amendments made by the [Name of This Act], during the period beginning on the date of the enactment of such Act and ending on the date that the alien applies for eligibility for such benefit may be prosecuted for the violation if the alien's application for such benefit is denied.

SEC. 610. RULEMAKING.

(a) The Secretary shall issue an interim final rule within six months of the date of enactment of this subtitle to implement this title and the amendments made by this title. The interim final rule shall become effective immediately upon publication in the Federal Register. The interim final rule shall sunset two years after issuance unless the Secretary issues a final rule within two years of the issuance of the interim final rule.

(b) The exemption provided under this section shall sunset no later than two years after the date of enactment of this subtitle, provided that, such sunset shall not be construed to impose any requirements on, or affect the validity of, any rule issued or other action taken by the Secretary under such exemptions.

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this title and the amendments made by this title.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that funds authorized to be appropriated under subsection (a) should be directly appropriated so as to facilitate the orderly and timely commencement of the processing of applications filed under sections 601 and 602.

Subtitle B—DREAM Act

SEC. 612. SHORT TITLE.

This subtitle may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2007'' or the ''DREAM Act of 2007''.

SEC. 613. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 614. ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary may beginning on the date that is three years after the date of enactment of this Act adjust to the status of an alien lawfully admitted for permanent residence an alien who is determined to be eligible for or has been issued a probationary Z or Z nonimmigrant visa if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period since January 1, 2007, is under 30 years of age on the date of enactment, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has earned a high school diploma or obtained a general education development certificate in the United States;

(C) the alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) the alien has—

(i) acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States; or

(ii) the alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) the alien has provided a list of all of the secondary educational institutions that the alien attended in the United States; and

(F) the alien is in compliance with the eligibility and admissibility criteria set forth in section 601(d).

(b) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—Solely for purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien who has been granted probationary benefits under section 601(h) or Z nonimmigrant status and has satisfied the requirements of subparagraphs (a)(1)(A) through (F) shall beginning on the date that is eight years after the date of enactment be considered to have satisfied the requirements of Section 316(a)(1) of the Act (8 U.S.C. 1427(a)(1)).

(c) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status.

(d) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

SEC. 615. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that no additional fee will

be charged to an applicant for a Z nonimmigrant visa for applying for benefits under this subtitle.

SEC. 616. HIGHER EDUCATION ASSISTANCE.

(a) Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) shall have no force or effect with respect to an alien who is a probationary Z or Z nonimmigrant.

(b) Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this title, or who is a probationary Z or Z nonimmigrant under this title and who meets the eligibility criteria set forth in section 614(a)(1)(A), (B), and (F), shall be eligible for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 617. DELAY OF FINES AND FEES.

(a) Payment of the penalties and fees specified in section 601(e)(6) shall not be required with respect to an alien who meets the eligibility criteria set forth in section 614(a)(1)(A), (B), and (F) until the date that is six years and six months after the date of enactment of this Act or the alien reaches the age of 24, whichever is later. If the alien makes all of the demonstrations specified in section 614(a)(1) by such date, the penalties shall be waived. If the alien fails to make the demonstrations specified in section 614(a)(1) by such date, the alien's Z nonimmigrant status will be terminated unless the alien pays the penalties and fees specified in section 601(e)(6) consistent with the procedures set forth in section 608 within 90 days.

(b) With respect to an alien who meets the eligibility criteria set forth in section 614(a)(1) (A) and (F), but not the eligibility criteria in section 614(a)(1)(B), the individual who pays the penalties specified in section 601(e)(6) shall be entitled to a refund when the alien makes all the demonstrations specified in section 614(a)(1).

SEC. 618. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for adjustment of status under section 623(a);

(2) the number of aliens who applied for adjustment of status under section 623(a); and

(3) the number of aliens who were granted adjustment of status under section 623(a).

SEC. 619. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to carry out the amendments made by this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation.

PART II—CORRECTION OF SOCIAL SECURITY RECORDS

SEC. 620. 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 nonimmigrant status pursuant to section 101(a)(15)(Z–A) of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted such nonimmigrant 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 C—Agricultural Workers

SEC. 621. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''.

PART I—ADMISSION OF AGRICULTURAL WORKERS

SEC. 622. ADMISSION OF AGRICULTURAL WORKERS.

(a) Z–A NONIMMIGRANT VISA CATEGORY.—

(1) ESTABLISHMENT.—Paragraph (15) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as amended by section 601(b), is further amended by adding at the end the following new subparagraph:

''(Z–A)(i) an alien who is coming to the United States to perform 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)), agricultural labor under section 3121(g) of the Internal Revenue Code of 1986, or the performance of agricultural labor or services described in subparagraph (H)(ii)(a), who meets the requirements of section 214A of this Act; or

''(ii) the spouse or minor child of an alien described in clause (i) who is residing in the United States.''.

(b) REQUIREMENTS FOR ISSUANCE OF NONIMMIGRANT VISA.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 214 the following new section:

''SEC. 214A. ADMISSION OF AGRICULTURAL WORKERS.

''(a) DEFINITIONS.—In this section:

''(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 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) DEPARTMENT.—The term 'Department' means the Department of Homeland Security.

''(3) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(4) QUALIFIED DESIGNATED ENTITY.—The term 'qualified designated entity' means—

''(A) a qualified farm labor organization or an association of employers designated by the Secretary; or

''(B) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245, the Act entitled 'An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

''(5) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(6) TEMPORARY.—A worker is employed on a 'temporary' basis when the employment is intended not to exceed 10 months.

''(7) WORK DAY.—The term 'work day' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

''(8) Z–A DEPENDENT VISA.—The term 'Z–A dependent visa' means a nonimmigrant visa issued pursuant to section 101(a)(15)(Z–A)(ii).

''(9) Z–A VISA.—The term 'Z–A visa' means a nonimmigrant visa issued pursuant to section 101(a)(15)(Z–A)(i).

''(b) AUTHORIZATION FOR PRESENCE, EMPLOYMENT, AND TRAVEL IN THE UNITED STATES.—

''(1) IN GENERAL.—An alien issued a Z–A visa or a Z–A dependent visa may remain in, and be employed in, the United States during the period such visa is valid.

''(2) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted a Z–A visa or a Z–A dependent visa an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

''(3) AUTHORIZED TRAVEL.—An alien who is granted a Z–A visa or a Z–A dependent visa is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

''(c) QUALIFICATIONS.—

''(1) Z–A VISA.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant a Z–A visa to an alien 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, 2006;

''(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 admissible to the United States under section 212, except as otherwise provided in paragraph (4);

''(D) has not been convicted of any felony or misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; and

''(E) meets the requirements of paragraph (3).

''(2) Z–A DEPENDENT VISA.—Notwithstanding any other provision of law, the Secretary shall grant a Z–A dependent visa to an alien who is—

''(A) described in section 101(a)(15)(Z–A)(ii);

''(B) meets the requirements of paragraph (3); and

''(C) is admissible to the United States under section 212, except as otherwise provided in paragraph (4).

''(3) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

''(A) FINGERPRINTS.—An alien seeking a Z–A visa or a Z–A dependent visa shall submit fingerprints to the Secretary at such time and in manner as the Secretary may require.

''(B) BACKGROUND CHECKS.—The Secretary shall utilize fingerprints provided under subparagraph (A) and other biometric data provided by an alien to conduct a background check of the alien, including searching the alien's criminal history and any law enforcement actions taken with respect to the alien and ensuring that the alien is not a risk to national security .

''(4) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for a Z–A visa or a Z–A dependent visa the following shall apply:

''(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) shall not apply.

''(B) WAIVER OF OTHER GROUNDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any provision of such section 212(a), other than the paragraphs described in subparagraph (A), in the case of individual aliens for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest.

''(ii) GROUNDS THAT MAY NOT BE WAIVED.—Except as provided in subparagraph (C), subparagraphs (A), (B), and (C) of paragraph (2), and paragraphs (3) and (4) of 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 a Z–A visa or a Z–A dependent visa by reason of a ground of inadmissibility under section 212(a)(4) if the alien demonstrates history of employment in the United States evidencing self-support without reliance on public cash assistance.

''(d) APPLICATION.—

''(1) IN GENERAL.—An alien seeking a Z–A visa shall submit an application to the Secretary for such a visa, including information regarding any Z–A dependent visa for the spouse of child of the alien.

''(2) SUBMISSION.—Applications for a Z–A visa under may be submitted—

''(A) to the Secretary if the applicant is represented by an attorney or a nonprofit 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 similar successor regulations); or

''(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary.

''(3) PROOF OF ELIGIBILITY.—

''(A) IN GENERAL.—An alien may establish that the alien meets the requirement for a Z–A visa 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 a Z–A visa or applying for adjustment of status described in subsection (j) has the burden of proving by a preponderance of the evidence that the alien has performed the requisite number of hours or days of agricultural employment required for such application or adjustment of status, as applicable.

''(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 such records under regulations to be promulgated by the Secretary.

''(iii) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under clause (i) to establish that the alien has performed the requisite number of hours or days of agricultural employment by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

''(4) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

''(A) REQUIREMENTS.—Each qualified designated entity shall agree—

''(i) to forward to the Secretary an application submitted to that entity pursuant to paragraph (2)(B) if the alien for whom the application is being submitted has consented to such forwarding;

''(ii) not to forward to the Secretary any such application if such an alien has not consented to such forwarding; and

''(iii) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

''(B) NO AUTHORTIY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this sction to be made by the Secretary.

''(5) APPLICATION FEES.—

''(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

''(i) shall be charged for applying for a Z–A visa under this section or for an adjustment of status described in subsection (j); and

''(ii) may be charged by qualified designated entities to help defray the costs of services provided to such aliens making such an application.

''(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.

''(6) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to [____].

''(7) TREATMENT OF APPLICANTS.—

''(A) IN GENERAL.—An alien who files an application under this section to receive a Z–A visa and any spouse or child of the alien seeking a Z–A dependant visa, on the date described in subparagraph (B)—

''(i) shall be granted probationary benefits in the form of employment authorization pending final adjudication of the alien's application;

''(ii) may in the Secretary's discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

''(iii) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien's application, unless the alien is determined to be ineligible for Z–A visa; and

''(iv) may not be considered an unauthorized alien (as defined in section 274A) until the date on which [the alien's application for a Z–A visa] is denied.

''(B) TIMING OF PROBATIONARY BENEFITS.—

''(i) IN GENERAL.—Subject to clause (ii), an alien who submits an application for a Z–A visa under subsection (d), including any evidence required under such subsection, and any spouse or child of the alien seeking a Z–A dependent visa shall receive the probationary benefits described in clauses (i) through (iv) of subparagraph (A) at the earlier of—

''(I) the date and time that the alien has passed all appropriate background checks, including name and fingerprint checks; or

''(II) the end of the next business day after the date that the Secretary receives the alien's application for Z–A visa.

''(ii) EXCEPTION.—If the Secretary determines that the alien fails the background checks referred to in clause (i)(I), the alien may not be granted probationary benefits described in clauses (i) through (iv) of subparagraph (A).

''(C) PROBATIONARY AUTHORIZATION DOCUMENT.—The Secretary shall provide each alien granted probationary benefits described in clauses (i) through (iv) of subparagraph (A) with a counterfeit-resistant document that reflects the benefits and status set forth in subparagraph (A). The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary benefits and, except as provided herein, the conditions under which such documentary evidence expires, terminates, or is renewed.

''(D) CONSTRUCTION.—Nothing in this section may be construed to limit the Secretary's authority to conduct any appropriate background and security checks subsequent to issuance of evidence of probationary benefits under this paragraph.

''(8) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

''(A) BEFORE APPLICATION PERIOD.—Beginning on the date of enactment of the AgJOBS Act of 2007, the Secretary shall provide that, in the case of an alien who is apprehended prior to the first date of the application period described in subsection (c)(1)(B) and who can establish a nonfrivolous case of eligibility for a Z–A visa (but for the fact that the alien may not apply for such status until the beginning of such period), the alien—

''(i) may not be removed; and

''(ii) 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.

''(B) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for a Z–A visa during the application period described in subsection (c)(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—

''(i) may not be removed; and

''(ii) 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.

''(e) NUMERICAL LIMITATIONS.—

''(1) Z–A VISA.—The Secretary may not issue more than 1,500,000 Z–A visas.

''(2) Z–A DEPENDENT VISA.—The Secretary may not count any Z–A dependent visa issued against the numerical limitation described in paragraph (1).

''(f) EVIDENCE OF NONIMMIGRANT STATUS.—

''(1) IN GENERAL.—Documentary evidence of nonimmigrant status shall be issued to each alien granted a Z–A visa or a Z–A dependent visa.

''(2) FEATURES OF DOCUMENTATION.—Documentary evidence of a Z–A visa or a Z–A dependent visa—

''(A) shall be machine-readable, tamper-resistant, and shall contain a digitized photograph and other biometric identifiers that can be authenticated;

''(B) shall be designed in consultation with U.S. Immigration and Customs Enforcement's Forensic Document Laboratory;

''(C) shall serve as a valid travel and entry document for an alien granted a Z–A visa or a Z–A dependent visa for the purpose of applying for admission to the United States where the alien is applying for admission at a port of entry;

''(D) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A; and

''(E) shall be issued to the alien granted the visa by the Secretary promptly after final adjudication of such alien's application for the visa, except that an alien may not be granted a Z–A visa or a Z–A dependent visa until all appropriate background checks on each alien are completed to the satisfaction of the Secretary.

''(g) FINE.—An alien granted a Z–A visa shall pay a fine of $100 to the Secretary.

''(h) TREATMENT OF ALIENS GRANTED A Z–A VISA.—

''(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien granted a Z–A visa or a Z–A dependent visa shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of this Act.

''(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted a Z–A visa 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 an adjustment of status under subsection (d).

''(3) TERMS OF EMPLOYMENT.—

''(A) PROHIBITION.—No alien granted a Z–A visa may be terminated from employment by any employer during the period of a Z–A visa 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 a Z–A visa 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 an alien has filed a complaint in accordance with clause (i) and there is reasonable cause to believe that the alien was terminated from employment 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 under this subparagraph 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. Not later than 30 days after the date of 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 the employment of an alien who is granted a Z–A visa without just cause, the Secretary shall credit the alien for the number of days of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of subsection (f)(2).

''(v) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this subparagraph shall bear the cost of their own attorney's fees for the arbitration.

''(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).

''(4) RECORD OF EMPLOYMENT.—

''(A) IN GENERAL.—Each employer of an alien who is granted a Z–A visa shall annually—

''(i) provide a written record of employment to the alien; and

''(ii) provide a copy of such record to the Secretary.

''(B) CIVIL PENALTIES.—

''(i) IN GENERAL.-If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted a Z–A visa has failed to provide the record of employment required under subparagraph (A) 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 subsection.

.''(i) TERMINATION OF A GRANT OF Z–A VISA.—

''(1) IN GENERAL.—The Secretary may terminate a Z–A visa or a Z–A dependent visa granted to an alien only if the Secretary determines that the alien is deportable.

''(2) GROUNDS FOR TERMINATION.—Prior to the date that an alien granted a Z–A visa or a Z–A dependent visa becomes eligible for adjustment of status described in subsection (j), the Secretary may deny adjustment to permanent resident status and provide for termination of the alien's Z–A visa or Z–A dependent visa if—

''(A) the Secretary finds, by a preponderance of the evidence, that the grant of a Z–A visa was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i)); or

''(B) the alien—

''(i) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(4);

''(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) in the case of an alien granted a Z–A visa, fails to perform the agricultural employment described in subsection (j)(l)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (j)(l)(A)(iii).

''(3) REPORTING REQUIREMENT.—The Secretary shall promulgate regulations to ensure that the alien granted a Z–A visa complies with the qualifying agricultural employment described in subsection (j)(l)(A) at the end of the 5 year work period, which may include submission of an application pursuant to this subsection.

''(j) ADJUSTMENT TO PERMANENT RESIDENCE.—

''(1) Z–A VISA.—Except as provided in this subsection, the Secretary shall award the maximum number of points available pursuant to section 203(b)(1) and adjust the status of an alien granted a Z–A visa to that of an alien lawfully admitted for permanent residence under this Act, if the Secretary determines that the following requirements are satisfied:

''(A) QUALIFYING EMPLOYMENT.—

''(i) IN GENERAL.—Subject to clauses (i) and (ii), the alien has performed at least—

''(I) 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 enactment of the AgJobs Act of 2007; or

''(II) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on such date of enactment.

''(ii) FOUR YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of clause (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 such date of enactment.

''(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of clause (i), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that clause 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.

''(B) PROOF.—An alien may demonstrate compliance with the requirements of subparagraph (A) by submitting—

''(i) the record of employment described in subsection (h)(4); or

''(ii) such documentation as may be submitted under subsection (d)(3).

''(C) APPLICATION PERIOD.—Not later than 8 years after the date of the enactment of the AgJOBS Act of 2007, the alien must—

''(i) apply for adjustment of status; or

''(ii) renew the alien's Z visa status as described in section 601(k)(2).

''(D) FINE.—The alien pays to the Secretary a fine of $400; or

''(2) SPOUSES AND MINOR CHILDREN.—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 any adjustment of status under paragraph (1), including any individual who was a minor child on the date such alien was granted a Z–A visa, 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.

''(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted a Z–A visa or a Z–A dependent visa an adjustment of status under this Act and provide for termination of such visa if—

''(A) the Secretary finds by a preponderance of the evidence that grant of the Z–A visa was the result of fraud or wiilful misrepresentation (as described in section 212(a)(6)(C)(i)); or

''(B) the alien—

''(i) commits an act that makes the alien inadmissible to the United States under section 212, except as provided under subsection (c)(4);

''(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.

''(4) GROUNDS FOR REMOVAL.—Any alien granted Z–A visa status who does not apply for adjustment of Z status or renewal of Z status under section 601(k)(2) prior to the expiration of the application period described in subsection (c)(l)(B) or who fails to meet the other requirements of paragraph (1) by the end of the application period, is deportable and may be removed under section 240.

''(5) PAYMENT OF TAXES.—

''(A) IN GENERAL.—Not later than the date on which an alien's status is adjusted as described in this subsection, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

''(i) no such tax liability exists;

''(ii) all such outstanding tax liabilities have been paid; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(B) APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, 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 (l)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

''(C) 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 subsection.

''(6) ENGLISH LANGUAGE.—

''(A) IN GENERAL.—Not later than the date on which a Z–A nonimmigrant's status is adjusted or renewed under section 601(k)(2), a Z–A nonimmigrant who is 18 years of age or older must pass the naturalization test described in sections 312(a)(1) and (2).

''(B) EXCEPTION.—The requirement of subparagraph (A) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z–A nonimmigrant status—

''(i) is unable because of physical or developmental disability or mental impairment to comply therewith;

''(ii) is over fifty years of age and has been living in the United States for periods totaling at least twenty years, or

''(iii) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years.

''(7) PRIORITY OF APPLICATIONS.—

''(A) BACK OF LINE.—An alien may not adjust status to that of a lawful permanent resident under this subsection until 30 days after the date on which an immigrant visa becomes available for approved petitions filed under sections 201, 202, and 203 of the Act that were filed before May 1, 2005 (referred to in this paragraph as the 'processing date').

''(B) OTHER APPLICANTS.— The processing of applications for an adjustment of status under this subsection shall be processed not later than 1 year after the processing date.

''(C) CONSULAR APPLICATION.—

''(i) IN GENERAL.—A Z–A nonimmigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence must be filed in person with a United States consulate abroad.

''(ii) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, a Z–A nonimmigrant applying for adjustment of status under this paragraph shall make an application at a consular office in the alien's country of origin. The Secretary of State shall direct a consular office in a country that is not a Z–A nonimmigrant's country of origin to accept an application for adjustment of status from such an alien, where the Z–A nonimmigrant's country of origin is not contiguous to the United States, and as consular resources make possible.

''(k) CONFIDENTIALITY OF INFORMATION.—Applicants for Z–A nonimmigrant status under this subtitle shall be afforded confidentiality as provided under section 604.

''(l) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—Any person who—

''(A) applies for a Z–A visa or a Z–A dependent visa under this section or an adjustment of status described in subsection (j) 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

''(B) 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.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(m) 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 a Z–A visa under subsection (b) or an adjustment of status under subsection (j).

''(n) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative or judicial review of a determination on an application for a Z–A visa shall be such as is provided under section 603.

''(o) PUBLIC OUTREACH.—Beginning not later than the first day of the application period described in subsection (c)(1)(B), the Secretary shall cooperate with qualified designated entities to broadly disseminate information regarding the availability of Z–A visas, the benefits of such visas, and the requirements to apply for and be granted such a visa.''.

(c) NUMERICAL LIMITATIONS.—

(1) WORLDWIDE LEVEL OF IMMIGRATION.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)), as amended by [_____], is further amended—

(A) in subparagraph (A), by striking ''subparagraph (A) or (B)'' and inserting ''subparagraph (A), (B), or (N)''; and

(B) by adding at the end, the following new subparagraph:

''(N) Aliens issued a Z–A visa or a Z–A dependent visa (as those terms are defined in section 214A) who receive an adjustment of status to that of an alien lawfully admitted for permanent residence.''.

(2) NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.—Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR Z–A NONIMMIGRANTS.—An immigrant visa may be made available to an alien issued a Z–A visa or a Z–A dependent visa (as those terms are defined in section 214A) without regard to the numerical limitations of this section.''.

(d) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 214 the following:

''Sec. 214A. Admission of agricultural worker.''.

SEC. 623. AGRICULTURAL WORKER IMMIGRATION STATUS ADJUSTMENT ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(y) AGRICULTURAL WORKER IMMIGRATION STATUS ADJUSTMENT ACCOUNT.—

''(1) ESTABLISHMENT.—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 section 214A;

''(2) USE OF FEES.—The fees deposited into the Agricultural Worker Immigration Status Adjustment Account shall be used by the Secretary of Homeland Security for processing applications made by aliens seeking nonimmigrant status under section 101(a)(15)(Z–A) or for processing applications made by such an alien who is seeking an adjustment of status.

''(3) AVAILABILITY OF FUNDS.—All amounts deposited in the Agricultural Worker Immigration Status Adjustment Account under this subsection shall remain available until expended.''.

SEC. 624. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to carry out the amendments made by this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation.

PART II—CORRECTION OF SOCIAL SECURITY RECORDS

SEC. 625. 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 nonimmigrant status pursuant to section 101(a)(15)(Z–A) of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted such nonimmigrant 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.

TITLE VII—MISCELLANEOUS

Subtitle A—Miscellaneous Immigration Reform

SEC. 701. WAIVER OF REQUIREMENT FOR FINGERPRINTS FOR MEMBERS OF THE ARMED FORCES.

Notwithstanding any other provision of law or any regulation, for aliens currently serving in the U.S. Armed Forces overseas and applying for naturalization from overseas, the Secretary of Defense shall provide in a form designated by the Secretary of Homeland Security, and the Secretary of Homeland Security shall use the fingerprints provided by the Secretary of Defense for such individuals, if the individual—

(a) may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440);

(b) was fingerprinted in accordance with the requirements of the Secretary of Defense at the time the individual enlisted in the Armed Forces; and

(c) submits the application to become a naturalized citizen of the United States not later than 12 months after the date the applicant is fingerprinted.

SEC. 702. DECLARATION OF ENGLISH.

(a) English is the common language of the United States.

(b) PRESERVING AND ENHANCING THE ROLE OF THE ENGLISH LANGUAGE.—The Government of the United States shall preserve and enhance the role of English as the language of the United States of America. Nothing herein shall diminish or expand any existing rights under the laws of the United States relative to services or materials provided by the Government of the United States in any language other than English.

(c) DEFINITION.—For the purposes of this section, law is defined as including provisions of the United States Constitution, the United States Code, controlling judicial decisions, regulations, and Presidential Executive Orders.

SEC. 703. PILOT PROJECT REGARDING IMMIGRATION PRACTITIONER COMPLAINTS.

(a) Within 180 days of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Attorney General, shall institute a three-year pilot project to—

(1) Encourage alien victims of immigration practitioner fraud, and related crimes, to come forward and file practitioner fraud complaints with the Department of Homeland Security by utilizing existing statutory and administrative authority;

(2) Cooperate with federal, state, and local law enforcement officials who are responsible for investigating and prosecuting such crimes; and

(3) Increase public awareness regarding the problem of immigration practitioner fraud.

(b) REPORTING.—Not later than 1 year after the end of the three-year pilot period, the Secretary of Homeland Security shall submit to Congress a report that includes information concerning—

(1) the number of individuals who file practitioner fraud complaints via the pilot program;

(2) the demographic characteristics, nationality, and immigration status of the complainants;

(3) the number of indictments that result from the pilot; and

(4) the number of successful fraud prosecutions that result from the pilot.

Subtitle B—Assimilation and Naturalization

SEC. 704. THE OFFICE OF CITIZENSHIP AND INTEGRATION

Section 451(f) of the Homeland Security Act of 2002, Pub. L. 107–296 (6 U.S.C. 271(f)), is amended by—

(a) inserting ''and Integration'' after ''Office of Citizenship'' the two times that phrase appears; and

(b) in paragraph (f)(2), striking ''instruction and training on citizenship responsibilities'' and inserting ''civic integration, and instruction and training on citizenship responsibilities and requirements for citizenship''.

SEC. 705. SPECIAL PROVISIONS FOR ELDERLY IMMIGRANTS.

Section 312(b) of the Immigration and Nationality Act (8 U.S.C. 1423(b)) is amended by adding at the end the following: ''(4) The requirements of subsection (a) of this section shall not apply to a person who is over 75 years of age on the date of filing an application for naturalization; *Provided*, That the person expresses, in English or in the applicant's native language, at the time of examination for naturalization that the person understands and agrees to the elements of the oath required by section 337 of this Act.''.

SEC. 706. FUNDING FOR THE OFFICE OF CITIZENSHIP AND IMMIGRATION INTEGRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security the sum of [$100] million to carry out the mission and operations of the Office of Citizenship and Immigrant Integration in U.S. Citizenship and Immigration Services, including the patriotic integration of prospective citizens into—

(1) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(2) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

SEC. 707. CITIZENSHIP AND INTEGRATION COUNCILS.

''(a) GRANTS AUTHORIZED.—The Office of Citizenship and Immigrant Integration shall provide grants to states and municipalities for effective integration of immigrants into American society through the creation of New Americans Integration Councils.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Grants awarded under this section shall be used—

''(A) To report on the status of new immigrants, lawful permanent residents, and citizens within the state or municipality;

''(B) To conduct a needs assessment, including the availability of and demand for English language services and instruction classes, for new immigrants, lawful permanent residents, Z nonimmigrants, and citizens;

''(C) To convene public hearings and meetings to assist in the development of a comprehensive plan to integrate new immigrants, lawful permanent residents, Z nonimmigrants, and citizens; and

''(D) To develop a comprehensive plan to integrate new immigrants, lawful permanent residents, Z non-immigrants, and citizens into states and municipalities.

''(2) MEMBERSHIP OF INTEGRATION COUNCILS.—New Americans Integration Councils established under this section shall consist of no less than ten and no more than fifteen individuals from the following sectors:

''(A) State and local government;

''(B) Business;

''(C) Faith-based organizations;

''(D) Civic organizations;

''(E) Philanthropic leaders; and

''(F) Nonprofit organizations with experience working with immigrant communities.

''(c) REPORTING.—The Government Accountability Office, in coordination with the Office of Citizenship and Immigrant Integration, shall conduct an annual evaluation of the grant program conducted under this section. Such evaluation shall be used by the Office of Citizenship and Immigrant Integration—

''(1) To determine and improve upon the program's effectiveness;

''(2) To develop recommended best practices for states and municipalities who receive grant awards; and

''(3) To further define the program's goals and objectives.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Citizenship and Immigrant Integration such sums as may be necessary for each of the fiscal years 2008 through 2012 to carry out this section.]

SEC. 708. HISTORY AND GOVERNMENT TEST.

(a) HISTORY AND GOVERNMENT TEST.—The Secretary shall incorporate a knowledge and understanding of the meaning of the Oath of Allegiance provided by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448) into the history and government test given to applicants for citizenship. Nothing in this Act, other than the amendment made by this subsection, shall be construed to influence the naturalization test redesign process currently underway under the direction of U.S. Citizenship and Immigration Services.

SEC. 709. ENGLISH LEARNING PROGRAM.

(a) The Secretary of Education shall develop an open source electronic program, useable on personal computers and through the Internet, that teaches the English language at various levels of proficiency, up to and including the ability to pass the Test of English as a Foreign Language, to individuals inside the United States whose primary language is a language other than English. The Secretary shall make the program available to the public for free, including by placing it on the Department of Education website, and shall ensure that it is readily accessible to public libraries throughout the United States. The program shall be fully accessible, at a minimum, to speakers of the top five foreign languages spoken inside the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Education such sums as are necessary to carry out the purposes of this section.

SEC. 710. GAO STUDY ON THE APPELLATE PROCESS FOR IMMIGRATION APPEALS.

(a) IN GENERAL.—The Comptroller General of the United States shall, not later than 180

days after enactment of this Act, conduct a study on the appellate process for immigration appeals.

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Comptroller General shall consider the possibility of consolidating all appeals from the Board of Immigration Appeals and habeas corpus petitions in immigration cases into 1 United States Court of Appeals, by—

(1) consolidating all such appeals into an existing circuit court, such as the United States Court of Appeals for the Federal Circuit;

(2) consolidating all such appeals into a centralized appellate court consisting of active circuit court judges temporarily assigned from the various circuits, in a manner similar to the Foreign Intelligence Surveillance Court or the Temporary Emergency Court of Appeals; or

(3) implementing a mechanism by which a panel of active circuit court judges shall have the authority to reassign such appeals from circuits with relatively high caseloads to circuits with relatively low caseloads.

(c) FACTORS TO CONSIDER.—In conducting the study under subsection (a), the Comptroller General, in consultation with the Attorney General, the Secretary, and the Judicial Conference of the United States, shall consider—

(1) the resources needed for each alternative, including judges, attorneys and other support staff, case management techniques including technological requirements, physical infrastructure, and other procedural and logistical issues as appropriate;

(2) the impact of each plan on various circuits, including their caseload in general and caseload per panel;

(3) the possibility of utilizing case management techniques to reduce the impact of any consolidation option, such as requiring certificates of reviewability, similar to procedures for habeas and existing summary dismissal procedures in local rules of the courts of appeals;

(4) the effect of reforms in this Act on the ability of the circuit courts to adjudicate such appeals;

(5) potential impact, if any, on litigants; and

(6) other reforms to improve adjudication of immigration matters, including appellate review of motions to reopen and reconsider, and attorney fee awards with respect to review of final orders of removal.

The PRESIDING OFFICER. The Senator from Washington.

MORNING BUSINESS

Mrs. MURRAY. Mr. President, I ask unanimous consent the Senate proceed to morning business and the following Senators on our side be recognized for the time amounts that I will give, alternating with Republican Senators on the other side if they so request, limited to 10 minutes. On the Democratic side the order would be: Senator BYRD for 15 minutes, Senator KERRY for 10 minutes, Senator BOXER for 5 minutes, Senator MURRAY for 10 minutes, Senator CONRAD for 5 minutes, Senator DODD for 10 minutes, Senator BROWN for 5 minutes, Senator LANDRIEU for 5 minutes, Senator LEVIN for 5 minutes, and Senator DURBIN for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Reserving the right to object. I asked for 20 minutes. How do I fit into that?

Mrs. MURRAY. The unanimous consent would allow for every other Senator to be from that side, at your discretion. I did limit it to 10 minutes and I will be happy to amend the unanimous consent for Senator GRASSLEY for 15 minutes following Senator BYRD.

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

The senior Senator from West Virginia is recognized.

The Senator will suspend. The Senate is awaiting the comments from the senior Senator from West Virginia. Will those Senators having conversations retire from the Chamber.

The Senator from West Virginia is recognized.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Mr. President, a few weeks ago, Congress approved legislation that would have changed the course of the U.S. occupation of Iraq. I say occupation because, frankly, that is what this is. Our troops won the battle they were sent to fight. The dictator Saddam Hussein is deposed and executed. His rotten government is no more, replaced with a democratically elected Parliament, President, and Prime Minister. We all are cheered at the skill of our soldiers.

But, sadly, this President has not done justice by our brave troops. The dreadful management of this occupation has resulted in chaos. Iraq is at war with itself and our troops are caught in the middle. That is why this Congress established a new direction for bringing our troops home from this misbegotten occupation. The bill the President vetoed would have refocused our military, not on the civil war in Iraq but, rather, on Osama bin Laden and his base of operations. It is time for the President to take off his blinders and uncover his ears. White House obstinacy cannot continue to drive our military plans in Iraq.

With this supplemental funding legislation we begin to shift the responsibility for Iraq's future off the shoulders of our military, and onto the shoulders of the Iraqi Government and the Iraqi people. The White House wanted a blank check for the President's mangled occupation of Iraq. We are not going to sign on that dotted line—not now, not ever. The legislation that is before the Senate today is a step toward that goal. It is not a giant leap, but it is progress. And it is only a first step. In a few weeks, this Senate is expected to focus on the Defense Department authorization bill. I shall press for a vote on the proposal Senator CLINTON and I have outlined in the authorization for the Iraq war and to give Congress a chance, just a chance, to decide whether the so-called new mission in Iraq should continue. If this mission is so critical, then let the administration make its case and let the people's elected Representatives—that is us—let the people's elected Representatives vote.

In July we will turn our attention to the Pentagon's fiscal 2008 funding request, and in September we will consider the $145 billion war funding request for the next fiscal year. Each of these bills is an opportunity to shape the future course of the mission in Iraq. Clearly, Congress is not turning from the debate on Iraq. On the contrary, we are just beginning this debate.

We have all committed to protecting our men and women in uniform. This legislation provides the funding to do just that. We ensure $3 billion for the purchase of mine-resistant, ambush-protected vehicles. The 2,000 additional advanced armored vehicles that will be built with these funds will help to save the lives of American soldiers and American marines as they travel the lonely streets of Baghdad—the lonely streets of Iraq.

If our soldiers are injured in battle, this legislation ensures they will receive high-quality health care when they come home. The fiasco at Walter Reed should be seared into our national consciousness. That is why this legislation provides $4.8 billion to ensure that troops and veterans receive the health care they have earned with their service.

A few weeks ago, we watched Kansas families try to put their lives back together after deadly tornadoes ripped through their homes. The Kansas Governor pointed out that her State's National Guard equipment was parked in Iraq and not at home, slowing cleanup and recovery efforts. Other States faced the potential for the exact same problem. This supplemental bill provides $1 billion—that is 1 dollar for every minute since Jesus Christ was born—$1 billion for the National Guard and reserve to replace the trucks and heavy equipment that Guard units have been directed to leave in Iraq.

Again today President Bush warned of terrorist attacks on American soil. He talks a great deal about the threats of such attacks, but very seldom does he provide resources to protect the country. If the President's warnings are accurate, the $1 billion contained in this bill should help to save lives.

We include funds for port security and for mass transit security, for explosive detection equipment at airports, and for several initiatives in the 9/11 bill that recently passed the Senate, including a more aggressive screening of cargo on passenger airlines. We will not—no, we will not—close our eyes to the huge gaps in our protections at home.

We also work to heal the devastated communities still struggling to recover from Hurricane Katrina and Hurricane Rita. To this day, mangled trash heaps stand where homes and families once lived. This White House, the Bush White House, sends billions of dollars to rebuild Baghdad but ignores the overwhelming needs in New Orleans, Slidell, Biloxi, and so many other places at home.

This bill invests $6.4 billion—that is $6.40 for every minute since Jesus was born—this bill invests $6.4 billion to rebuild the gulf coast communities and to restore the vibrance of this proud region.

I close, and I thank my ranking member, Senator THAD COCHRAN, for his help. I thank Representative DAVE OBEY, chairman of the House Appropriations Committee, and the Senate leaders, Senator HARRY REID and Senator MITCH MCCONNELL. I thank the Appropriations Committee staff: staff director, Charles Kieffer; Republican staff director, Bruce Evans; and our subcommittee and professional staff members.

I appreciate, I deeply appreciate the long hours they have worked—yes, long hours they have worked to craft the supplemental legislation. I urge Senators, all Senators on both sides of the aisle, to support this legislation. It is the product of bipartisan negotiations. That is right, isn't it, THAD?

Mr. COCHRAN. Sometimes.

Mr. BYRD. It meets the critical needs of this country. It moves us forward in our efforts to change the dynamic in Iraq. We must challenge—we must challenge—this President, our President, to open his eyes to the truth and adopt the new direction in Iraq that this Nation and the world so eagerly—yes, so anxiously—awaits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to talk first about the process and then the substance of this legislation. As everybody knows, we will soon be considering the war supplemental bill entitled ''The U.S. Troop Readiness, Veterans Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007.''

That title is very important. As the title says, the legislation is an appropriations bill. The title refers to troop readiness. There is finally, after several months of legislative wrangling, funding for the troops that the President can sign.

The title refers to veterans care. There is funding for that. The title refers to Katrina recovery. There are funds for Hurricane Katrina damage. The title also refers to Iraq accountability. There is language finally in the form acceptable to the President so that he can sign it dealing with benchmarks on our mission in Iraq and the role of the Iraqi Government.

The title of the bill, however, does not refer to any matters within the jurisdiction of a committee I am very familiar with, the Finance Committee. But take a look and you will find three categories of Finance Committee matters: One, the small business tax relief package; two, the so-called pension technicals; and, three, Medicaid and SCHIP provisions.

Now, why does it matter whether these policy provisions travel in a tax-writing committee bill or an appropriations bill? It matters for several reasons. I had the pleasure of serving on both the Finance Committee, and for a very short period of time during my career in the Senate, on the Appropriations Committee. They are the money committees of the Senate.

Appropriations bills, by and large, spend money. That is not entitlements, that is the set-asides in the budget. Finance Committee bills, on the other hand, raise revenue and deal with most of the health and welfare entitlement spending.

Both the Appropriations and Finance Committees have very strong constitutional traditions, expertise in the complex subject matter, and seasoned memberships motivated and dedicated to service of the respective committees. All you have to do is look at the careers of Chairman BYRD, the ranking member, or Senator BAUCUS, to know that they dedicate themselves to these two great money committees of the Senate.

So when policy issues are processed outside of the Appropriations or outside the Finance Committee, necessary care, expertise, and experience is lost. When I was chairman, I took great pains to avoid taking on appropriations matters. More often than not, policy made outside of either of these committee jurisdictions will, it seems, somehow need to be corrected.

There is another reason it matters; that is, policy made through the committee process is very transparent, and that is what American Government and the Congress is all about, transparency—the public business to be done publicly. The committee's role is to air and carefully consider proposals in the areas of committee jurisdiction.

We are really talking about transparency. Sunshine is the best disinfectant. When the committee process is end-run, as I will demonstrate in part of this bill, there is usually no positive reason. Usually the reason is expediency on the part of people, maybe even beyond the control of the committee chairman, and I would suggest legislative leadership.

It has happened not just now, it has happened under Republicans and under Democrats. But I am pleased to say it has been effectively very rare over the last few years. Skipping the committee process on new proposals was the exception rather than the rule.

Unfortunately, now, with respect to the critical pieces of Finance Committee jurisdiction, it looks as if leadership prefers to skip the committee, after I have been told privately and publicly so many times all of the work is going to be done through the committee. So I am hoping that what I am going to complain about is pretty much a temporary pattern.

To sum it up, the people's business should be done in committees in a transparent way so the people of this country know what is going on. Committee process means sunshine. I think the committee process was abused on this legislation.

But the conference process was also abused. We never even went through the trappings of the committee process. We have an amended House bill that because of the imperative of an acceptable war funding package has the force of a conference report.

How was the process abused? Just take a look at the bill, and you will find a patchwork of unconnected provisions in the Finance Committee jurisdiction that is not even mentioned in the title. Aside from a small business tax relief provision, no real back-and-forth discussion occurred on these matters, either in the Finance Committee or in conference.

With respect to the small business tax relief provisions, the House and Senate Democratic leadership set an arbitrary ceiling that constrained our outstanding chairman, Senator BAUCUS, from reaching a bipartisan agreement which is so much in the tradition of how Senator BAUCUS and I work together.

The bottom line is, Republicans opened the door to a conference agreement without receiving assurances of a fair deal. I don't think we got a fair deal. Once Republicans opened the door to the conference, the door was effectively shut on full and meaningful participation.

Now, in the past, Republican leadership did similar things, and Democrats cried foul. I am proud to say that on most, not all, Finance Committee conferences, the Senate Democrats were represented and present for final conference agreements. After crying foul about some conference processes, the Senate Democratic leadership insisted in previous years on preconference agreements before letting Republicans go to conference.

As I feared earlier in the year, the Senate Republican leadership will have to similarly insist on assurances before conferences are convened. This supplemental and its vetoed predecessor made the case that the conference process can't be trusted.

Senate Republicans have no recourse other than to insist on preconference agreements, as we can learn from the Democratic minority of the previous 4 years.

Now, I want to turn to the substance of three categories of the Finance Committee matters that were inserted in the process, after spending my previous minutes on that process. Now to the substance.

The first matter deals with the small business tax relief package that traveled with a minimum wage increase. The deal in the conference is basically the same deal presented by the Democratic negotiators on the last appropriations bill. It favors the House position in number and composition of that package, practically ignoring the great work that Senator BAUCUS and I did on these provisions.

From a small business standpoint, the House bill was a peanut shell. The

Senate bill was real peanuts. Real peanuts—still not enough from my perspective but more, much more than what the House has.

As you can see here, I have got Mr. Peanut up here to demonstrate the Senate bill, the House bill, and the conference report. From a small business standpoint, then, I want to repeat: The House bill was a peanut shell. The Senate bill was real peanuts. It is a missed opportunity because a conference agreement is a single, shriveled peanut, not helping small business the way small business ought to have been helped to offset the negative impacts on small business of a minimum wage tax increase.

We could have, in fact, provided small business with meaningful tax relief that is contemporaneous with the effects of the minimum wage hike that I say, and I think economists agree, are negative toward small business.

This chart shows Mr. Peanut. It shows this bill at each of its stages—a peanut, a peanut shell, and shriveled peanut. What we are going to be voting on will be that shriveled peanut.

There is another matter that bothers me and this is the so-called pension technical corrections. What is a technical correction, one might ask. Technical corrections measures are routine for major tax bills. Last year's landmark bipartisan pension reform bill certainly can be described as a major tax bill. It contained the most significant retirement security policy changes within a generation. There are proposals necessary to ensure that the provisions of the pension reform bill are working consistently within congressional intent and to provide clerical corrections. That is what technical corrections means. Because these measures carry out congressional intent, no revenue gain or loss is scored by the Congressional Budget Office.

Technical corrections is derived from a deliberative and consultative process among the congressional as well as administration tax staffs, where there is a great deal of expertise. That means the Republican as well as the Democratic staffs, regardless of who is in the majority or minority of both the House Ways and Means Committee and the Senate Finance Committee, are involved, as well as Treasury Department personnel, whether we have a Republican or Democratic President. All of this work is performed with the participation and guidance of the nonpartisan professional staff of the Joint Committee on Taxation. A technical enters the list only if all staffs agree it is appropriate. Any one segment I have listed can veto it. That is why we know it is nonpartisan. That is why we know it is technical. That is why we know it is not a substantive change in law. If it were, it would not be technical.

The pension provisions in this bill, the one we will be voting on in a little while, represent then forgetting this process so you know things are done right. It represents a cherry-picking of some, not all, of the technical corrections that these professional people, in a nonpartisan way, are currently trying to put together with a bill that will come up later on.

In addition, there are pension provisions included in this bill that are called technical but are of great substance and are not then technical. Some of these proposals are even controversial. I have reviewed legislative history over the last 15-plus years, and that history informs me that this may be an unprecedented treatment of technical corrections. Techincals were processed on a 2000 year bill that was not a tax-writing committee bill, but that package was a consensus package. All the committees and the administration had signed off that year, 7 years ago. In other instances, technicals were processed on tax-writing committee vehicles. In all these instances, the packages represented an agreement between all the tax-writing committees, Republican and Democratic, and the Treasury.

In this case, there are four committees involved, the two tax-writing committees and the Senate Health, Education, Labor, and Pensions Committee, what we call the HELP Committee, and the House Education and Labor Committee. To illustrate the controversy over the pensions technical package, I ask unanimous consent to print in the RECORD a copy of a letter from HELP Committee Chairman KENNEDY and Ranking Member ENZI. The letter lays out their objections to the House technical process. I also ask unanimous consent that a copy of a letter I wrote regarding the Finance Committee's jurisdiction be printed in the RECORD.

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

U.S. SENATE, COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC, May 22, 2007.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. MITCH MCCONNELL,
Republican Leader, U.S. Senate,
Washington, DC.

DEAR LEADERS: Last year we worked with other committees to author the most extensive overhaul of pension funding rules in a generation. The Pension Protection Act of 2006 (PPA) was signed into law in August 2006, following extensive bipartisan, bicameral negotiations. Conferees were intent on ensuring that retirement plans are properly funded, and that Americans' retirement savings will be there when they need it. This law passed the Senate with overwhelming support, 93–5.

We understand that a number of pension provisions originating in the House may be included in the emergency war spending bill. While moving forward on pensions technical corrections is a goal that many members share, moving House pension technical corrections separately on this spending bill from Senate priorities creates a disparity. We are very concerned at this disregard for equal consideration and lack of discussion of Senate priorities and prerogatives.

Retirement security is a cornerstone of the HELP Committee's jurisdiction, and we recognize that immediate technical corrections are needed to the PPA. Bicameral, staff-level meetings are taking place regularly, and we are working with the Administration to ensure that the needed corrections are promptly addressed. The HELP Committee has a history of finding common ground on complex legislative challenges, and we are confident that we will reach consensus on a package soon. We urge you to provide us with the opportunity to bring a finished pension technical package to the floor in a timely fashion in order to give our colleagues the chance to have their priorities considered.

Sincerely,

EDWARD M. KENNEDY,
Chairman.
MICHAEL B. ENZI,
Ranking Member.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, May 15, 2007.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.
Hon. THAD COCHRAN,
Ranking Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BYRD AND RANKING MEMBER COCHRAN: I am writing to express my continued opposition to the consideration of any provision concerning intergovernmental transfers/cost based reimbursement by the Committee on Appropriations for the supplemental appropriation bill we will be voting on shortly. I am also opposed to the inclusion of tax provisions that passed separately through the Senate as part of the supplemental appropriations. As you know, the Medicaid matter pertains to programs under the Social Security Act and the tax provisions amend the Internal Revenue Code. Both the Social Security Act and the Internal Revenue Code fall clearly and solely within the jurisdiction of the Committee on Finance.

Throughout the years, the Committee on Finance has worked to safeguard and improve the programs under its jurisdiction, including the Medicaid program. The Finance Committee has unique expertise with these programs and is the only Committee in the position to assess the possible effects of individual changes on all Social Security Act programs as a whole. Any requests for additional changes to these programs must be examined with great care, and the Committee on Finance is the only Committee with experience necessary for this task. Accordingly, the Committee will legislate to modify these programs only after thorough analysis of the issues involved and potential solutions.

The proposed intergovernmental transfers/cost based reimbursement provision in question is case in point of why it should not be considered in an appropriations bill. This provision would halt the implementation of a Department of Health and Human Services (HHS) regulation on cost based reimbursement. The regulation addresses the questionable practice of states recycling Medicaid funds paid to providers. The Government Accountability Office (GAO) has opined numerous times about the inappropriateness of the practice and the Finance Committee has worked to expose it as well. Restricting payments to cost and requiring claims documentation both are in the best interest of the integrity of the Medicaid program, and forbidding HHS from acting in these areas is extraordinarily short-sighted. In fact, the Administration believes the new rule will save $5 billion over the next five years. Clearly, halting implementation will have an impact on Medicaid resources and, therefore,

decisions that have such an impact are more appropriate for the Finance Committee.

Certainly, a one-year moratorium is an improvement over the two-year moratorium that was in the bill that was originally passed by the Senate, but the language in the bill still encourages states to push the envelope on payment schemes. If a state submits a proposed waiver or state plan amendment that is in contravention with the regulation, the agency will not have the authority to deny the proposal. This is a provision written for the benefit of special interests so they can avoid real scrutiny of their financing arrangements. This provision will encourage states to offer payment schemes that CMS has previously disallowed as being inappropriate. It will encourage litigation if CMS tries to assert that they do still maintain jurisdiction.

The inspector general has investigated and reported to Congress on why there are problems in the areas the rule addresses. The Finance Committee has not had the first hearing on why the rule doesn't work and must be stopped.

The way that this provision is paid for is equally problematic. The extension of the Wisconsin pharmacy plus waiver is an unnecessary earmark. Every state but Wisconsin has changed their pharmacy assistance program as the MMA required. Furthermore, the way the language is written sets a very bad precedent. The language is written in a way that alters Medicaid's budget neutrality test. It's written to guarantee that it appears to save money. The reality is that Wisconsin will be providing many poor seniors with less of a benefit than they could get through Part D. Wisconsin charges greater cost-sharing than Medicare for low income seniors.

Legislating to prevent CMS from cleaning up intergovernmental transfers scams on this appropriation bill sets a bad precedent. That is clear. It is legislation on Medicaid and that is a basic part of the jurisdiction of the Finance Committee.

I am also concerned that the supplemental appropriation includes tax provisions which also fall solely in the jurisdiction of the Finance Committee. The power of the purse, appropriations, is Congress' power and we are directly accountable to our constituents for our spending actions. In that vein, I deeply respect the deep traditions of the Appropriations Committee. As a former Chairman, and now, Ranking Member of the Finance Committee, I deeply respect that division of power. The power to tax is our power and we are directly accountable to our constituents for our taxing actions.

We should rarely mix the jurisdiction of the two great money committees. It should only occur, if at all, when the four senior members of the tax writing and appropriations committees agree. Mixing tax writing and appropriations jurisdiction should not occur at the whim of leadership. Those kinds of actions demean the committees. Fortunately, I insisted and the leadership respected this division of jurisdiction between the tax writers and appropriators over the last six years.

Earlier this year, the Senate acted on the minimum wage bill/small business tax relief bill after the House had passed its own version of the bill. We worked with our House counterparts to resolve differences between the two bills. However, because of a bicameral Democratic Leadership obsession with a top-line number on the tax side, the conference options were severely limited. Chairman Baucus was able to accommodate far less than half the tax policy the Senate sent to conference. The Senate's authority was limited by the Leadership decision to attach the bill to the supplemental appropriations bill where Chairman Baucus was not a conferee. Legitimate tax policy proposals on the revenue losing and revenue raising sides were left on the conference's cutting room floor.

The composition of the final package is heavily weighted towards an extension and modification of the work opportunity tax credit. I support that credit. But the benefits of that policy are delayed. Small businesses need the tax relief to be in synch with the time the minimum wage kicks in.

Both of these outcomes do not reflect a proportionate agreement between the House and Senate bills. The arbitrary ceiling on the amount of tax relief was not a fair balance.

I appreciate your Committee members' interest in the Social Security Act programs and the Internal Revenue Code. I ask that they work with the Committee on Finance to see that their objectives are examined and addressed at the appropriate time, in the appropriate setting. Thanks for your assistance.

Sincerely,

CHARLES E. GRASSLEY,
Ranking Member.

Mr. GRASSLEY. The bottom line is, the Republicans now know that the conference process and the committee process will not be respected. We are doing things of a substantive nature. We are doing things for which there is a process to make sure that the term ''technical'' is abided by. That process that worked so perfectly is ignored. So if the committee process will not be respected, we have to do things to make sure that it is. In the future, we will need to protect the committee and the conference process, and we will need to do some preconferencing agreements as we ought to have learned from now what is the majority, the Democrats, when they were in the minority, that they got Republicans to agree to. It seems to me that is legitimate. It may not be exactly the way it ought to work, but it is something we have to do to make sure these things don't happen again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, history has proven it was a mistake to give this President the power to go to Iraq, and I believe history will prove it is a mistake to give him the open-ended power that this supplemental bill leaves in his hands. This war is not what this President says it is. I believe we have an obligation not to vote for the continuation of a policy that empowers the President to simply continue the war at his discretion. I have listened to some of my colleagues and others who have suggested that this bill will somehow change the course. I have to respectfully disagree. This bill does not provide a strategy worthy of our soldiers' sacrifice. Instead it permits more of the same, a strategy that relies on sending American troops into the alleys and back roads of Iraq to referee a deadly civil war.

Instead of the same misguided strategy, I believe we had an opportunity. While I understand the votes and I understand the threat of veto, and I am not new to this process, I still believe we had an opportunity to elicit a legitimate, fundamental change and some commitments from this administration with respect to the way in which we would hold Iraqis accountable and the way in which this administration itself would be held accountable.

I say with all due respect, that is what the American people voted for in November 2006. That is what they have a right to expect from this Congress. The fact is, we could show our support for our troops in many different ways in this legislation. I don't believe the only way to show that support is by letting the President have full discretion to continue to do what the President has been doing for these last years. I believe the way you do it is by requiring—and setting up real measurements with real consequences—the Iraqis to stand up for Iraq. I am convinced, because the last years have proven it, the President is wrong to keep suggesting we will stand down when they stand up. I believe they will not stand up until we stand down. That is the reality.

The fact is, the benchmarks in this supplemental are not meaningful benchmarks. The President has a complete waiver. All we require is a report, a certification from the President. Is there anybody here, based on the statements the President has made for the last 5 years, who doesn't know exactly what the President is going to say with respect to progress? All we require is that there be some measurement of ''progress.''

Let me say very clearly, because I have been there before in this argument, I know what happens when you vote in a way that people can easily try to pick up and construe as a vote other than what it is. There is good in this supplemental. Yes, we need money for readiness for troops, and every single one of us wants our troops to be as ready as they can be. Yes, it is good that there is money for care for veterans, and our veterans deserve the best care in the world. In fact, the money available in this bill is a far cry from the real needs of our veterans with respect to mental health, outreach centers, the veterans centers, the VA, care in the hospitals. That could be a great deal stronger. But we are for that. We are also for the money for Katrina. So let me make it clear to anybody who wants to try to distort this vote: I am in favor of the money for readiness. I am in favor of giving our troops all the care they need and deserve. I am in favor of money for support for Katrina.

But the fundamental gravamen of this bill, the heart of this bill, is the strategy with respect to the war in Iraq. The heart of this bill are the consequences that we invite as a result of our votes.

In the last week or two, I have been to three funerals, one funeral, the son of a man who was opposed to the war, a military man, a West Pointer, a man

who gave his career, but he is opposed to this war. He dared to use the word to me in a conversation on the very day that his son was being buried about how it was important for us to redouble our efforts in the Senate to bring this to a close, how it was important for us not to allow these young men and women to have their lives ''wasted,'' a word that if any politician used, we would be pilloried for. But the father of a man who was being buried used that word on the very day his son was being buried. Another funeral I attended with a father who was overcome from emotion speaking from the pulpit, left the pulpit, came down, stood beside his son's coffin and said: I have to talk beside my son. He put his hand on the coffin and talked to us about his son's pride, his son's patriotism, his son's love of his fellow soldiers, his son's and his commitment to what he was doing personally but, obviously, the agony they feel over a war that so many people don't support.

We have a responsibility with respect to those young men and women, with respect to those families. I believe that responsibility is not met when you give the President the very same power to continue on a daily basis what he has been doing for these last years. There isn't one person in this body who doesn't know what this President is going to say with respect to progress. How many times have we heard, in the midst of this war, Vice President CHENEY come out: We are making progress. The President yesterday talked about progress, even as he mischaracterizes what this war is about, talking principally about al-Qaida, when all of us know this war is principally a civil war, a slaughter now between Shia and Sunni over the political spoils of Iraq. Our presence is empowering that.

A few days ago, we set a new strategy, forcing Iraqis to do what only Iraqis can do. We gave the President the full discretion to leave the troops necessary to complete the training of Iraqi security forces, to chase al-Qaida and protect U.S. forces and facilities. In the sixth year of this war, which we will reach by next year, it seems to me fair that we should expect that Iraqis can assume that responsibility. The Iraqi Government has said they can. The Iraqi Parliament has said they don't want us there. Our own CIA tells us our presence is creating more terrorists, that we are creating a bigger target. We have become a recruitment tool for fundraising by al-Qaida out of Pakistan and Afghanistan. We now know that al-Qaida is using our presence in Iraq to raise money and recruit jihadists around the world. This policy is counter to the best security interests of our Nation.

This vote is a vote about those best security interests. We demanded a little while ago a strategy of real benchmarks. There is not in this supplemental one benchmark that can be enforced, not one. I don't disagree with the benchmarks themselves. Yes, we want an oil deal. But I listened to Secretary of State Rice in front of our committee months ago say: The oil deal is just about to be approved, right around the corner.

It hasn't even been put to the Parliament. It is not approved months later and too many lives lost later because of the procrastination of Iraqi politicians. How do you say to an American family that their son or daughter ought to give up their life so Iraqi politicians can spin around and play a game between each other at our expense?

It is unconscionable. It is bad strategy. It is bad policy. It defies common sense. That is what this vote is about: why and when we, as a Congress, are going to insist—now, I understand they do not want the deadline, and the President insists he is not going to have the deadline, notwithstanding—notwithstanding—we gave the President full discretion to leave troops there to complete the training, to leave troops to chase al-Qaida, to leave troops there to protect American facilities and forces.

Those kids we are burying deserve an honest debate, not a debate where people come to the floor and say: Oh, these are the cut-and-run folks. These are the folks who are looking for defeat. It is an insult to any Member of the Senate to suggest somebody is actively looking for defeat. We have a different way of finding success. As Thomas Jefferson said: Dissent is the highest form of patriotism. Even the patriotism of people who offer a different road has been questioned. Well, not any longer, and I have no fear about casting this vote against this because this is the wrong policy for Iraq. This continues the open-ended lack of accountability. This allows the President to certify whatever the President wants, to waive whatever the President wants.

I promise my colleagues, we will be back here in September having the same debate with the same benchmark questions, and they will not have moved in their accountability. Even the strategy is still changing.

Let me ask my colleagues something: When can you remember in American history hearing about a President of the United States casting about to find a general to act as the czar for a war, where four four-star generals said no to the President?

Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. KERRY. General Sheehan, a career military man—these are people whose lives are committed to defending our Nation, whose lives are committed to the troops, who, when a President would call them, you would think would be so honored and so unbelievably challenged by the moment, they would say: Of course, Mr. President, I will do what I need to do for my country. But four of them said no. And one of them was quoted, in saying no: Why would I do that because they don't know where the hell they're going. And as he said it, he said: I would go over there for a year, I would get an ulcer, I would come back, and it would be the same thing.

We have an obligation to vote for a change. That is why I will cast my vote ''no'' on this supplemental—yes for the money for troops; yes for care; yes for readiness; yes for all the things we need to do; but, most importantly, a ''yes'' that we are not able to cast for a change in the entire dynamic with the Iraqis themselves and the accountability we will hold this administration to, the accountability we hold the Iraqis to, and, ultimately, a strategy for real success, not just in Iraq but in the Middle East, where we have made Hamas more powerful, Iran more powerful, Nasrallah and Hezbollah more powerful, and our interests are being set back.

It is time for us to get the policy right. That is how you support the troops.

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

Mrs. BOXER. Mr. President, in March and April I voted for an emergency spending bill that would have fully funded our troops in Iraq but would have changed their mission—would have changed their mission—to a sound mission. That mission would have taken our troops out of the middle of a civil war and put them into a support role, as the Iraq Study Group suggested, training Iraqi soldiers and police. We would have allowed them to fight al-Qaida and protect our troops.

The President did not agree to that, and he will not agree to that. As a matter of fact, the President will not agree to any change in strategy in Iraq. That is more than a shame. For the American people, it is a tragedy.

It does not seem to matter how many Americans die in Iraq, how many funerals we have here at home, or what the American people think. This President will not budge. This new bill on Iraq keeps the status quo. Oh, it has a few frills around the outside, a few reports, a few words about benchmarks—while our troops die and our troops get blown up.

Now, I understand why this legislation is before us today. It is because this President wants to continue his one-man show in Iraq. That is the only thing he will sign. The President does not respect the Congress. What is worse, he does not respect the American people when it comes to Iraq. He wants to brush us all off like some annoying spot on his jacket. Well, that is wrong, and we won't be brushed off.

We have lost 3,427 American soldiers in Iraq. Of those, 731—or 21 percent—have been from my State of California or based in my State of California. Mr. President, 25,549 American soldiers have been wounded.

If you come to my office, on big boards, I have the names of the California dead and they are now blocking

the doorway, there are so many names, and we have to send the charts back for smaller and smaller print.

Today, after several days of worrying and praying, we received the tragic news of the death of PVT Joseph Anzack, Jr., 20 years old, of Torrance, CA, who was abducted during a deadly ambush south of Baghdad almost 2 weeks ago. One member of his platoon, SPC Daniel Seitz, summed it up this way to the Associated Press:

It just angers me that it's just another friend I've got to lose and deal with, because I've already lost 13 friends since I've been here, and I don't know if I can take any more of this.

He should not have to. But with this bill, he will.

The first half of this year has already been deadlier than any 6-month period since the war began more than 4 long years ago. In this month alone, 83 U.S. servicemembers have already been killed in Iraq.

Let me be clear: There are many things in this bill I strongly support—many provisions I worked side by side with my colleagues to fight for, for our troops, for our veterans, for their mental health, for our farmers, for the victims of Hurricane Katrina, who so deserve our attention—but I must take a stand against this Iraq war and, therefore, I will vote ''no'' on this emergency spending bill.

Mr. President, we are not going away. You cannot brush us off like some spot on your jacket because we are going to be back.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise to express my concern and deep regret over the conference report to H.R. 2206, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Appropriations Act of 2007.

I am extremely disappointed our troops have to continue to pay the price for our political posturing on this legislation and the inclusion of funding for pet programs in a must-pass military funding bill.

I want to make very clear my strong support for the members of our Armed Forces and the vital work they are doing around the world every day. I have the greatest admiration for all of them, for their commitment to preserving our freedoms and maintaining our national security. They are all true heroes, and they are the ones who are doing the heavy lifting and making the great sacrifices in our country's name so we might continue to be the land of the free and the home of the brave.

We are faced with a vote on a bill that our troops need, but the troops are not the focus of this legislation. This supplemental is yet another example of a Congress whose fiscal house is not in order. It contains more than $17 billion in unrequested items—$17 billion in funding that has nothing to do with the war on terror.

The intent of this legislation is to fund our troops and to provide them with the resources they need to win the war on terror. Emergency supplementals are not intended to be a Christmas tree that includes presents in the form of every Member's favorite pet programs. Unfortunately, the bill we will be voting on is just that.

This legislation includes funding for a number of programs I would support on their own merits. It includes agricultural disaster assistance for our Nation's ranchers who have suffered through years of drought. Many of those are in Wyoming. It includes funding for the Secure Rural Schools program. These are both important priorities for people in Wyoming, and although I support the programs on their merits, I do not support their inclusion in this emergency war supplemental.

This legislation is not intended to deal with drought relief. It is not intended to deal with SCHIP. It is not intended to deal with wildland fire management. It is intended to fund our troops. Instead of attaching these unrelated programs to a must-pass troop funding bill, a fiscally responsible Congress would examine each of these programs on their own merits through our regular appropriations process—or else we ought to call ourselves irresponsible.

The American people have made clear that we need to be fiscally responsible. They have made clear they do not support spending billions of taxpayers' dollars with little or no debate. Unfortunately, if this legislation passes, that is exactly what we are going to do.

The war supplemental also touches on various issues before the Committee on Health, Education, Labor, and Pensions, including minimum wage and pensions. Unfortunately, our committee was not consulted on this language nor made any part of the discussions on this supplemental.

The supplemental contains a provision that will boost the Federal minimum wage from $5.15 to $7.25 an hour. I have always believed any increase in the minimum wage must be accompanied by appropriate relief for those small business employers who have to absorb those costs. It is a mandate. Small businesses are the proven engine for our economy, and they are the greatest source of employment opportunity for U.S. workers. A raise in the minimum wage is of no value to a worker without a job or a job seeker without prospects.

It was for these very reasons the minimum wage package which passed the Senate, with overwhelming bipartisan support—overwhelming bipartisan support; I think there were two votes in opposition—contained a series of provisions designed to provide relief for small businesses. That is how we got it. That was bipartisan.

The Senate-passed versions of the minimum wage legislation contained significant tax relief that was targeted to small businesses and industries most likely to employ minimum wage workers. Unfortunately, much of this tax relief has been stripped from the current version of the supplemental. While some tax relief remains, the lion's share of that relief is contained in the Work Opportunity Tax Credit provisions, which, as a practical matter, are not utilized by small businesses.

While the bill does continue to contain important regulatory relief provisions, such as compliance assistance for small businesses, and a small business childcare grant authorization, the tax relief this body overwhelmingly determined was necessary to help small businesses offset the cost of a new Federal minimum wage is no longer contained in the legislative package, nor were any of us consulted. I cannot support legislation that dramatically raises the Federal minimum wage and fails to acknowledge and adequately offset the impact of such an increase on our small businesses.

With respect to pensions, last year the Senate Committee on Health, Education, Labor, and Pensions worked with other committees in landmark legislation to author the most extensive overhaul of pension funding rules in a generation. The Pension Protection Act of 2006 was signed into law in August 2006, following extensive—extensive—bipartisan, bicameral negotiations. Conferees were intent on ensuring that retirement plans are properly funded and that Americans' retirement savings would be there when they need it.

One of the fundamental reasons for pension funding reform was to ensure—to ensure—the solvency of the Pension Benefit Guaranty Corporation and its ability to guarantee benefits in plans that are underfunded. I am very concerned that there are provisions in the war supplemental that the House leadership claims are technical corrections to the Pension Protection Act. Any changes to the Pension Protection Act must be considered by the committees that have jurisdiction, the ones that know about all the intricacies and interrelationships of the parts that are in there, instead of legislating on an appropriations bill.

Chairman KENNEDY and I sent a letter to Senate leadership on Tuesday night citing our concerns with the House approach. I ask unanimous consent to have printed in the RECORD a copy of that letter.

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

U.S. SENATE, COMMITTEE ON HEALTH EDUCATION, LABOR, AND PENSIONS,
Washington, DC, May 22, 2007.

Hon. HARRY REID,
Majority Leader,
U.S. Senate, The Capitol, Washington, DC.
Hon. MITCH MCCONNELL,
Republican Leader,
U.S. Senate, The Capitol, Washington, DC.

DEAR LEADERS: Last year, we worked with other committees to author the most extensive overhaul of pension funding rules in a generation. The Pension Protection Act of 2006 (PPA) was signed into law in August 2006, following extensive bipartisan, bicameral negotiations. Conferees were intent

on ensuring that retirement plans are properly funded, and that Americans' retirement savings will be there when they need it. This law passed the Senate with overwhelming support, 93–5.

We understand that a number of pension provisions originating in the House may be included in the emergency war spending bill. While moving forward on pensions technical corrections is a goal that many members share, moving House pension technical corrections separately on this spending bill from Senate priorities creates a disparity. We are very concerned at this disregard for equal consideration and lack of discussion of Senate priorities and prerogatives.

Retirement security is a cornerstone of the HELP Committee's jurisdiction, and we recognize that immediate technical corrections are needed to the PPA. Bicameral, staff-level meetings are taking place regularly, and we are working with the Administration to ensure that the needed corrections are promptly addressed. The HELP Committee has a history of finding common ground on complex legislative challenges, and we are confident that we will reach consensus on a package soon. We urge you to provide us with the opportunity to bring a finished pension technical package to the floor in a timely fashion in order to give our colleagues the chance to have their priorities considered.

Sincerely,

EDWARD M. KENNEDY,
Chairman.
MICHAEL B. ENZI,
Ranking Member.

Mr. ENZI. Retirement security is a cornerstone of the HELP Committee's jurisdiction. I recognize that technical corrections are needed to the over 900 pages of the Pension Protection Act. Bicameral, staff-level meetings are taking place at this very time, and we are working with the administration to assure that the needed corrections are promptly addressed. With the huge bipartisan, bicameral support that had before, there should be no difficulty with that, and people have been working on it since the very time that we passed it. House leadership, by cherry-picking certain technical corrections intended for certain special interest groups, is not the way to legislate, and I would contend that they are not technical corrections.

Chairman KENNEDY and I, together with Chairman BAUCUS and Senator GRASSLEY, have worked extremely well on making sure that everyone has a voice at the table and that the process is transparent.

Generally, these provisions undo, in a piecemeal fashion, what was accomplished in the Pension Protection Act as far as strengthening funding requirements. It permits some plans to choose to have reduced funding obligations and reduced pension benefit guarantee premiums. In fact, it means that the Pension Benefit Guaranty Corporation must refund some premiums to some employers.

Again, I want to provide our troops with the funding and the resources they need to be successful in all their tasks. Unfortunately, this conference does not make our troops the priority of congressional business. The men and women of our armed services deserve better than this spending bill. The people of the United States deserve better.

I yield the floor.

Mrs. MURRAY. Mr. President, I rise this evening to support the supplemental appropriations bill we will be considering shortly.

Let me be very clear. I strongly disagree with the President on our course in Iraq. I was one of only 23 Members of the Senate to vote against going to the war in Iraq, and I am committed to changing the course, redeploying our troops, and refocusing our efforts on fighting the global war on terror. I have voted time and again for resolutions and amendments to change direction. I believe the President is wrong to continue on with an open-ended commitment to an Iraqi government that has repeatedly failed to meet deadlines and take responsibility for its own country. I believe the President is wrong to continue to ignore the warnings of generals, experts, and the will of the American people.

But I also believe the President is wrong when, in his stubborn refusal to change, he also withholds money for our troops whom he has sent into harm's way. The President did just that on May 1 when he vetoed a congressionally approved supplemental that provided $4 billion more than he asked for for our troops. When the President vetoed that bill, he was the one who denied our troops the resources, equipment, and funding they need to do their jobs safely. The President was wrong, but he hasn't changed his mind. He and the majority of Republicans in Congress are blocking funding for our troops.

As we head into this Memorial Day, I will vote for this supplemental because the President has blocked this funding for too long, and I will vote for this supplemental because Democrats in Congress have changed our course. With this bill, we have taken a responsible path forward, in spite of the President, on many of our Nation's most pressing issues.

This bill, for the first time, funds the needs of our veterans and wounded warriors who have sacrificed for all of us and whose needs the President has refused to acknowledge as the cost of war. This bill makes our homeland more secure by investing critical funds in our ports and our borders, and this bill aids the recovery of hard-hit communities across the country and in the gulf coast where families have continued to suffer due to neglect from this administration. In just 5 short months, Democrats have provided a new commitment to the American people, a new direction in Iraq, and we are going to continue on this new path to change.

From the start of the war in Iraq, the Republican Congress allowed President Bush a free hand. They held few oversight hearings. They demanded no accountability. There were no wide-ranging investigations into this administration's endless mistakes. Year after year, they sent the President blank checks in the form of emergency supplementals. Now, 5 years into this war, after 5 years without accountability, 3,400 of our heroes have died, and over 25,000 have been injured. Our troops are now policing a civil war in Iraq. Billions of taxpayer dollars are unaccounted for. The reconstruction of Iraq is far from complete, and our veterans are facing awful conditions when they return home.

In November, voters asked for an end to this. They voted for us to stand up, ask difficult questions, and hold those who make mistakes accountable for them. Democrats heard that call.

Immediately after being sworn in, we began to hold hearings. We heard from military and foreign affairs experts and called administration officials to testify—under oath. We began conducting investigations into prewar intelligence, the waste of taxpayer dollars, and the treatment of our veterans. Democrats began holding vote after vote on Iraq. We forced Republicans to make clear to Americans where they stood on the war: Are they for escalation or redeployment? Are they for allowing Iraqis to continue to shirk their responsibility or for forcing them to stand up?

In January, President Bush ignored calls from Congress to follow the Iraq Study Group recommendations. Instead, he escalated our troops in Iraq. Congressional Republicans refused to criticize the escalation and stood by the President and attacked anyone who spoke out against that surge.

But congressional Democrats stood strong. We upheld our constitutional duties and what Americans put us in office for—conducting oversight and holding the administration accountable for its actions. This trend continued for months, and eventually, though slowly, some of my Republican colleagues began separating from the President and siding with us and the American people. After months of this, Democrats overcame Republican opposition and passed a bill with redeployment provisions. We sent that bill, based on the advice from the Iraq Study Group and military leaders and supported by 64 percent of Americans, to the President. We hoped he would read that bill. We hoped he would realize it was the best way forward in Iraq. But he didn't, and he vetoed it.

Now, finally, after months of blindly following the President, more and more of our colleagues on the other side are beginning to stand up to the President, demanding benchmarks and a timeline for change in Iraq.

It is clear that despite a slim majority in the House and only a one-vote margin in the Senate, Democratic efforts are working. Today is further evidence of that.

The bill we pass tonight will not be perfect. It doesn't go nearly as far as many of us would like. We, along with the American people, have made it clear what we want—a new direction that forces Iraqis to take control of their own country. Unfortunately, the President has said he would veto that bill.

So today we have a bill that takes a step forward with our changing course in Iraq. It forces the White House to acknowledge the will of the American people and the role of Congress, it pressures Iraqis to stand up, and, importantly, it funds our troops. The hard truth, of course, is that not enough Democrats are here to override a veto. We realize that another veto will not serve our troops well. They need our funds; they don't need another White House delay. So we are moving ahead.

I will say it again: This bill is not all I hoped for, but this war is not going to be brought to a close in 1 day. It is not going to be brought to a close with one bill. We will support our troops, and we will bring an end to the war in Iraq. We will continue to debate and force votes on this war week after week after week. Americans will continue to hear where the Republicans stand on this war.

We face terror threats around the world. We must, and we will, defeat them. Unfortunately, the Iraqi civil war is not making us more secure. We do need to refocus our fight back on the war on terror, and we do need to rebuild our military. I support a new direction in Iraq so that we can focus on the larger security challenges our country faces, and they are high. But I know we can improve security at home, that we can track down and eliminate terrorists around the world, and that we can take care of our servicemembers. It is a matter of getting our priorities straight. Redeploying our troops from Iraq is an important first step toward getting those priorities straight. It is a step the Senate must take, just as passing this bill tonight is one.

This bill, however, is about much more than just Iraq; it is about taking care of the best military in the world, both when they are deployed and when they return home. It is about rebuilding here in America, on the gulf coast and on family farms from coast to coast, and it is about providing hardworking Americans struggling to care for their families with a desperately needed raise.

I am not satisfied with the Iraq language in this bill. I disagree with Senator WARNER's language. I voted against it last week. But I am proud of what we were able to accomplish in this bill—in particular, taking care of the troops, which this bill does. It includes billions more than the President requested to train and equip and take care of our fighting men and women and to make sure we care for them when they come home.

So tonight, when we vote, I will cast my vote as a yes—not for the Warner language, not for the language on Iraq, but to make sure that those men and women whom we have sent to battle, despite how I feel, have the care and support they need.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise tonight in support of the supplemental.

I opposed the authorization to go to war in Iraq because I thought it would be a tragic error, and it has proved to be. Iraq did not attack this country; al-Qaida did. Sometimes I think that is somehow lost in this discussion. It was al-Qaida, led by Osama bin Laden, not Iraq, led by Saddam Hussein, who masterminded the attacks of September 11. That is a fact. That is a reality. I think it was one of the great mistakes in American history that we launched an attack on Iraq before ever finishing business with al-Qaida.

Now we face a difficult choice. We have 160,000 troops in the field, and I believe we must fund those troops until there is a responsible plan to redeploy them. Unfortunately, this President has absolutely refused to construct such a plan. I believe that leaves us with little choice but to fund the troops in this resolution before us tonight.

We also have in this package a matter of great interest to the people whom I represent, so I would like to speak for just a moment on a separate subject; that is, the disaster relief which is contained in this legislation.

I introduced a comprehensive disaster plan 3 years ago. The Senate has supported it, most recently in a vote of 74 to 23 on the Senate floor. The House supported it 2 weeks ago in a vote of over 302 Members in support. Today, it received 348 votes. Now we have an assurance we did not have before—that the disaster package will be signed by President Bush. This has been a long, hard fight, but it is critically important to the people whom I represent.

These have been the headlines all across my State:

Crops Lost To Flooding.
Beet Crop Smallest in 10 Years.
Heavy Rain Leads to Crop Diseases.
Rain Halts Harvest.
Area Farmers Battle Flooding and Disease.

This is the picture which we saw in my State 2 years ago. I flew over southeastern North Dakota, and it looked like a giant lake. Over a million acres were prevented from even being planted. Another million acres had tremendous losses in production.

Then, irony of ironies, last year we had one of the worst droughts in our Nation's history—by scientific measurement, the third worst drought in American history—and the Dakotas were the epicenter of that drought.

Mr. President, it got very little attention. It wasn't like Hurricanes Katrina and Rita, which were disasters that were immediately evident, and which received enormous national media attention. This was a slow-developing tragedy but a tragedy nonetheless. The Dakotas were right at the heart of it—North Dakota and South Dakota. It was rated as an exceptional drought—not extreme or severe or moderate, which are the other measurements, but an exceptional drought. Exceptional it was.

Here is the map of the U.S. Drought Monitor. They concluded it was the third worst drought in our Nation's history, right down the center of our country.

As you can see in this picture taken near my home in Burleigh County, ND, the corn is supposed to be knee-high by July 4, but it was just over the edge of this man's boot. I went into a cornfield that was irrigated. The farmer started shucking the corn, and every other row was empty. I asked him how can that be? He told me: Senator, this week it was 112 degrees one day. We had day after day where it was over 100 degrees.

This led to a devastating series of losses. The bankers of my State came to me and said: If there is not help, 5 to 10 percent of our clients are going to be out of business. That is how serious and consequential this is. Without this help, thousands of farm and ranch families will be forced off the land.

This legislation is funded as an emergency and doesn't require offsets from other programs. This is a change from the 2004 agriculture disaster package. Producers will be eligible for assistance for one year only. Assistance payments plus the value of crop sales and crop insurance cannot exceed 95 percent of the expected crop value, so nobody is getting rich.

It doesn't allow producers to receive multiple benefits for the same loss. So there is no double-dipping.

Crop assistance eligibility requires a 35-percent loss before there is a dime of assistance, and the payment rate is 42 percent of the established price for insured crops.

Livestock producers are eligible for both a livestock compensation program to help offset forage losses and feed costs and a livestock indemnity program to help cover death losses.

I thank my colleagues in the Senate and the House who have worked tirelessly for the last 3 years to help deliver this assistance. It has been bipartisan in the Senate. It has been a long and hard fight, but it is going to be a lifeline to thousands of farm and ranch families in my State. This is a bill the President should sign.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I am glad this long and unfortunate political process has apparently come to an end, so we can now provide the funding for our troops that has been needed for some time. The failure to do so has created uncertainty and ambiguity and has, I believe, undermined our policies in Iraq in a number of different ways. Historically, politics have stopped at the water's edge. That was a cardinal rule of American foreign policy that you might agree with or not, but you would not criticize fundamental decisions made by the United States while things are ongoing in various places in the world and, certainly, you would not take steps and actions that would undermine our troops in combat someplace in the world.

Vigorous debate is absolutely a part of who we are as a Nation. A lot of people who have been critical of our war efforts in Iraq have made suggestions that have been good. A number of their criticisms have been correct, and it is certainly welcome and a part of our heritage that we would have that kind of debate. I don't mean to suggest otherwise. But the delays we have been seeing now in actually providing the funding necessary for our military men and women in harm's way has been too long. I believe it has had a tendency to embolden our enemies and raise questions in the minds of our own soldiers.

So as I have said a number of times on the floor of the Senate, those soldiers in Iraq and Afghanistan today are there for one reason, and that is because we sent them. They are doing tough, hot, demanding, dangerous work. I have been there six times. I have to tell you, I have never been more impressed. They don't complain. They do their work with professionalism. They care about what they are doing. They believe in what they are doing. They want to succeed, and I tell you that with every fiber in my being. It is their desire to help the country of Iraq achieve stability and progress.

They are executing lawful policies of the U.S. Government. That includes the Congress—the House and Senate—as well as the President of the United States. We have, through lawful processes, deployed them to execute policies that we have decided on. This Congress, of course, has the power to bring them home at any moment that we desire. I think people are wrestling with that. Some think they should come home now. Some think that is not the appropriate decision. The President believes that is not the appropriate decision. We have accepted and have fundamentally affirmed the surge that has sent additional troops there. They are there to execute our mission. That is all I wish to say. They are there to execute our mission.

I talked to a mother not long ago whose son was killed in Iraq. She told me her son told her he believed in what he was doing. He told me when they went into neighborhoods, the women and children were glad they were there. They wanted them in the neighborhoods. That is all I am telling you. You can read what you want to in the newspaper. But because it brought a sense of security there, they wanted them there. I know there are limits to our ability to achieve what we would like to achieve, no matter what we would like to achieve; I know we are not unlimited in our ability to achieve it. We have to be realistic, and we cannot commit a single soldier to an effort a single day longer than we conclude is an appropriate thing for them to be doing. If we think it is not justified and worthwhile, we need to bring them home. I certainly agree with that.

This is a serious discussion we have been having, and I don't dispute the people who have different views of how this ought to occur. I will say again that real support of the soldiers in harm's way means we affirm them and their mission as long as we fund their mission, as long as we order them there. You may say we didn't order them there, but we did order them there. We have funded them to stay there, according to the President's tactical decision. But we authorized him to do so, and we can end that authorization as we choose.

But the truth is, we have invested a tremendous amount in Iraq. General Petraeus—what a fabulous general he is—told us the truth, I believe. The truth is it is hard, but it is not impossible. He also has said what we are doing there is important. It is important that a stable, decent government be maintained in Iraq. That is not a little thing; it is a very important thing. The soldiers who have been there—the soldiers who serve—would be, indeed, in pain and be hurt if we prematurely give up on what they have sacrificed to achieve and what so many of them truly believe in, if you talk to them.

I have to tell you that the surge of troops into Iraq was a bitter pill to me. I remember distinctly when General Casey said in late 2005 he believed we could start bringing home troops in 2006. That was absolutely music to my ears and what I wanted to hear. Then he said he had to delay the troops coming home because the sophisticated, sustained effort by al-Qaida to attack Shia individuals in holy places had created a reaction by Shia, with the formation of a Shia militia, and they were killing Sunni individuals and that broke out into a spate of violence in Baghdad, the capital city, the central focus of Iraq, and that was extremely unfortunate.

So my thinking is this: Benchmarks for the Iraqi Government—if we write that correctly and don't do it in a way that is unwise and counterproductive, as I believe this language is, at least it would be language the President can accept, and I would be prepared to accept the demand that they do certain things. That is all right with me. Our commitment is not open-ended. We cannot continue to try to lift a government that cannot function effectively. We want them to function. We want them to have a healthy, prosperous government. There are some good things that have happened—really and truly, there have been good things. But there are very difficult things also that are not going well. This is a challenge to the Iraqi Government.

I truly hope the benchmarks and language in this funding resolution will be such that it will be a positive spur to the Iraqi Government to confront their reconciliation difficulties, spur them to reach agreements on other constitutional questions that are critical, and be an effective step in helping that Government stand up and assume responsibility for its own fate.

I have to say I am not comfortable and am indeed uneasy with high troop levels sustained in what would be considered an occupation or a stand-in for the democratically elected Government of Iraq. That Government has to stand up and assume greater and greater responsibility. I do hope and pray that they will because it is exceedingly important that they do.

I yield the floor.

Mrs. MURRAY. Mr. President, I think it is important that, in response to the comments of my friend Senator ENZI, I set the record straight for the Senate and the American people regarding the practice of including unrequested emergency funding in war supplementals.

The emergency supplemental bills approved by Republican Congresses in 2003, 2004, 2005, and 2006 included emergency funding for many of the same issues that are in the emergency supplemental, such as: agriculture disaster assistance—fiscal year 2006 war supplemental—$500 million; border security—fiscal year 2006 war supplemental—$1.9 billion; pandemic flu—fiscal year 2006 war supplemental—$2.3 billion; wildland fire suppression—fiscal year 2005 Defense Appropriations Act, which carried $25.8 billion war supplemental—$500 million; airline security—fiscal year 2003 war supplemental—$2.396 billion; and fisheries assistance—fiscal year 2006 war supplemental—$112 million.

The White House has complained about Democrats including agricultural disaster assistance in the war supplemental. Not only did the Republican Congress approve a targeted agriculture disaster package in 2006, but there is also precedent for including assistance to a sector in the economy that has been hard hit by a disaster. In 2003, Congress approved $515 million of relief for the aviation industry.

The White House has also complained about Democrats including other matter in a war supplemental, such as the minimum wage increase.

Yet under Republican control, war supplemental laws included such unrelated matters as the REAL ID Act, fiscal year 2005, a temporary worker program, fiscal year 2005, and budget process provisions, fiscal year 2006.

So I am glad to have the opportunity to clarify for my colleagues the real record when it comes to meeting the needs of the American people in emergency supplemental appropriation bills.

Mr. KENNEDY. Mr. President, while there are many aspects of this conference report that I cannot support, I am pleased that it will finally allow us to get a minimum wage bill to the President's desk. The minimum wage has been stuck at $5.15 an hour for more than 10 years, but now—finally Americans across the country will get the raise they need and deserve. For the millions of working families who will benefit, this increase may be long overdue, but it is nonetheless something to celebrate.

Mr. President, 13 million Americans will see more money in their paychecks

for the first time in a decade. They will have a few more dollars to spend on the essentials of life, or maybe they will have a few more hours to spare to spend time with their families; 6 million children will have better food, better health, and better opportunities for the future.

I deeply regret that this vital increase was so long in coming. The minimum wage bill passed the House and Senate by overwhelming margins in January and February of this year. Had we been able to send that bill to the President's desk right away, the first phase of the raise would already be in effect.

Unfortunately, my colleagues on the other side of the aisle would not let that happen. They prevented the minimum wage bill from going to conference until they could make sure it included a big enough tax giveaway for businesses. That is why were here talking about it today. We had to put in on a bill they couldn't block to get it to the President's desk.

We have overcome many obstacles—and faced every procedural trick in the book—to get this minimum wage increase across the finish line. Democrats stood together, and stood firm, to say that no one who works hard for a living should have to live in poverty.

But we didn't do it alone. The passage of the minimum wage is not merely a legislative victory—it's a victory for the American people.

After years of delay and inexcusable inaction by Congress, the American people took this fight into their own hands. They started a grassroots movement that spread across the Nation like wildfire. They pounded the pavements. They prayed in their pews. They refused to take no for an answer. We are here today because of their efforts, and they deserve the gratitude of our Nation.

The minimum wage is one of the great achievements of our proud democracy. It is a reflection of our values, and a cornerstone of the American dream. It is about the kind of country we want to be.

Americans want to live in a country where everyone has opportunity and the chance to succeed. Where anyone who works hard and plays by the rules can build a better life for their family. Where there is no permanent underclass, and everyone has hope for a brighter future. When the President signs a minimum wage increase into law, we will be one step closer to that noble goal.

Certainly, the increase we have passed today is only the first of many steps we must take to address the problems of poverty and inequality in our society. There is no doubt that we need to do much, much more. But it's important to take a moment today to celebrate this victory. Raising the minimum wage will add dignity to the lives of millions of working families. It is one of the proudest achievements of this new Congress.

Mr. COLEMAN. Mr. President, due to a family medical emergency, I am returning to Minnesota this evening and will be unable to cast my vote in favor of the supplemental appropriations bill. I believe the Senate is taking responsible action by passing critical funding for the troops without attaching it to arbitrary timelines for withdrawal. Moreover, this bill contains critical agricultural disaster assistance funding that I have been fighting to deliver for Minnesota's farmers for over a year. Had I been present, I would have voted ''aye'' on the supplemental.

Mr. DODD. Mr. President, I rise today to announce that I am voting against the Iraq war supplemental. I wish I didn't have to. I wish that I looked at Iraq and saw a stable, united government, a society free of terrorists and insurgents, and liberal democracy around the corner, if only we spent another billion dollars, or a hundred lives, or another year of waiting. I wish that our surge had, at long last, brought quiet to the tortured city of Baghdad. I wish that our President's policies were working.

I wish that I could look at Iraq and say, with a clear voice and a clean conscience: I share our President's confidence.

I wish; and even as I wish, the truth tells me otherwise. It tells me that 3,415 men and women in uniform have already sacrificed everything in Iraq, with no end in sight. It tells me that our military is being hollowed out by the Iraq experience, that two-thirds of our Army in the United States and 88 percent of our National Guard are forced to report: Not ready for duty, sir. It tells me that the American people demand an end to this war, and that the Iraqi people—for whose sake we toppled a dictator and established elections, precisely so we could hear their voice—demand the same.

I look at this bill and I don't see the truth in it. It exists in a world in which the President's plans are all meeting their mark. It gives us a status-quo strategy that has failed and failed again. It writes the President a blank check.

I had hoped that this supplemental would have passed with strong timetables for withdrawal, a unambiguous line in the sand. A responsible supplemental would have established definitive guidance for the President to transition the mission of our forces away from combat operations. It would have defined that mission clearly as counter-terrorism, training of Iraqi forces, and American force protection. It would have required a diplomatic and economic strategy in Iraq. And it would have held both the President and the Iraqi Government accountable. The Feingold-Reid-Dodd bill contained just such timetables, and mandated a responsible transition in mission, all backed by Congress's constitutional power of the purse.

But I cannot, in good conscience, support the half-measure that has taken its place. Instead of establishing realistic timetables, this supplemental does one thing only: It delays for 4 months, until funding runs out again, the decision we all know is coming: ultimately, combat troops will be redeployed from Iraq. This bill allows 4 more months of reckless endangerment of our troops and our national security.

A Senator shouldn't talk like that, some will say. I will be told I am declaring surrender right here on the Senate floor. Those are the words that will come from the other side of the aisle, big, grand words—surrender, triumph, defeat, victory—words that will blur and swirl together until they lose all mooring in reality. The President's supporters want to paint us a picture of a world in which we line up on a field of battle, the terrorists on one side and America on the other, and fight pitched warfare until one side waves the white flag.

But Iraq does not exist in that world. General Petraeus tells us that there will be no military solution; so does the Iraq Study Group. Senator HAGEL, a war hero and member of the Foreign Relations Committee, tells us that ''there will be no victory or defeat in Iraq . . . Iraq belongs to the 25 million Iraqis who live there . . . Iraq is not a prize to be won or lost.''

So I am not conceding defeat in Iraq—because there is no defeat to be conceded. There is only the hope that Sunni, Shia, and Kurd will reconcile in government, call off their militias and death squads, and turn against the foreign terrorists who have helped to spark this civil war. Our combat presence in Iraq cannot make that hope real. We can, and must, continue to assist the Iraqis in trying to reach these goals—but we cannot do it with military might alone. In the end, the challenges in Iraq can only be addressed through political means.

We are told, again and again, that we are failing to ''support the troops''—support that is subject to only the vaguest of measurements: ''messages'' and ''signals'' and ''resolve.''

We answer with fact. We answer with young lives lost and dollars squandered. We answer with the wisdom of James Baker and Lee Hamilton. We ask how any conceivable definition of ''support'' would leave our troops stranded in a civil war of strangers, with no mission or end in sight. And we say, unequivocally, that the only way to support our troops is to bring them home—now.

In fact, from the very outset of this war, it has been the President's defense policies that have hollowed out our Armed Forces and further threatened our national security. To reverse this negligence, Democrats have taken concrete action for our troops, again and again.

In 2003, I offered an amendment to the emergency supplemental appropriations bill to add $322 million for critical protective gear identified by the Army, which the Bush administration had failed to include in its budget.

But it was blocked by the administration and its allies.

In 2004 and 2005, I authored legislation, signed into law, to reimburse troops for equipment they had to purchase on their own, because the Rumsfeld Pentagon failed to provide them with the body armor and other gear they needed to stay alive.

And last year, working with Senators INOUYE, REED, and STEVENS, I offered an amendment to help address a $17 billion budget shortfall to replace and repair thousands of war-battered tanks, aircraft, and vehicles. This provision was approved unanimously and enacted in law.

That is support—support that can be measured, support that carries a cost beyond words.

And it is support that will continue, even if this supplemental fails, as it should. The Defense Department has ample funds to maintain our combat troops in Iraq until they can be withdrawn responsibly. The failure of this bill will not turn funds off like a spigot—the military simply does not work like that. Instead, our troops are supported by the more than $150 billion in the Pentagon's regular operations and maintenance account—and in the meantime, we might negotiate with the President for a responsible drawdown of combat troops. Any implication that we are stranding our soldiers in the desert—without fuel or bullets or rations—is totally specious.

And it follows that the President's Memorial Day deadline is totally arbitrary. The lives of our troops are more important than the President's vacation schedule. Why should he set timelines for Democrats but not for Iraqis?

Instead, let us vote down this bill and then join President Bush at the table, with the dignity befitting an equal branch of government, and the authority vested in us by the American people and our Constitution. Let us bring this disastrous war to a responsible end. And after 4 years of failed policy, let our voice be loud and unmistakeable: This far, and no further.

Mr. LEAHY. Mr. President, I will vote against the fiscal year 2007 emergency supplemental conference report. Although there are many sound and worthy provisions in this bill—such as assistance for Afghanistan and other countries, and additional funds not requested by the administration to help address the backlog of equipment for the National Guard—the inescapable fact is that this legislation would not reverse this administration's disastrous Iraq policy. I simply cannot vote in favor of a bill, containing tens of billions of additional dollars for the President's policy in Iraq, that does not begin to bring our troops home.

As one of the 23 Senators who opposed authorizing this war, I believe it is vital that we send a strong signal that Congress is going to exercise its article I constitutional powers and end our central involvement in Iraq's civil war. Every Senator—for or against this military adventure—must take a stand on whether to continue the status quo or change course. That, at the end of the day, is what this vote represents.

Congress had a workable and I believe widely acceptable plan in the original version of this supplemental bill. Taking a page from the Iraq Study Group recommendations, the plan was to end the military mission in Iraq as we currently know it. We would reduce American forces to the contingent necessary for limited Iraqi troop training, counterterrorism operations, and protecting remaining American personnel.

I and others joined with Senator FEINGOLD in an effort to strengthen that position by ensuring that no funding could go toward deployment, beyond those narrow purposes. About a month ago, we all saw the President veto the supplemental bill. Then last week, the President muscled his congressional allies to vote against the stronger Feingold-Reid-Leahy provision.

So what we are left with is this new version of the supplemental—the status quo, more of the same old stay the course. The reality is that this new conference report does nothing to stop the President's open-ended escalation. It will not force the Iraqis to make the difficult political compromises which they need to make. Nor will it begin a redeployment of American forces. The final legislation drops the mandatory timetable for planning and commencing redeployment with a targeted completion date. Beyond some reporting requirements, there is no limitation on troop levels.

What the legislation does do is limit our aid to the Iraqi government if actions toward reconciliation are not taken, although the President may waive these limitations.

I agree that we should tie our aid to the Iraqi government to clear benchmarks. But that alone is not sufficient. The reality is that despite spending hundreds of billions of dollars in Iraq, the violence has increased. We all know that the trends are going in the wrong direction. This piecemeal approach assures that our troops will remain in the middle of harm's way for the foreseeable future.

And when it comes to changing the dynamic in Iraq, it is troop levels that matter. The introduction of more forces through this open-ended escalation that the President calls the surge is sending the wrong signal to the Iraqis and to countries in the region that have interests there. It says they do not have to make the tough decisions because the American forces are there to do the dirty work, to spill their blood and to contain sectarian militias or deal with unwelcome foreign fighters.

Rory Stewart, a perspicacious observer with hands-on experience in Iraq, rightly pointed out in a recent public forum that our presence there is fundamentally undermining Iraq's political system, ''infantilizing'' Iraq politics, to use his phrase. He notes that Iraqi politicians are far more capable of making deals and reaching compromise than we think, but that our troop presence allows them to play hardball with each other. ''Were we to leave,'' Mr. Stewart says, ''they would be weaker and under more pressure to compromise.''

As I have said, there are many aspects of this supplemental that I support. We have, for example, included $1 billion in unrequested funding to help rebuild our National Guard, which is suffering from dangerously low equipment stocks because so much of the Guard's equipment has been sent to Iraq. We have funded the Marla Ruzicka Fund to aid innocent Iraqi civilians who have suffered casualties, and a similar program to aid civilian victims of war in Afghanistan. There is other funding for refugees and humanitarian assistance in Africa and the Middle East, as well as for Kosovo. I am gratified that we have been able to include funding for elections in Nepal, to support reintegration of former combatants in northern Uganda, and to begin the clean up of dioxin-contaminated sites in Vietnam and for health programs in nearby communities.

These are just a few of the things carried over from the original, vetoed version of the bill that I support and for which I have worked hard. I thank Senator GREGG, the ranking member of the State, Foreign Operations Subcommittee, and our counterparts in the House, Chairwoman LOWEY and Ranking Member WOLF, for working together in a bipartisan way to allocate the foreign assistance funding in this bill.

Yet there is a central fact that we must meet head on. This war has been a costly disaster for our country. Our ability to fight terrorism, pursue our larger national security and foreign policy goals, and secure the welfare of every American has been diminished because of it. Thousands of our troops have lost their lives or suffered grievous, life-altering injuries. Tens of thousands—and possibly hundreds of thousands—of innocent Iraqis have lost their lives. We have opened a gaping wound in the Middle East and severely damaged our image and our influence. This war has been a foreign policy failure of epic proportions.

It is time to bring our troops home. It is time to show the Iraqi people that they cannot expect us to make these sacrifices if they won't make the hard decisions that are spread before them. I regret that this legislation whitewashes what was a reasonable, good faith effort to bring real pressure to bear in Baghdad and beyond. I cannot in good conscious vote for it.

DEFENSE SUBCOMMITTEE FUNDING

Mr. INOUYE. Mr. President, the Senate is about to act on H.R. 2206, the emergency supplemental appropriations bill for fiscal year 2007, which will fully fund the needs of our men and

women in uniform. The process that we have used to reach this point has been somewhat different from our normal course of business. As such, I wanted to engage my cochairman of the Defense Subcommittee, the Senator for Alaska, in a colloquy on the defense portion of this bill. The bill before the Senate is not accompanied by the customary report because of the way the process unfolded. However, it is also true that for matters involving the allocation of funding and direction for those matters under the jurisdiction of the Defense Subcommittee, the bill closely mirrors the conference report to accompany H.R. 1591 as printed in House Report 110–107 that the Senate passed on April 26, 2007. Would my friend from Alaska agree that in terms of funding, the bill is nearly identical to that which the Senate previously approved?

Mr. STEVENS. I say to my friend from Hawaii that it is my understanding that the Senator is correct. I am advised that the funding in this bill for Defense Subcommittee matters is identical to that agreed to by the Senate on April 26, 2007, except in three areas. The increase in this bill for the Defense Health program is nearly $1.876 billion while the previous bill would have increased the health program by $2.126 billion. In addition, this bill has reduced funding for the Defense Working Capital Fund by $200 million and reduced the initiative for the Strategic Reserve Readiness Fund by $385 million. Aside from these changes the funding in this bill is exactly the same as previously passed.

Mr. INOUYE. I thank my colleague for that clarification. Therefore, I ask my friend whether he agrees that the allocation of funds that the Congress provided for these defense programs as described in the joint explanatory statement of the committee of conference to accompany H.R. 1591, except for those three areas that he just specified, is exactly the intent of this bill that we are about to pass?

Mr. STEVENS. I agree completely with my good friend. The intent of those of us who oversee the Defense Department and the drafting of this bill was to provide funds as specified in the joint explanatory statement which accompanied H.R. 1591.

Mr. INOUYE. Again, I thank my colleague. If I could make another inquiry, the Congress also included items in House Report 110–60 and Senate Report 110–37 which provided guidance to the Defense Department on several items in this bill. Would the Senator from Alaska agree with me that the intent of the chairman and ranking member of the Appropriations Subcommittee on Defense was that the guidance in these reports should be adhered to except in those areas that were altered in this bill or those areas that were addressed to the contrary in the joint explanatory statement to H.R. 1591?

Mr. STEVENS. I concur in the Senator's assessment. The Defense Subcommittee reviewed many matters before it prepared Senate Report 110–37 regarding the supplemental appropriations request before the Senate. In putting together H.R. 2206, our intent was to continue the guidance that the Senate included in its report. In addition, we have concurred in the guidance of House Report 110–60 except in those areas specifically noted in the joint explanatory statement which accompanied H.R. 1591.

Mr. INOUYE. I thank my friend. Then would you agree with me that it is our intent that the Defense Department should adhere to the guidance under the conditions which you and I have described above?

Mr. STEVENS. I say to my friend I agree with his assertion. I share his view that the Department of Defense should use the two committee reports and the joint explanatory statement of the committee of conference accompanying H.R. 1591 to discern the will of Congress in respect to this bill H.R. 2206.

Mr. INOUYE. I appreciate the comments of my friend, the Senator from Alaska, and concur. It is our view and intent that the Defense Department shall adhere to the funding allocation and comply with the guidance in the above described reports in interpreting the will of the Congress with respect to H.R. 2206, except in those few areas which are also described above. I thank the Senator from Alaska for his time and cooperation in this matter.

Mr. McCAIN. Mr. President, our service men and women on the front lines in the war on terror have been waiting too long for the funding this bill provides. Our soldiers, airmen, and marines need this appropriation to carry out their vital work, and we should have provided it months ago. The Congress, which authorized the wars in Iraq and Afghanistan, has an obligation to give our troops everything they need to prevail in their missions. As such, I will vote for its passage. But I do so with deep reservations. The legislation we are considering now is the wrong way to fund this war, and it fails the most basic tests imposed on us as stewards of taxpayer dollars.

This emergency supplemental appropriations bill contains $120 billion in funding, approximately $17 billion above the President's request. It is filled with billions of dollars in non-emergency spending that has nothing to do with funding the troops. In a time of war, with large federal budget deficits, we should be constraining our Federal expenditures. Sadly, we have chosen, once again, to do the opposite, and loaded this bill with billions of dollars in spending we don't need, spending that was not requested, spending that will only add to the already excessive size of government.

The President submitted his supplemental funding request on February 5 nearly 4 months ago. The Senate finally passed a very flawed version of a bill on March 29 a bill that everyone knew was nothing more than a political stunt, one that was dead before arrival to the President. Instead of putting our country first and providing the troops with full funding as expeditiously as possible, we let partisan politics rule the day. While some may believe that they scored political points by forcing meaningless procedural votes, I would ask them to reflect for a moment. What gain inheres in playing partisan politics with the lives of our honorable warriors and their families? How can we possibly find honor in using the fate of our servicemen to score political advantage in Washington? There is no pride to be had in such efforts. We are at war, a hard and challenging war, and we do no service for the best of us—those who fight and risk all on our behalf—by playing politics with their service.

So now, nearly 4 months after the supplemental funding request was submitted, here we are, with money literally running out to fund this war. We are about to pass a bill that while better than the last version, still contains billions of dollars that have nothing to do with the war on terror. We can do better than this. The American taxpayers deserve and expect more.

As my colleagues know, I have been meeting with citizens across the country, and let me assure you, they are not happy with the workings of Congress. There is a reason that the poll results on Congress's favorability rating are at such lows the latest at 31 percent. It is because of partisan politics having a greater priority in Washington than doing the people's business. It is because we are not making the tough choices to halt deficit spending and fix the out of control entitlement programs. It is because we seem to care more about our own reelections than about reforming government. This is not the way the American public wants their elected officials to behave. What will it take for that to sink in?

Let me mention some of the unrequested and unauthorized items contained in this bill: $110 million in aid to the shrimp and fisheries industries; $11 million for flood control projects in New York and New Jersey; $37 million to modernize the Farm Service Agency's computer system; $13 million for the Save America's Treasures program; and, $3 billion in agriculture disaster assistance, including $22 million to support the Department of Agriculture in implementing programs to provide this un-requested and unauthorized funding.

There are also several items in this bill that seek to legislate on an appropriations bill rather than allowing such items to move through the regular legislative process. Examples include language that: raises the minimum wage; restricts the Department of Transportation from implementing the North American Free Trade Agreement's, NAFTA, provisions expanding cross-border trade between Mexico and the

United States with the introduction of a pilot program that would allow a select group of Mexican trucking companies to make deliveries into our country beyond the 25 miles that current law permits; extends several tax credits, while setting forth new Internal Revenue Service definitions and exempting some programs from taxation; and, amends the Food Security Act to make adjustments to the Department of Agriculture's land and soil conservation program.

Another provision that seeks to legislate on this appropriations bill is a provision that would end-run the Defense Base Realignment and Closure, BRAC, process. The 2005 BRAC commission decided to close the Naval Air Station at Willow Grove, Pennsylvania, and the Department of Navy was in the process of closing the base in accordance with the law. This bill, however, would transfer the land and facilities to the Air Force even though the Secretary of the Air Force stated on April 12, 2007, that there is not a military need for the land it will be forced to receive. This provision was not requested by the administration, is not an emergency, and is not a responsible way to legislate. It was not reviewed or debated in any committee, and the committee of jurisdiction has had no say in the matter. Yet the American people will now be forced to continue to pay for the maintenance of this unwanted land when the Air Force receives it.

Despite these unacceptable earmarks and legislative language, I am pleased that this bill does not contain a timeline for the withdrawal of American troops from Iraq, regardless of the conditions there. Such a mandate would have had grave consequences for the future of Iraq and the security of Americans. The President was right to veto the first iteration of this legislation.

I do have concerns, however, with the way in which this measure conditions aid to the Iraqi Government by requiring the government to meet benchmarks. Although I support benchmarks for the Iraqi Government, and I believe that we should encourage the Iraqi government to move ahead as rapidly as possible on a number of fronts, some of the benchmarks contained in this bill are beyond the control of the Iraqi leadership. One of the benchmarks, for example, mandates that there will be no safe haven for ''any outlaws.'' This should of course be an aspiration, but if terrorists or insurgents hang on and hole up in Baghdad, should this constitute a reason why the United States withholds economic aid to the government? Similarly, another benchmark requires the Iraqi Government to reduce the level of sectarian violence. But if sectarian violence does not decline as rapidly as we would like, does this suggest that the answer is to cut off reconstruction aid? It's not at all clear to me that it does.

I believe that, instead of legislating a list of benchmarks that must be met by the Iraqis, and imposing statutory penalties for nonperformance, it would be preferable for the administration to reach agreement on a series of benchmarks with the Iraqi government, a timeline for implementation, and consequences attached to each. Such an approach would make clear to the Iraqis that they must make progress, but would do so in a way that is specific, flexible, and realistic.

If this bill is to have benchmarks at all, it should be a benchmark that Congress may not approve any earmark, no matter how valid the cause, without an authorization, an administration request or inclusion in the budget. The national debt grows $75 million an hour and $1.3 billion a day. Congress should benchmark its spending sprees on zero debt, but it won't. This body would rather set benchmarks for others around the world than take responsibility for its own actions. For these reasons, this bill is flawed and irresponsible, but I will vote for it nonetheless in order to support our brave men and women fighting for freedom in Iraq and Afghanistan.

Mr. BAUCUS. Mr. President, the tax provisions included in this bill would help small businesses to succeed. These provisions would spur investment and thus create jobs. They would provide greater opportunity for workers looking for a job. They all enjoy strong support.

The bill helps businesses to provide jobs for workers who have experienced barriers to entering the workforce by extending and expanding the Work Opportunity Tax Credit, or WOTC.

WOTC encourages businesses to hire workers who might not otherwise find work. WOTC allows employers a tax credit for wages that they pay to economically disadvantaged employees. WOTC has been remarkably successful. By reducing expenditures on public assistance, WOTC is highly cost-effective. The business community is highly supportive of these credits. Industries like retail and restaurants that hire many low-skill workers find it especially useful.

The bill would extend WOTC for more than 3 years, and the bill would increase and expand the credit for employers who hire disabled veterans. The bill would also expand the credit to make it available to employers who hire people in counties that have suffered significant population losses.

To carry out day-to-day activities, small business owners are often required to invest significant amounts of money in depreciable property, such as machinery. The bill would help business owners to afford these large purchases for their businesses. To do so, the bill would extend for another year expensing under section 179 of the Internal Revenue Code.

New equipment and property are necessary to successfully operate a business. But large business purchases generally require depreciation across a number of years, and depreciation requires additional bookkeeping.

Expensing under section 179 allows for an immediate 100-percent deduction of the cost for most personal property purchased for use in a business. The bill increases the expensing limit from $112,000 to $125,000, and the bill increases the phase-out threshold from $450,000 to $500,000 for 2007.

When small business owners are able to expense equipment, they no longer have to keep depreciation records on that equipment. So extending section 179 expensing would ease small business bookkeeping burdens.

The bill includes a package of tax incentives to help recovery of small business and low-income housing in areas hit by Hurricanes Katrina, Rita, and Wilma. The bill also requires GAO to conduct a study on how State and local governments have allocated and utilized the tax incentives that have been provided for these areas since 2005. We want to make sure that the tax incentives that Congress provided for hurricane recovery are being properly used, and we want to make sure that these incentives are providing the much-needed help for which they were created.

Tips received by restaurant employees are treated as wages for purposes of Social Security taxes. As such, employers must pay Social Security taxes on tips received by their employees. These employers receive a business tax credit for taxes paid on tip income in excess of the Federal minimum wage rate. The bill would prevent a decrease in the amount of this business tax credit that restaurant owners may claim despite an increase in the Federal minimum wage.

Currently, if a small business jointly owned by a married couple files taxes as a sole proprietorship, only the filing spouse receives credit for paying Social Security and Medicare taxes. Furthermore, unless the married couple is located in a community property State, both the married couple and the business are subject to penalties for failing to file as a partnership.

The bill would allow an unincorporated business that is jointly owned by a married couple in a common law State to file as a sole proprietorship without penalty. The bill would also ensure that both spouses receive credit for paying Social Security and Medicare taxes.

Current law limits a small business' ability to claim WOTC and the tip credit by imposing a limitation that such credits cannot be used to offset taxes that would be imposed under the alternative minimum tax, or AMT. The bill would provide a permanent waiver for WOTC and the tip credit and would allow WOTC and the tip credit to be taken under AMT.

The bill would help small businesses by modifying S corporation rules. These modifications reduce the effect of what some call the ''sting tax.'' These modifications would improve the viability of community banks.

The tax language included in the bill is a responsible package. It would ensure the continued growth and success of small businesses.

And we have also paid for it.

The offsets include a proposal to discourage the practice of transferring investments to one's child for the purpose of avoiding higher tax rates.

The offsets also include proposals to improve tax administration.

The offsets would allow the IRS more time to notify the taxpayer about a deficiency before it must stop charging interest and penalties. The offsets include making permanent the fees that the IRS is authorized to charge for private letter rulings and other forms of guidance.

The offsets also enhance penalties that the IRS may impose when taxpayers and preparers do not comply with the law. The offsets would also prohibit employers from using the collection due process to delay or prevent the IRS from collecting delinquent trust fund employment taxes.

The hard-working American taxpayers whom we are trying to help in this bill should not have to pay more in taxes because some taxpayers are abusing the tax system.

The nonpartisan Joint Committee on Taxation has made available to the public a technical explanation of the tax provisions of H.R. 2206. The technical explanation expresses the committee's understanding and legislative intent behind this important legislation. It will be available on the Joint Committee's website at www.house.gov/jct.

These are sound tax policy changes. Let's finally enact an increase in the minimum wage, and let's also pass this useful package of tax benefits to help America's small businesses. I urge my colleagues to support the bill.

Mr. BYRD. Mr. President, the following are additional explanatory materials regarding the appropriations for the Department of Defense made by the House amendments to the Senate amendment to H.R. 2206.

I ask unanimous consent they be printed in the RECORD.

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

DEPARTMENT OF DEFENSE—MILITARY

PROGRAM EXECUTION

The Department of Defense shall execute the appropriations provided in this Act consistent with the allocation of funds contained in the joint explanatory statement of the committee of conference accompanying H.R. 1591 when such appropriations (by account) are equal to those appropriations (by account) provided in this Act. The Department is further directed to adhere to the reporting requirements in Senate Report 110–37 and House Report 110–60 except as otherwise contravened by the joint explanatory statement of the committee of conference accompanying H.R. 1591 or the following statement.

REPORTING REQUIREMENTS

The Secretary of Defense shall provide a report to the congressional defense committees within 30 days after the date of enactment of this legislation on the allocation of the funds within the accounts listed in this Act. The Secretary shall submit updated reports 30 days after the end of each fiscal quarter until funds listed in this Act are no longer available for obligation. These reports shall include: a detailed accounting of obligations and expenditures of appropriations provided in this Act by program and subactivity group for the continuation of the war in Iraq and Afghanistan; and a listing of equipment procured using funds provided in this Act. In order to meet unanticipated requirements, the Department of Defense may need to transfer funds within these appropriations accounts for purposes other than those specified. The Department of Defense shall follow normal prior approval reprogramming procedures should it be necessary to transfer funding between different appropriations accounts in this Act.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex.

OPERATION AND MAINTENANCE

SOAR VIRTUAL SCHOOL DISTRICT

The Deputy Undersecretary of Defense for Military Community and Family Policy is directed to comply with the guidance contained in the joint explanatory statement of the committee of conference accompanying H.R. 1591 regarding the Student Online Achievement Resources (SOAR Virtual School District) program.

IRAQ SECURITY FORCES FUND

The Department is directed to report to the House and Senate Committees on Appropriations within 90 days of enactment of this Act the accountability requirements DoD has applied to the train-and-equip program for Iraq and the plans underway to formulate property accountability rules and regulations that distinguish between war and peace.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

The Joint Improvised Explosive Device Defeat Organization (JIEDDO) shall report on JIEDDO staffing levels no later than June 29, 2007.

PROCUREMENT

SINGLE CHANNEL GROUND AND AIRBORNE RADIO SYSTEM (SINCGARS) FAMILY

The Department of the Army is directed to comply with the guidance contained in the joint explanatory statement of the committee of conference accompanying H.R. 1591 regarding funding limitations and reporting requirements for the Single Channel Ground and Airborne Radio Systems.

DEFENSE HEALTH PROGRAM

TRAUMATIC BRAIN INJURY (TBI) AND POST-TRAUMATIC STRESS DISORDER (PTSD) TREATMENT AND RESEARCH

If a service member is correctly diagnosed with TBI or PTSD, the better chance he or she has of a full recovery. It is critical that health care providers are given the resources necessary to make accurate, timely referrals for appropriate treatment and that service members have high priority access to such services. Therefore, $900,000,000 is provided for access, treatment and research for Traumatic Brain Injury (TBI) and Post-Traumatic Stress Disorder (PTSD). Of the amount provided, $600,000,000 is for operation and maintenance and $300,000,000 is for research, development, test and evaluation to conduct peer reviewed research.

By increasing funding for TBI and PTSD, the Defense Department will now have significant resources to dramatically improve screening for risk factors, diagnosis, treatment, counseling, research, facilities and equipment to prevent or treat these illnesses.

To ensure that patients receive the best care available, the Department shall develop plans for the allocation of funds for TBI and PTSD by reviewing the possibility of conducting research on: therapeutic drugs and medications that ''harden'' the brain; and, testing and treatment for tinnitus which impacts 49 percent of blast victims. The Department also should consider in its planning the establishment of brain functioning base lines prior to deployment and the continued measurement of concussive injuries in theater.

If the Secretary of Defense determines that funds made available within the operation and maintenance account for the treatment of Traumatic Brain Injury and Post-Traumatic Stress Disorder are excess to the requirements of the Department of Defense, the Secretary may transfer excess amounts to the Department of Veterans Affairs to be available for the same purpose.

The Secretary of Defense shall notify the congressional defense committees no later than 15 days following any transfer of funds to the VA for PTSD/TBI treatment.

SUSTAINING THE MILITARY HEALTH CARE BENEFIT

Provided herein is $410,750,000 to fully fund the Defense Health Program for fiscal year 2007. The Department is expected to examine other ways to sustain the benefit without relying on Congress to enact legislation that would increase the out-of-pocket costs to the beneficiaries.

HEALTH CARE IN SUPPORT OF ARMY MODULAR FORCE CONVERSION AND GLOBAL POSITIONING

The Assistant Secretary of Defense for Health Affairs and the Surgeon General of the Army shall coordinate an effort and report back to the congressional defense committees within 120 days after enactment of this Act on how these anticipated costs will be funded to ensure soldiers and their families affected by AMF and global positioning will have access to the health care they deserve.

MEDICAL SUPPORT FOR TACTICAL UNITS

The Department of the Army is directed to address medical requirements for those tactical units currently deployed to or returning from the Iraq or Afghanistan theaters. The Department of the Army shall focus funding on the replenishment of medical supply and equipment needs within the combat theaters, to include bandages and the provision of medical care for soldiers who have returned home in a medical holdover status.

MEB/PEB IMPROVEMENTS

The system for evaluating soldiers' eligibility for disability benefits has diminished, causing the soldiers' needs to go unmet. In particular, the thousands of soldiers wounded in the wars in Iraq and Afghanistan have overwhelmed the system leading to failure to complete reviews in a timely manner. In some cases, lack of management, caseworkers, specialists to help identify depression and post-traumatic stress disorder, medical hold facilities and even wheelchair access has meant that wounded soldiers have had to overcome many obstacles during their medical care.

Therefore, within the funds provided, $30,000,000 is to be used for strengthening the process, programs, formalized training for personnel, and for the hiring of administrators and caseworkers. The resources provided are to be used at Walter Reed, Brooke, Madigan, and Womack Army Medical Centers and National Naval Medical Center, San Diego.

SUMMARY AND TABULAR MATERIALS

The following tables provide details of the supplemental appropriations for the Department of Defense–Military.

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

DEPARTMENT OF DEFENSE - MILITARY	
Military Personnel	
Military Personnel, Army (emergency)	8,853,350
Military Personnel, Navy (emergency)	1,100,410
Military Personnel, Marine Corps (emergency)	1,495,827
Military Personnel, Air Force (emergency)	1,218,587
Reserve Personnel, Army (emergency)	147,244
Reserve Personnel, Navy (emergency)	86,023
Reserve Personnel, Marine Corps (emergency)	5,660
Reserve Personnel, Air Force (emergency)	11,573
National Guard Personnel, Army (emergency)	545,286
National Guard Personnel, Air Force (emergency)	44,033
Subtotal	13,507,993
Operation and Maintenance	
Operation and Maintenance, Army (emergency)	20,373,379
Operation and Maintenance, Navy (emergency)	4,676,670
(Transfer to Coast Guard) (emergency)	(-120,293)
Operation and Maintenance, Marine Corps (emergency)	1,146,594
Operation and Maintenance, Air Force (emergency)	6,650,881
Operation and Maintenance, Defense-Wide (emergency)	2,714,487
Operation and Maintenance, Army Reserve (emergency)	74,049
Operation and Maintenance, Navy Reserve (emergency)	111,066
Operation and Maintenance, Marine Corps Reserve (emergency)	13,591
Operation and Maintenance, Air Force Reserve (emergency)	10,160
Operation and Maintenance, Army National Guard (emergency)	83,569
Operation and Maintenance, Air National Guard (emergency)	38,429
Afghanistan Security Forces Fund (emergency)	5,906,400
Iraq Security Forces Fund (emergency)	3,842,300
Iraq Freedom Fund (emergency)	355,600
Joint Improvised Explosive Device Defeat Fund (emergency)	2,432,800
Strategic Reserve Readiness Fund (emergency)	1,615,000
Subtotal	50,044,975
Procurement	
Aircraft Procurement, Army (emergency)	619,750
Missile Procurement, Army (emergency)	111,473
Procurement of Weapons and Tracked Combat Vehicles, Army (emergency)	3,404,315
Procurement of Ammunition, Army (emergency)	681,500
Other Procurement, Army (emergency)	11,076,137
Aircraft Procurement, Navy (emergency)	1,090,287
Weapons Procurement, Navy (emergency)	163,813
Procurement of Ammunition, Navy and Marine Corps (emergency)	159,833
Other Procurement, Navy (emergency)	748,749
Procurement, Marine Corps (emergency)	2,252,749
Aircraft Procurement, Air Force (emergency)	2,106,468
Missile Procurement, Air Force (emergency)	94,900
Procurement of Ammunition, Air Force (emergency)	6,000
Other Procurement, Air Force (emergency)	2,096,200
Procurement, Defense-Wide (emergency)	980,050
Subtotal	25,592,224

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

Research, Development, Test and Evaluation	
Research, Development, Test and Evaluation, Army (emergency)	100,006
Research, Development, Test and Evaluation, Navy (emergency)	298,722
Research, Development, Test and Evaluation, Air Force (emergency)	187,176
Research, Development, Test and Evaluation, Defense-wide (emergency)	512,804
Subtotal	1,098,708
Revolving And Management Funds	
Defense Working Capital Funds (emergency)	1,115,526
National Defense Sealift Fund (emergency)	5,000
Subtotal	1,120,526
Other Department of Defense Programs	
Defense Health Program (emergency)	3,001,853
Operation and maintenance (emergency)	(2,552,153)
Procurement (emergency)	(118,000)
Research, development, test and evaluation (emergency)	(331,700)
Medical support fund (emergency)	---
Drug Interdiction and Counter-Drug Activities, Defense (emergency)	254,665
Subtotal	3,256,518
Related Agencies	
Intelligence Community Management Account (emergency)	71,726
General Provisions	
Sec. 1302. New transfer authority (emergency)	(3,500,000)
Sec. 1305. Defense Cooperative Account transfer authority (emergency)	1,000
Sec. 1322. Military Construction, Army (by transfer) (emergency)	(-6,250)
Sec. 1313. Economic Support Fund (Department of State) (by transfer) (emergency)	(-110,000)
Total, Department of Defense	94,693,670

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

RECAPITULATION	
MILITARY PERSONNEL, ARMY	8,853,350
MILITARY PERSONNEL, NAVY	1,100,410
MILITARY PERSONNEL, MARINE CORPS	1,495,827
MILITARY PERSONNEL, AIR FORCE	1,218,587
RESERVE PERSONNEL, ARMY	147,244
RESERVE PERSONNEL, NAVY	86,023
RESERVE PERSONNEL, MARINE CORPS	5,660
RESERVE PERSONNEL, AIR FORCE	11,573
NATIONAL GUARD PERSONNEL, ARMY	545,286
NATIONAL GUARD PERSONNEL, AIR FORCE	44,033
GRAND TOTAL, MILITARY PERSONNEL	13,507,993

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

50	MILITARY PERSONNEL, ARMY	
100	ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS	
150	BASIC PAY	493,534
200	RETIRED PAY ACCRUAL	169,837
250	BASIC ALLOWANCE FOR HOUSING	411,479
300	BASIC ALLOWANCE FOR SUBSISTENCE	16,060
350	SPECIAL PAYS	415,457
400	SOCIAL SECURITY TAX	36,012
450	TOTAL, BUDGET ACTIVITY 1	1,542,379
500	ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL	
550	BASIC PAY	1,323,548
600	RETIRED PAY ACCRUAL	466,287
650	BASIC ALLOWANCE FOR HOUSING	1,409,965
700	SPECIAL PAYS	1,896,707
750	SOCIAL SECURITY TAX	101,057
800	TOTAL, BUDGET ACTIVITY 2	5,197,564
850	ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL	
900	BASIC ALLOWANCE FOR SUBSISTENCE	155,782
950	SUBSISTENCE-IN-KIND	1,216,195
1000	TOTAL, BUDGET ACTIVITY 4	1,371,977
1050	ACTIVITY 5: PERMANENT CHANGE OF STATION	
1100	ACCESSION TRAVEL	19,679
1150	OPERATIONAL TRAVEL	182,113
1200	ROTATIONAL TRAVEL	218,906
1250	TOTAL, BUDGET ACTIVITY 5	420,698
1300	ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS	
1350	INTEREST ON SOLDIERS DEPOSITS	21,779
1400	RESERVE INCOME REPLACEMENT PROGRAM	8,208
1450	UNEMPLOYMENT BENEFITS	144,489
1500	DEATH GRATUITIES	95,056
1550	SGLI/TSGLI INSURANCE PREMIUM	51,200
1700	TOTAL, BUDGET ACTIVITY 6	320,732
1750	TOTAL, MILITARY PERSONNEL, ARMY	8,853,350

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

MILITARY PERSONNEL, ARMY	
BA-1: PAY AND ALLOWANCES OF OFFICERS	
Basic Allowance for Housing	411,479
BA-2: PAY AND ALLOWANCES OF ENLISTED	
Basic Allowance for Housing	1,409,965

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

1800	MILITARY PERSONNEL, NAVY	
1850	ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS	
1900	BASIC PAY	78,148
1950	RETIRED PAY ACCRUAL	20,681
2000	BASIC ALLOWANCE FOR HOUSING	20,374
2050	BASIC ALLOWANCE FOR SUBSISTENCE	2,233
2100	SPECIAL PAYS	43,929
2150	SOCIAL SECURITY TAX	5,966
2200	TOTAL, BUDGET ACTIVITY 1	171,331
2250	ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL	
2300	BASIC PAY	145,279
2350	RETIRED PAY ACCRUAL	38,494
2400	BASIC ALLOWANCE FOR HOUSING	471,174
2450	SPECIAL PAYS	152,440
2500	SOCIAL SECURITY TAX	11,110
2550	TOTAL, BUDGET ACTIVITY 2	818,497
2600	ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL	
2650	BASIC ALLOWANCE FOR SUBSISTENCE	14,103
2700	SUBSISTENCE-IN-KIND	13,149
2750	TOTAL, BUDGET ACTIVITY 4	27,252
2800	ACTIVITY 5: PERMANENT CHANGE OF STATION	
2850	ACCESSION TRAVEL	7,911
2950	OPERATIONAL TRAVEL	15,936
3000	ROTATIONAL TRAVEL	4,437
3050	SEPARATION TRAVEL	6,216
3150	TOTAL, BUDGET ACTIVITY 5	34,500
3200	ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS	
3300	RESERVE INCOME REPLACEMENT PROGRAM	3,000
3350	UNEMPLOYMENT BENEFITS	28,200
3400	DEATH GRATUITIES	11,001
3450	SGLI/TSGLI INSURANCE PREMIUM	6,629
3600	TOTAL, BUDGET ACTIVITY 6	48,830
3650	TOTAL, MILITARY PERSONNEL, NAVY	1,100,410

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

MILITARY PERSONNEL, NAVY:	
BA-2: PAY AND ALLOWANCES OF ENLISTED	
Basic Allowance for Housing	471,174

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3700	MILITARY PERSONNEL, MARINE CORPS	
3750	ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS	
3800	BASIC PAY	185,119
3850	RETIRED PAY ACCRUAL	49,056
3900	BASIC ALLOWANCE FOR HOUSING	63,537
3950	BASIC ALLOWANCE FOR SUBSISTENCE	5,839
4000	SPECIAL PAYS	27,331
4050	SOCIAL SECURITY TAX	14,162
4100	TOTAL, BUDGET ACTIVITY 1	345,044
4150	ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL	
4200	BASIC PAY	241,654
4250	RETIRED PAY ACCRUAL	64,039
4300	BASIC ALLOWANCE FOR HOUSING	241,915
4350	SPECIAL PAYS	438,168
4400	SOCIAL SECURITY TAX	18,487
4450	TOTAL, BUDGET ACTIVITY 2	1,004,263
4500	ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL	
4550	BASIC ALLOWANCE FOR SUBSISTENCE	38,624
4650	TOTAL, BUDGET ACTIVITY 4	38,624
4700	ACTIVITY 5: PERMANENT CHANGE OF STATION	
4750	ACCESSION TRAVEL	4,131
4850	OPERATIONAL TRAVEL	43,038
5050	TOTAL, BUDGET ACTIVITY 5	47,169
5100	ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS	
5250	UNEMPLOYMENT BENEFITS	20,500
5300	DEATH GRATUITIES	31,121
5350	SGLI/TSGLI INSURANCE PREMIUM	9,106
5500	TOTAL, BUDGET ACTIVITY 6	60,727
5550	TOTAL, MILITARY PERSONNEL, MARINE CORPS	1,495,827

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

MILITARY PERSONNEL, MARINE CORPS:	
BA-1: PAY AND ALLOWANCES OF OFFICERS	
Basic Allowance for Housing	63,537
BA-2: PAY AND ALLOWANCES OF ENLISTED	
Basic Allowance for Housing	241,915

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

5600	MILITARY PERSONNEL, AIR FORCE	
5650	ACTIVITY 1: PAY AND ALLOWANCES OF OFFICERS	
5700	BASIC PAY	143,092
5750	RETIRED PAY ACCRUAL	40,182
5800	BASIC ALLOWANCE FOR HOUSING	91,989
5850	BASIC ALLOWANCE FOR SUBSISTENCE	5,156
5900	SPECIAL PAYS	6,721
5950	ALLOWANCES	4,650
6000	SOCIAL SECURITY TAX	11,599
6050	TOTAL, BUDGET ACTIVITY 1	303,389
6100	ACTIVITY 2: PAY AND ALLOWANCES OF ENLISTED PERSONNEL	
6150	BASIC PAY	348,642
6200	RETIRED PAY ACCRUAL	99,309
6250	BASIC ALLOWANCE FOR HOUSING	259,124
6300	SPECIAL PAYS	44,859
6350	ALLOWANCES	16,623
6400	SOCIAL SECURITY TAX	28,668
6450	TOTAL, BUDGET ACTIVITY 2	797,225
6500	ACTIVITY 4: SUBSISTENCE OF ENLISTED PERSONNEL	
6550	BASIC ALLOWANCE FOR SUBSISTENCE	34,424
6600	SUBSISTENCE-IN-KIND	66,848
6650	TOTAL, BUDGET ACTIVITY 4	101,272
6700	ACTIVITY 5: PERMANENT CHANGE OF STATION	
6850	OPERATIONAL TRAVEL	5,500
7050	TOTAL, BUDGET ACTIVITY 5	5,500
7100	ACTIVITY 6: OTHER MILITARY PERSONNEL COSTS	
7250	UNEMPLOYMENT BENEFITS	16,200
7300	DEATH GRATUITIES	8,453
7350	SGLI/TSGLI INSURANCE PREMIUM	8,548
7500	TOTAL, BUDGET ACTIVITY 6	33,201
7510	ADJUSTMENT TO PAY AND ALLOWANCES	-22,000
7550	TOTAL, MILITARY PERSONNEL, AIR FORCE	1,218,587

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

MILITARY PERSONNEL, AIR FORCE:	
BA-1: PAY AND ALLOWANCES OF OFFICERS	
Basic Allowance for Housing	91,989
BA-2: PAY AND ALLOWANCES OF ENLISTED	
Basic Allowance for Housing	259,124
Adjustment to Pay and Allowances - Transfer to National Guard Personnel, Air Force	-22,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

7600	RESERVE PERSONNEL, ARMY	
7650	ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT	
7660	SPECIAL TRAINING (PRE/POST MOB TRAINING).....	1,103
7700	SPECIAL TRAINING (PRE/POST MOB TRAINING)(BAH).....	6,397
7750	RECRUITING AND RETENTION	139,744
7900	TOTAL RESERVE PERSONNEL, ARMY.....	147,244

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

7950	RESERVE PERSONNEL, NAVY	
8000	ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT	
8050	UNIT TRAINING	35,000
8060	SPECIAL TRAINING (PRE/POST MOB TRAINING)	22,689
8100	SPECIAL TRAINING (PRE/POST MOB TRAINING) (BAH)	10,334
8110	SCHOOL TRAINING (PRE/POST MOB TRAINING)	11,960
8150	SCHOOL TRAINING (PRE/POST MOB TRAINING)(BAH)	1,040
8160	RECRUITING AND RETENTION	5,000
8200	TOTAL, RESERVE PERSONNEL, NAVY	86,023

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

RESERVE PERSONNEL, NAVY:	
BA-1: RESERVE COMPONENT TRAINING & SUPPORT	
Special Training (PRE/POST MOB Training) (BAH)	10,334
Recruitment and Retention	5,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

8250	RESERVE PERSONNEL, MARINE CORPS	
8300	ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT	
8340	SPECIAL TRAINING (PRE/POST MOB TRAINING) (BAH).....	5,660
8400	TOTAL, RESERVE PERSONNEL, MARINE CORPS.....	5,660

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

RESERVE PERSONNEL, MARINE CORPS:	
BA-1: RESERVE COMPONENT TRAINING & SUPPORT	
Special Training (PRE/POST MOB Training) (BAH)	5,660

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

8450	RESERVE PERSONNEL, AIR FORCE	
8500	ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT	
8550	SPECIAL TRAINING (PRE/POST MOB TRAINING)	3,000
8555	SPECIAL TRAINING (PRE/POST MOB TRAINING) (BAH).....	6,073
8560	RECRUITING AND RETENTION	2,500
8600	TOTAL, RESERVE PERSONNEL, AIR FORCE.....	11,573

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

RESERVE PERSONNEL, AIR FORCE:	
BA-1: RESERVE COMPONENT TRAINING & SUPPORT	
Special Training (PRE/POST MOB Training) (BAH)	6,073
Recruitment and Retention	2,500

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

8650	NATIONAL GUARD PERSONNEL, ARMY	
8700	ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT	
8800	SPECIAL TRAINING (PRE/POST MOB TRAINING)	24,666
8810	SPECIAL TRAINING (PRE/POST MOB TRAINING) (BAH)	112,593
8850	SCHOOL TRAINING (PRE/POST MOB TRAINING)	15,475
8860	SCHOOL TRAINING (PRE/POST MOB TRAINING) (BAH)	7,766
8900	RECRUITING AND RETENTION	339,600
8910	RECRUITING AND RETENTION (BAH)	40,786
8950	DISABILITY AND DEATH GRATUITY	4,400
9000	TOTAL, NATIONAL GUARD PERSONNEL, ARMY	545,286

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

NATIONAL GUARD PERSONNEL, ARMY:	
BA-1: RESERVE COMPONENT TRAINING & SUPPORT	
Special Training (PRE/POST MOB Training) (BAH)	112,593

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

9010	NATIONAL GUARD PERSONNEL, AIR FORCE	
9015	ACTIVITY 1: RESERVE COMPONENT TRAINING AND SUPPORT	
9020	SPECIAL TRAINING (PRE/POST MOB TRAINING) (BAH).....	19,533
9035	RECRUITING AND RETENTION	2,500
9037	ADJUSTMENT TO PAY AND ALLOWANCES.....	22,000
9040	TOTAL, NATIONAL GUARD PERSONNEL, AIR FORCE.....	44,033

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

NATIONAL GUARD PERSONNEL, AIR FORCE:	
BA-1: RESERVE COMPONENT TRAINING & SUPPORT	
Special Training (PRE/POST MOB Training) (BAH)	19,533
Recruitment and Retention	2,500
Adjustments to Pay and Allowances - Transfer from Military Personnel, Air Force	22,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

RECAPITULATION	
OPERATION AND MAINTENANCE, ARMY	20,373,379
OPERATION AND MAINTENANCE, NAVY	4,676,670
OPERATION AND MAINTENANCE, MARINE CORPS	1,146,594
OPERATION AND MAINTENANCE, AIR FORCE	6,650,881
OPERATION AND MAINTENANCE, DEFENSE-WIDE	2,714,487
OPERATION AND MAINTENANCE, ARMY RESERVE	74,049
OPERATION AND MAINTENANCE, NAVY RESERVE	111,066
OPERATION AND MAINTENANCE, MARINE CORPS RESERVE	13,591
OPERATION AND MAINTENANCE, AIR FORCE RESERVE	10,160
OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD	83,569
OPERATION AND MAINTENANCE, AIR NATIONAL GUARD	38,429
GRAND TOTAL, OPERATION AND MAINTENANCE	35,892,875
AFGHANISTAN SECURITY FORCES FUND	5,906,400
IRAQ SECURITY FORCES FUND	3,842,300
IRAQ FREEDOM FUND	355,600
JOINT IED DEFEAT FUND	2,432,800
STRATEGIC RESERVE READINESS FUND	1,615,000
GRAND TOTAL	50,044,975

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

50	OPERATION AND MAINTENANCE, ARMY	
70	BUDGET ACTIVITY 1: OPERATING FORCES	
90	ADDITIONAL ACTIVITIES	17,606,616
110	COMMANDER'S EMERGENCY RESPONSE PROGRAM	456,400
150	TOTAL, BUDGET ACTIVITY 1	18,063,016
165	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	
170	SECURITY PROGRAMS	597,614
190	SERVICE-WIDE TRANSPORTATION	1,712,749
195	TOTAL, BUDGET ACTIVITY 4	2,310,363
211	TOTAL, O&M, ARMY	20,373,379

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

O-1	
OPERATION AND MAINTENANCE, ARMY	
BA-1: OPERATING FORCES	
Additional Activities	**17,606,616**
Unjustified request	-50,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

270	OPERATION AND MAINTENANCE, NAVY	
290	BUDGET ACTIVITY 1: OPERATING FORCES	
310	MISSION & OTHER FLIGHT OPERATIONS	1,121,040
330	FLEET AIR TRAINING	41,661
350	INTERMEDIATE MAINTENANCE	1,420
370	AIR OPERATIONS AND SAFETY SUPPORT	6,614
390	AIR SYSTEMS SUPPORT	6,005
410	AIRCRAFT DEPOT MAINTENANCE	56,104
430	MISSION & OTHER SHIP OPERATIONS	767,758
450	SHIP OPERATIONAL SUPPORT/TRAINING	15,417
470	SHIP DEPOT MAINTENANCE	109,235
490	SHIP DEPOT OPERATIONS SUPPORT	11,463
510	COMBAT COMMUNICATIONS	10,656
530	ELECTRONIC WARFARE	9,088
550	SPACE SYSTEMS & SURVEILLANCE	3,190
570	WARFARE TACTICS	11,861
590	OP METEOROLOGY AND OCEANOGRAPHY	4,919
610	COMBAT SUPPORT FORCES	1,074,667
630	EQUIPMENT MAINTENANCE	8,991
650	IN-SERVICE WEAPONS SYSTEMS SUPPORT	23,316
670	WEAPONS MAINTENANCE	6,671
690	OTHER WEAPONS SYSTEMS SUPPORT	463
710	FACILITIES SUSTAINMENT, RESTORATION & MOD (FSRM)	27,665
730	BASE OPERATING SUPPORT (BOS)	491,069
760	OPERATION ENDURING FREEDOM OPTEMPO	100,000
770	TOTAL, BUDGET ACTIVITY 1	3,909,273
790	BUDGET ACTIVITY 2: MOBILIZATION	
810	SHIP PREPOSITIONING & SURGE	162,761
850	FLEET HOSPITAL PROGRAM	7,903
870	TOTAL, BUDGET ACTIVITY 2	170,664

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

890	BUDGET ACTIVITY 3: TRAINING AND RECRUITING	
910	OFFICER ACQUISITION	71
950	SPECIALIZED SKILL TRAINING	67,849
970	FLIGHT TRAINING	8,656
990	RECRUITING & ADVERTISING	1,152
1050	TOTAL, BUDGET ACTIVITY 3	77,728
1070	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	
1090	ADMINISTRATION	6,027
1110	EXTERNAL RELATIONS	98
1130	MILITARY MANPOWER/PERSONNEL MANAGEMENT	1,188
1150	OTHER PERSONNEL SUPPORT	2,392
1170	SERVICE-WIDE COMMUNICATIONS	71,489
1190	SERVICE-WIDE TRANSPORTATION	194,011
1210	PLANNING, ENGINEER & DESIGN	3
1230	ACQUISITION AND PROGRAM MANAGEMENT	54,212
1250	COMBAT/WEAPONS SYSTEM	436
1270	SPACE & ELECTRONIC WARFARE SYSTEM	55
1290	SECURITY PROGRAMS	65,147
1310	NAVAL INVESTIGATIVE SERVICE	3,654
1350	TRANSFER TO COAST GUARD	120,293
1390	TOTAL, BUDGET ACTIVITY 4	519,005
1410	TOTAL, O&M, NAVY	4,676,670

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

O-1	
OPERATION AND MAINTENANCE, NAVY	
BA-1: OPERATING FORCES	
OEF OPTEMPO	100,000
Aircraft Depot Maintenance	**56,104**
Funds not executable in FY 2007	-137,000
Aircraft survivability equipment (Marine Corps)	2,800
Ship Depot Maintenance	**109,235**
Funds not executable in FY 2007	-169,000
Combat Support Forces Maintenance	**1,074,667**
Funds not executable in FY 2007	-160,612

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

1430 OPERATION AND MAINTENANCE, MARINE CORPS	
1450 BUDGET ACTIVITY 1: OPERATING FORCES	
1490 OPERATIONAL FORCES	514,633
1510 FIELD LOGISTICS	381,632
1570 SUSTAINMENT, RESTORATION, AND MODERNIZATION	19,186
1590 BASE SUPPORT	33,474
1592 OPERATION ENDURING FREEDOM OPTEMPO	45,000
1595 TOTAL, BUDGET ACTIVITY 1	993,925
1605 BUDGET ACTIVITY 3: TRAINING AND RECRUITING	
1650 TRAINING SUPPORT	62,936
1670 RECRUITING AND ADVERTISING	24,000
1675 TOTAL, BUDGET ACTIVITY 3	86,936
1685 BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	
1730 SERVICE-WIDE TRANSPORTATION	65,733
1735 TOTAL, BUDGET ACTIVITY 4	65,733
1750 TOTAL, O&M, MARINE CORPS	1,146,594

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

O-1	
OPERATION AND MAINTENANCE, MARINE CORPS	
BA-1: OPERATING FORCES	
OEF OPTEMPO	**45,000**
Operational Forces	**514,633**
Unexecutable Funding	-150,000
Field Logistics	**381,632**
Unexecutable Funding	-150,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

1770 OPERATION AND MAINTENANCE, AIR FORCE	
1790 BUDGET ACTIVITY 1: OPERATING FORCES	
1810 PRIMARY COMBAT FORCES	1,252,192
1830 PRIMARY COMBAT WEAPONS	2,427
1850 COMBAT ENHANCEMENT FORCES	91,586
1890 COMBAT COMMUNICATIONS	339,480
1910 DEPOT MAINTENANCE	85,400
1930 FSRM	184,505
1950 BASE OPERATING SUPPORT	1,711,157
1970 GLOBAL C3I AND EARLY WARNING	20,872
1990 NAVIGATION AND WEATHER SUPPORT	6,344
2010 OTHER COMBAT OPS SUPPORT	257,732
2030 MANAGEMENT AND OPERATIONAL	95,139
2050 TACTICAL INTEL & OTHER SUPPORT	930
2070 LAUNCH FACILITIES	1,103
2090 LAUNCH VEHICLES	20
2110 SPACE CONTROL SYSTEMS	572
2130 SATELLITE SYSTEMS	73
2150 OTHER SPACE OPERATIONS	7,949
2170 FSRM	157
2190 BASE OPERATING SUPPORT	9,058
2195 OPERATION ENDURING FREEDOM OPTEMPO	65,000
2210 TOTAL, BUDGET ACTIVITY 1	4,131,696
2225 BUDGET ACTIVITY 2: MOBILIZATION	
2230 AIRLIFT OPERATIONS	1,551,583
2270 AIRLIFT OPERATIONS C3I	12,284
2290 MOBILIZATION PREPAREDNESS	19,988
2310 DEPOT MAINTENANCE	209,000
2330 FSRM	1,464
2350 BASE OPERATING SUPPORT	95,302
2370 TOTAL, BUDGET ACTIVITY 2	1,889,621

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

2385	BUDGET ACTIVITY 3: TRAINING AND RECRUITING	
2390	RECRUIT TRAINING	54
2430	BASE OPERATING SUPPORT	1,510
2450	SPECIALIZED SKILL TRAINING	65,036
2470	FLIGHT TRAINING	25
2490	PROFESSIONAL DEVELOPMENT TRAINING	692
2510	TRAINING SUPPORT	1,241
2530	FSRM	2,406
2550	BASE OPERATING SUPPORT	15,000
2570	RECRUITING AND ADVERTISING	72
2590	TOTAL, BUDGET ACTIVITY 3	86,036
2605	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	
2610	LOGISTICS OPERATIONS	191,550
2650	TECHNICAL SUPPORT ACTIVITIES	1,101
2670	SERVICE-WIDE TRANSPORTATION	113,776
2690	FSRM	145
2710	BASE OPERATING SUPPORT	15,124
2730	ADMINISTRATION	1,421
2750	SERVICE-WIDE COMMUNICATION	40,765
2770	PERSONNEL PROGRAMS	222
2790	OTHER SERVICE-WIDE ACTIVITIES	47,486
2810	OTHER PERSONNEL SUPPORT	2,603
2830	BASE OPERATING SUPPORT	2,862
2850	SECURITY PROGRAMS	102,842
2870	INTERNATIONAL SUPPORT	23,631
2890	TOTAL, BUDGET ACTIVITY 4	543,528
2910	TOTAL, O&M, AIR FORCE	6,650,881

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

O-1	
OPERATION AND MAINTENANCE, AIR FORCE	
BA-1: OPERATING FORCES	
OEF OPTEMPO	**65,000**
Base Operating Support	**1,711,157**
Unjustified Growth	-300,000
BA-2: MOBILIZATION	
Airlift Operations	**1,551,583**
Unjustified Growth	-150,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

2930	OPERATION AND MAINTENANCE, DEFENSE-WIDE	
2950	BUDGET ACTIVITY 1: OPERATING FORCES	
2970	THE JOINT STAFF (TJS)	60,200
2990	US SPECIAL OPERATIONS COMMAND (US SOCOM)	653,147
3010	TOTAL, BUDGET ACTIVITY 1	713,347
3025	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES	
3030	AMERICAN FORCES INFORMATION SERVICE (AFIS)	18,785
3050	DEFENSE CONTRACT AUDIT AGENCY (DCAA)	16,372
3070	DEFENSE CONTRACT MANAGEMENT AGENCY (DCMA)	6,169
3090	DEFENSE HUMAN RESOURCES ACTIVITY (DHRA)	6,551
3110	DEFENSE INFORMATION SYSTEMS AGENCY (DISA)	76,347
3170	DOD EDUCATION ACTIVITY (DODEA)	129,922
3190	DEFENSE SECURITY COOPERATION AGENCY (DSCA)	500,000
3210	DEFENSE THREAT REDUCTION AGENCY (DTRA)	1,200
3230	OFFICE OF THE SECRETARY OF DEFENSE	45,180
3250	WASHINGTON HEADQUARTERS SERVICES (WHS)	4,800
3270	CLASSIFIED	1,180,814
3275	OPERATION ENDURING FREEDOM OPTEMPO	15,000
3300	TOTAL, BUDGET ACTIVITY 4	2,001,140
3310	TOTAL, O&M, DEFENSE-WIDE	2,714,487

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

	Conference
The Joint Staff (TJS)	**60,200**
Contingency planning database (CPD) and effects-based assessment system (EBASS)	-1,704
US Special Operations Command (US SOCOM)	**653,147**
Program reduction	-14,050
Defense Contract Audit Agency (DCAA)	**16,372**
Iraq reconstruction efforts: civilian personnel	1,263
Iraq reconstruction efforts: temporary/additional duty	13
Iraq reconstruction efforts: miscellaneous contracts	96
Defense Contract Management Agency (DCMA)	**6,169**
Contract oversight of Iraq and Afghanistan mission requirements: pay	287
Defense Human Resources Activity (DHRA)	**6,551**
Homeland Security Presidential Directive No. 12	-15,130
Defense Information Systems Agency (DISA)	**76,347**
Expeditionary virtual network (EVNO)	-86,000
Defense Logistics Agency (DLA)	**0**
Lithium battery program adjustment	-24,600
DoD Education Activity (DoDEA)	**129,922**
Family assistance for Guard and Reserve	4,000
Child care for Guard and Reserve	6,000
Defense Security Cooperation Agency (DSCA)	**500,000**
Support to coalition partners: global lift and sustain	-50,000
Support to coalition partners: global train and equip	-300,000
Coalition support reduction	-100,000
Office of the Secretary of Defense	**45,180**
Transfer from Procurement of Ammunition, Air Force only for Handgun Replacement Study	5,000
Classified	**1,180,814**
OEF OPTEMPO	**15,000**

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3330	OPERATION AND MAINTENANCE, ARMY RESERVE	
3351	ADDITIONAL ACTIVITIES	74,049
3370	TOTAL, O&M, ARMY RESERVE	74,049

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3410	OPERATION AND MAINTENANCE, NAVY RESERVE	
3430	MISSION & OTHER FLIGHT OPERATIONS	43,601
3450	INTERMEDIATE MAINTENANCE	9,110
3470	MISSION & OTHER SHIP OPERATIONS	22,151
3490	COMBAT COMMUNICATIONS	1,170
3510	COMBAT SUPPORT FORCES	29,000
3530	BASE OPERATING SUPPORT (BOS)	6,034
3550	TOTAL, O&M, NAVY RESERVE	111,066

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3570	OPERATION AND MAINTENANCE, MARINE CORPS RESERVE	
3590	OPERATIONAL FORCES	13,591
3650	TOTAL, O&M, MARINE CORPS RESERVE	13,591

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3670	OPERATION AND MAINTENANCE, AIR FORCE RESERVE	
3710	PRIMARY COMBAT FORCES	7,100
3730	BASE SUPPORT	3,060
3750	TOTAL, O&M, AIR FORCE RESERVE	10,160

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3770	OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD	
3850	ADDITIONAL ACTIVITIES	83,569
3870	TOTAL, O&M, ARMY NATIONAL GUARD	83,569

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3890	OPERATION AND MAINTENANCE, AIR NATIONAL GUARD	
3910	AIRCRAFT OPERATIONS	27,200
3930	MISSION SUPPORT OPERATIONS	11,229
3951	TOTAL, O&M, AIR NATIONAL GUARD	38,429

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

4010	AFGHANISTAN SECURITY FORCES FUND	
4030	MINISTRY OF DEFENSE FORCES:	
4050	INFRASTRUCTURE	209,900
4070	EQUIPMENT AND TRANSPORTATION	3,214,500
4090	TRAINING	185,900
4110	SUSTAINMENT	255,200
4130	MINISTRY OF INTERIOR FORCES:	
4150	INFRASTRUCTURE	594,200
4170	EQUIPMENT AND TRANSPORTATION	624,200
4190	TRAINING	414,800
4210	SUSTAINMENT	399,500
4230	RELATED ACTIVITIES	8,200
4250	TOTAL, AFGHANISTAN SECURITY FORCES FUND	5,906,400

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

4270 IRAQ SECURITY FORCES FUND	
4290 MINISTRY OF DEFENSE FORCES:	
4310 INFRASTRUCTURE	264,800
4330 EQUIPMENT AND TRANSPORTATION	1,584,300
4350 TRAINING	51,700
4370 SUSTAINMENT	1,079,600
4390 MINISTRY OF INTERIOR FORCES:	
4410 INFRASTRUCTURE	205,000
4430 EQUIPMENT AND TRANSPORTATION	373,600
4450 TRAINING	52,900
4470 SUSTAINMENT	72,900
4490 RELATED ACTIVITIES	157,500
4530 TOTAL, IRAQ SECURITY FORCES FUND	3,842,300

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

4550	IRAQ FREEDOM FUND	
4570	JOINT RAPID ACQUISITION FOR GLOBAL WAR ON TERROR.....	100,000
4590	REMAINS, TRANSPORTATION.....	105,600
4595	STATE OWNED FACTORY RESTART, IRAQ.....	50,000
4600	PROVINCIAL RECONSTRUCTION TEAMS, IRAQ.....	100,000
4610	TOTAL, IRAQ FREEDOM FUND.....	355,600

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

4630	JOINT IMPROVISED EXPLOSIVE DEVICE (IED) DEFEAT FUND	
4650	ATTACK THE NETWORK	834,500
4670	DEFEAT THE DEVICE	1,485,700
4690	TRAIN THE FORCE	112,600
4730	TOTAL, JOINT IED DEFEAT FUND	2,432,800

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

SUMMARY	
ARMY	
AIRCRAFT	619,750
MISSILES	111,473
WEAPONS, TRACKED COMBAT VEHICLES	3,404,315
AMMUNITION	681,500
OTHER	11,076,137
TOTAL, ARMY	15,893,175
NAVY	
AIRCRAFT	1,090,287
WEAPONS	163,813
AMMUNITION	159,833
OTHER	748,749
MARINE CORPS	2,252,749
TOTAL, NAVY	4,415,431
AIR FORCE	
AIRCRAFT	2,106,468
MISSILES	94,900
AMMUNITION	6,000
OTHER	2,096,200
TOTAL, AIR FORCE	4,303,568
DEFENSE-WIDE	
DEFENSE-WIDE	980,050
TOTAL PROCUREMENT	25,592,224

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

50		AIRCRAFT PROCUREMENT, ARMY	
100	3	ARMED RECONNAISSANCE HELICOPTER	---
150	5	UH-60M BLACKHAWK (MYP)	136,303
250	8	GUARDRAIL MODS (TIARA)	33,000
300	9	ARL MODS (TIARA)	15,000
350	10	AH-64 MODS	64,200
400	12	CH-47 CARGO HELICOPTER MODS	120,000
450	23	ASE INFRARED CM	231,555
500	26	COMMON GROUND EQUIPMENT	1,811
550	27	AIRCREW INTEGRATED SYSTEMS	10,200
600	28	AIR TRAFFIC CONTROL	7,681
650		TOTAL, AIRCRAFT PROCUREMENT, ARMY	619,750

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Conference
3	**Armed Reconnaissance Helicopter**	**0**
	Baseline budget requirement	-38,000
5	**UH-60M Blackhawk Multiyear**	**136,303**
	War Replacement Aircraft	30,000
12	**CH-47 Cargo Helicopter Mods**	**120,000**
	(Note: The conference agreement includes one SOCOM CH-47 battle loss and three CH-47s for the Army National Guard)	

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

700		MISSILE PROCUREMENT, ARMY	
750	5	JAVELIN	74,673
800	8	GUIDED MLRS ROCKET	---
850	15	ITAS/TOW MODIFICATIONS	36,800
900		TOTAL, MISSILE PROCUREMENT, ARMY	111,473

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Conference
5	**Javelin**	**74,673**
	Unexecutable Request	-29,000
8	**GMLRS**	**0**
	Unit Cost Efficiencies	-19,700

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

950		PROCUREMENT OF W&TCV, ARMY	
1000	2	BRADLEY BASE SUSTAINMENT (G80718)	520,800
1150	5	STRYKER VEHICLE (G85100)	767,685
1200	6	CARRIER, MOD (GB1930)	36,191
1250	7	FIST VEHICLE (MOD) (GZ2300)	16,257
1300	9	BFVS SERIES (MOD) (GZ2400)	115,190
1350	10	HOWITZER, MED SP FT 155MM M109A6 (MOD) (GA0400)	15,785
1400	12	IMPROVED RECOVERY VEHICLE (M88 MOD) (GA0570)	61,635
1500	14	M1 ABRAMS TANK (MOD) (GA0700)	75,259
1550	15	SYSTEM ENHANCEMENT PGM: (SEP M1A2) (GA0730)	325,000
1600	18	HOWITZER, LIGHT, TOWED, 105MM, M119 (G01300)	17,696
1650	20	M240 MEDIUM MACHINE GUN (7.62MM) (G13000)	72,277
1700	21	M249 SAW MACHINE GUN, 5.56MM (G12900)	3,314
1750	22	MK-19 GRENADE MACHINE GUN (40MM) (G13400)	41,871
1800	23	MORTAR SYSTEMS (G02200)	35,212
1850	25	M107, CAL 50, SNIPER RIFLE (G01500)	719
1900	26	XM110 SEMI -AUTOMATIC SNIPER SYSTEM (SASS) (G01505)	317
1950	27	M4 CARBINE (G14904)	98,412
2000	28	SHOTGUN, MODULAR ACCESSORY SYSTEM (MASS) (G18300)	---
2050	29	COMMON REMOTELY OPERATED WEAPONS STATION (CROWS) (G047	220,000
2100	32	M4 CARBINE MODS (GB3007)	129,752
2150	33	M2 50 CAL MACHINE GUN MODS (GB4000)	4,000
2200	34	M249 SAW MACHINE GUN MODS (GZ1290)	13,556
2250	35	M240 SAW MACHINE GUN MODS (GZ1300)	3,591
2300	36	PHALANX MODS (GL1000)	150,000
2350	39	M16 RIFLE MODS (GZ2800)	1,947
2400	40	MODS LESS THAN $5.0M (WOCV-WTCV) (GC0925)	21,900
2450	41	ITEMS LESS THAN $5.0M (WOCV-WTCV) (GL3200)	4,996
2500	44	SMALL ARMS EQUIPMENT (SOLDIER ENH PROG) (GC0076)	8,202
2550	45	REF SMALL ARMS (G15400)	560
2600	48	MACHINE GUN, CAL .50 M2 ROLL (GB2000)	41,369
2650	49	XM320 GRENADE LAUNCHER MODULE (GLM) (G01501)	4,471
2700	50	ABRAMS UPGRADE PROGRAM (M1A2 SEP) (GA0750)	596,351
2750		TOTAL, PROCUREMENT OF W&TCV, ARMY	3,404,315

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Conference
5	**Stryker Vehicle (G85100)**	**767,685**
	Premature Funding Request, Mobile Gun System	-90,000
12	**Improved Recovery Vehicle (M88 MOD) (GA0570)**	**61,635**
	Pricing Adjustment	-4,000
28	**Shotgun, Modular Accessory System (G18300)**	**0**
	Premature Funding	-4,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

2800		PROCUREMENT OF AMMUNITION, ARMY	
2900	2	7.62MM ALL TYPES	25,000
2950	4	CTG, .50 CAL, ALL TYPES	39,300
3000	5	20MM ALL TYPES	38,100
3050	6	25MM ALL TYPES	15,000
3100	7	30MM ALL TYPES	40,000
3150	8	40MM ALLTYPES	165,200
3200	14	CTG, TANK, 120MM TACTICAL, ALL TYPES	8,000
3250	19	MACS	20,000
3300	23	MINE CLEARING CHARGE ALL TYPES	6,000
3350	25	SHOULDER FIRED ROCKETS ALL TYPES	30,000
3400	26	ROCKET, HYDRA 70, ALL TYPES	28,000
3450	27	DEMOLITION MUNITIONS ALL TYPES	23,500
3500	28	GRENADES ALL TYPES	2,000
3550	29	SIGNALS ALL TYPES	163,900
3600	30	SIMULATORS ALL TYPES	12,000
3650	32	NON-LETHAL AMMUNITION ALL TYPES	55,500
3700	34	ITEMS LESS THAN $5M	10,000
3750		TOTAL, PROCUREMENT OF AMMUNITION, ARMY	681,500

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

3800		OTHER PROCUREMENT, ARMY	
3850	1	TACTICAL TRAILERS/DOLLY SETS (DA0100).....	11,417
3900	2	SEMITRAILERS, FLATBED: (D01001).....	27,544
3950	3	SEMITRAILERS, TANKERS (D02001).....	6,173
4000	4	HI MOB MULTI-PURP WLHD (HMMWV) (D15400).....	953,548
4300	5	FAMILY OF MEDIUM TACTICAL VEH (FMTV) (D15500).....	1,541,661
4350	7	FAMILY OF HEAVY TACTICAL VEH (FTHV) (DA0500).....	574,432
4450	8	ARMORED SECURITY VEHICLES (ASV) (D02800).....	301,498
4500	10	TRUCK, TRACTOR, LIN HAUL, M915/M915 (DA0600).....	181,873
4650	13	MODIFICATION OF IN SVC EQUIP (DA0924).....	1,159,889
4700	17	PASSENGER CARRYING VEHICLES (D23000).....	---
4750	18	NON TACTICAL VEHICLES, OTHER (D3000).....	193,721
4760		ADD-ON ARMOR FOR COMMERCIAL VEHICLES.....	7,400
4800	22	DEFENSE ENTERPRISE WIDEBAND SATCOM SYS (SPACE) (BB8500	19,200
4850	24	SAT TERM, EMUT (SPACE) (K77200).....	17,600
4950	25	NAVSTAR GLOBAL POSITIONING SYSTEM (SPACE) (K47800)....	34,398
5000	26	SMART-T (SPACE) (BC4002).....	8,960
5050	28	GLOBAL BRDCST SVC - GBS (BC4120).....	1,800
5100	29	MOD OF IN-SVC EQUIP (TAC SAT) (BB8417).....	12
5150	31	ARMY DATA DISTRIBUTION SYSTEM (DATA RADIO) (BU1400)...	58,127
5200	34	SINCGARS FAMILY (BW0006).....	458,709
5250	37	BRIDGE TO FUTURE NETWORKS (BB1500).....	390,723
5300	41	COMBAT SURVIVOR EVADER LOCATOR (CSEL) (B03200).....	49,360
5350	42	RADIO, IMPROVED HF (COTS) FAMILY (BU8100).....	509,260
5450	43	MEDICAL COMM FOR CBT CASUALTY CARE (MC4) (MA8046).....	56,997
5500	45	TSEC - ARMY KEY MGT SYS (AKMS) (BA1201).....	1,517
5550	46	INFORMATION SYSTEM SECURITY PROGRAM-ISSP (TA0600).....	55,201
5600	52	INFORMATION SYSTEMS (BB8650).....	1,000
5650	59	ALL SOURCE ANALYSIS SYS (ASAS) (MIP) (KA4400).....	40,858
5700	60	JTT/CIBS-M (MIP) (V29600).....	840
5750	61	PROPHET GROUND (MIP) (BZ7326).....	23,000
5800	62	TACTICAL UNMANNED AERIAL SYS (TUAS)MIP (B00301).....	197,479
5950	63	SMALL UNMANNED AERIAL SYSTEM (SUAS) (B00303).....	5,372

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

6000	64	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (MIP) (KA2550)..... 17,000
6050	66	TACTICAL EXPLOITATION SYSTEM (MIP) (BZ7317)..... 19,500
6100	67	DCGS-A (MIP) (BZ7316)..... 69,705
6150	71	CI HUMINT INFO MANAGEMENT SYSTEM (CHIMS) (MIP) (BK5275 1,928
6200	72	ITEMS LESS THAN $5.0M (MIP) (BK5278)..... 33,827
6250	73	LIGHTWEIGHT COUNTER MORTAR RADAR (B05201)..... 10,470
6300	74	WARLOCK (VA8000)..... ---
6350	75	COUNTERINTELLIGENCE/SECURITY COUNTERMEASURES (BL5283). 206,233
6400	77	NIGHT VISION DEVICES (KA3500)..... 144,696
6450	78	LONG RANGE ADVANCED SCOUT SURVEILLANCE SYSTEM (K38300) 14,073
6500	80	NIGHT VISION, THERMAL WPN SIGHT (K22900)..... 109,547
6550	83	ARTILLERY ACCURACY EQUIP (AD3200)..... 3,500
6600	87	PROFILER (K27900)..... 16,195
6650	88	MOD OF IN-SVC EQUIP (FIREFINDER RADARS) (BZ7325)..... 64,556
6700	89	FORCE XXI BATTLE CMD BRIGADE & BELOW (FBCB2) (W61900). 347,295
6750	90	LIGHTWEIGHT LASER DESIGNATOR/RANGEFINDER (LLDR) (K3110 91,200
6800	91	COMPUTER BALLISTICS: LHMBC XM32 (K99200)..... 11,446
6850	92	MORTAR FIRE CONTROL SYSTEM (K99300)..... ---
6900	95	TACTICAL OPERATIONS CENTERS (BZ9865)..... 162,472
6950	96	AFATDS..... 3,378
7000	98	LWTFDS..... 23
7050	99	BATTLE COMMAND SUSTAINMENT SUPPORT SYSTEM (BCS3) (W346 1,249
7100	100	FAAD C2 (AD5050)..... 21,500
7150	101	AIR & MSL DEFENSE PLANNING & CONTROL SYS (AMD PCS).... 65,248
7200	102	FED..... 8,514
7250	103	KNIGHT FAMILY (B78504)..... 3,488
7300	104	LIFE CYCLE SOFTWARE SUPPORT (LCSS) (BD3955)..... 3,316
7350	105	LOGTECH..... 24,000
7400	106	TC AIMS II (BZ8900)..... 12,403
7450	108	TACTICAL INTERNET MANAGER (B93900)..... 12,472
7500	109	MANEUVER CONTROL SYSTEM (MCS) (BA9320)..... 58,654
7600	114	AUTOMATED DATA PROCESSING EQUIP (BD3000)..... 12,100
7650	115	CSS COMMUNICATIONS (BD3501)..... 37,423
7750	123	CBRN SOLDIER PROTECTION (M01001)..... 134,830
7800	124	SMOKE & OBSCURANT FAMILY: SOF (NONAAO ITEM) (MX0600).. 107

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

7850	125	TACTICAL BRIDGE (MX0100)	26,000
7900	126	TACTICAL BRIDGE, FLOAT-RIBBON (MA8890)	13,000
7950	127	HANDHELD STANDOFF MINE DETECTION SYSTEM (R68200)	5,551
8000	129	GRND STANDOFF MINE DETECTION SYSTEMS (R68200)	1,386,640
8050	131	EXPLOSIVE ORDNANCE DISPOSAL EQUIP (MA9200)	6,600
8100	133	HEATERS AND ECU'S (MF9000)	12,772
8150	134	LAUNDRIES, SHOWERS, AND LATRINES (M82700)	12,300
8250	135	SOLDIER ENHANCEMENT (MA6800)	9,662
8300	139	FIELD FEEDING EQUIPMENT (M65800)	7,032
8350	141	ITEMS LESS THAN $5M (ENG SPT) (ML5301)	611
8400	143	QUALITY SURVEILLANCE EQUIPMENT (MB6400)	42,220
8450	144	DISTRIBUTION SYSTEMS, PETROLEUM & WATER (MA6000)	3,283
8500	145	WATER PURIFICATION SYSTEMS (R05600)	9,401
8550	146	COMBAT SUPPORT MEDICAL (MN1000)	24,579
8600	147	SHOP EQ CONTACT MAINTENANCE TRK MTD (M61500)	52,474
8650	148	WELDING SHOP, TRAILER MTD (M62700)	7,171
8700	149	ITEMS LESS THAN $5.0M (MAINT EQ) (ML5345)	67,912
8800	153	LOADERS (R04500)	145
8850	154	HYDRAULIC EXCAVATOR (X01500)	10
8900	155	TRACTOR FULL TRACKED (M05800)	1,435
8950	156	CRANES (M06700)	25
9000	157	HIGH MOBILITY ENGINEER EXCAVATOR (HMEE) FOS (R05901)	7,740
9050	159	ITEMS LESS THAN $5.0M (CONST. EQUIP)	1,487
9150	165	GENERATORS AND ASSOCIATED EQUIP (MA9800)	50,792
9200	166	ROUGH TERRAIN CONTAINER HANDLER (M41200)	---
9250	167	ALL TERRAIN LIFTING ARMY SYSTEM (M41800)	5,548
9300	168	COMBAT TRAINING CENTERS (CTC) SUPPORT (MA6601)	309
9350	169	TRAINING DEVICES, NONSYSTEM (NA0100)	15,819
9400	172	CALIBRATION SETS EQUIPMENT (N1000)	17,100
9450	173	INTEGRATED FAMILY OF TEST EQUIPMENT (MB4000)	96,303
9500	174	TEST EQUIPMENT MODERNIZATION (TEMOD) (N11000)	10,920
9550	175	RAPID EQUIPPING SOLDIER SUPPORT EQUIP (M80101)	20,036
9600	177	PHYSICAL SECURITY SYSTEMS (OPA3) (MA0780)	152,678
9650	179	MODIFICATION OF IN-SVC EQUIP (OPA3) (MA4500)	4,917
9700	181	BUILDING PRE-FAB RELOCATABLE (MA9160)	93,603

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

9750	185	INITIAL SPARES FOR LARGE AREA SMOKE OBSCURANT SYS. (M5	948
9800	187	SEQUOYAH FOREIGN LANGUAGE TRANSLATION SYSTEM (B88605).	12,813
9850	188	COUNTER-ROCKET ARTILLERY & MORTAR (CRAM).....	245,000
9900	189	FIRE SUPPORT C2 FAMILY (B28501).....	987
9950	999	CLASSIFIED PROGRAMS.....	527
10000		AMC CRITICAL ITEMS.....	37,870
10150		TOTAL, OTHER PROCUREMENT, ARMY.....	11,076,137

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Conference
2	**Semitrailers, Flatbed: (D01001)**	**27,544**
	Premature Funding Request	-4,000
3	**Semitrailers, Tankers (D02001)**	**6,173**
	Premature Funding Request	-17,992
5	**Family of Medium Tactical Vehicles (FMTV) (D15500)**	**1,541,661**
	Stabilize Production Rate	-75,000
17	**Passenger Carrying Vehicles (D23000)**	**0**
	Funded in IFF	-6,149
18	**Non Tactical Vehicles, Other (D3000)**	**193,721**
	Funded in IFF	-9,851
34	**SINCGARS Family (BW0006)**	**458,709**
	Unexecutable Request	-75,000
46	**Information System Security Program (TA0600)**	**55,201**
	Transfer to RDT&E, A, line 174 for Execution	-23,300
52	**Information Systems**	**1,000**
	Information Systems Equipment Adjustment	-12,200
74	**Warlock**	**0**
	Duplicates funding provided in Joint Improvised Explosive Device Defeat Fund	-13,250
92	**Mortar Fire Control System (K99300)**	**0**
	Slow Execution	-3,474
96	**AFATDS**	**3,378**
	Baseline Budget Requirement	-3,500
106	**TC AIMS II**	**12,403**
	Defer non-emergency TC AIMS II procurement	-20,000
115	**CSS Communications (BD3501)**	**37,423**
	Defer non-emergency upgrades in CSS Communications	-37,434
129	**Ground Standoff Mine Detection Systems (R68200)**	**1,386,640**
	Mine Resistant Ambush Protected (MRAP) Vehicles	447,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		Conference
146	**Combat Support Medical (MN1000)**	**24,579**
	Medical Equipment Modernization and Replacement	4,000
166	**Rough Terrain Container Handler (M41200)**	**0**
	Premature Funding Request	-15,400
179	**Modification of In-Service Equipment (MA4500)**	**4,917**
	Baseline Budget Requirement	-5,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

10200		AIRCRAFT PROCUREMENT, NAVY	
11350	2	EA-18G	75,000
11400	4	F/A-18E/F (FIGHTER) HORNET (MYP)	208,000
11450	9	UH-1Y/AH-1Z	50,000
11460	16A	C-12	21,000
11500	25	EA-6 SERIES	178,495
11550	26	AV-8 SERIES	9,850
11600	28	F-18 SERIES	90,014
11650	29	H-46 SERIES	70,505
11700	30	AH-1W SERIES	21,100
11750	31	H-53 SERIES	181,848
11800	32	SH-60 SERIES	15,956
11850	33	H-1 SERIES	18,007
11900	35	P-3 SERIES	18,800
11950	37	E-2 SERIES	7,000
12000	40	C-130 SERIES	29,815
12050	42	CARGO/TRANSPORT ACFT SERIES	4,259
12100	45	SPECIAL PROJECT ACFT	5,120
12150	49	AVIATION LIFE SUPPORT MODS	486
12200	50	COMMON ECM EQUIPMENT	71,900
12250	54	V-22 (TILT/ROTOR ACFT) OSPREY SERIES	---
12300	55	SPARES AND REPAIR PARTS	10,332
12350	56	COMMON GROUND EQUIPMENT	2,800
12400		TOTAL, AIRCRAFT PROCUREMENT, NAVY	1,090,287

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
4	**F/A-18E/F (Fighter) Hornet (MYP)**	**208,000**
	3 F/A-18's combat loss replacements	192,000
16A	**C-12**	**21,000**
	2 C-12 Aircraft for USMC (ASE for USMC)	21,000
28	**F-18 Series**	**90,014**
	JHMCS modification - requires R&D funding	-3,400
	Station 4 integration - incomplete effort	-3,400
29	**H-46 Series**	**70,505**
	CH-46E IR Engine Suppression (ASE for USMC)	22,700
	CH-46E Wire Strike (ASE for USMC)	9,100
	CH-46E Countermeasures (ALE-47) (ASE for USMC)	7,200
	CH-46E Ramp Mounted Weapon System (ASE)	2,700
30	**AH-1W Series**	**21,100**
	Fund installations through FY 2009 only	-21,100
31	**H-53 Series**	**181,848**
	DIRCM protection upgrades (ASE for USMC)	135,000
35	**P-3 Series**	**18,800**
	Non-emergency obsolesence upgrades	-5,500
50	**Common ECM Equipment**	**71,900**
	Non-emergency obsolesence and testing upgrades	-21,000
	AAR-47B(V) (Rotary Wing Common ECM) (ASE)	58,000
54	**V-22 (Tilt/Rotor Acft) Osprey Series**	**0**
	Change to program plan	-3,510
55	**Spares and Repair Parts**	**10,332**
	Support facilities	-11,216
	SHARP Spares - buying ahead of need	-19,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

12450		WEAPONS PROCUREMENT, NAVY	
12600	7	JT STANDOFF WEAPON (JSOW)	---
12650	10	HELLFIRE	400
12700	26	SMALL ARMS AND WEAPONS	72,113
12750	29	GUN MOUNT MODS	72,000
12800		MARINE CORPS TACTICAL UNMANNED AERIAL SYSTEM	19,300
12850		TOTAL, WEAPONS PROCUREMENT, NAVY	163,813

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
7	**JT Standoff Weapon (JSOW)**	**0**
	JSOW unjustified request	-8,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

12900		PROCUREMENT OF AMMO, NAVY & MARINE CORPS	
12950	3	AIRBORNE ROCKETS, ALL TYPES	15,553
13000	8	AIR EXPENDABLE COUNTERMEASURES	7,966
13050	10	5 INCH/54 GUN AMMUNITION	11,000
13100	12	INTERMEDIATE CALIBER GUN AMMO	27
13150	13	OTHER SHIP GUN AMMUNITION	18,412
13200	14	SMALL ARMS & LNDG PARTY AMMO	21,862
13250	15	PYROTECHNIC AND DEMOLITION	274
13300	17	5.56 MM, ALL TYPES	4,658
13350	18	7.62 MM, ALL TYPES	2,132
13400	19	LINEAR CHARGES, ALL TYPES	2,412
13450	20	.50 CALIBER	2,420
13500	21	40 MM, ALL TYPES	4,093
13550	22	60 MM, ALL TYPES	9,864
13600	23	81 MM, ALL TYPES	10,088
13650	24	120 MM, ALL TYPES	7,779
13700	25	CTG 25 MM, ALL TYPES	80
13750	26	9 MM ALL TYPES	155
13800	27	GRENADES, ALL TYPES	1,138
13850	28	ROCKETS, ALL TYPES	5,125
13900	29	ARTILLERY, ALL TYPES	13,045
13950	31	DEMOLITION MUNITIONS, ALL TYPES	705
14000	32	FUZE, ALL TYPES	661
14050	33	NON LETHALS	4,891
14100	34	AMMO MODERNIZATION	15,394
14150	35	ITEMS LESS THAN $5 MILLION	99
14200		TOTAL, PROCUREMENT AMMUNITION, NAVY	159,833

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

14250		OTHER PROCUREMENT, NAVY	
14500	19	CHEMICAL WARFARE DETECTORS	436
14550	24	STANDARD BOATS	35,614
14600	40	TACTICAL SUPPORT CENTER	5,850
14650	43	SHIPBOARD IW EXPLOIT	45,750
14700	47	GCCS-M EQUIPMENT	6,966
14750	56	MATCALS	10,890
14800	73	PORTABLE RADIOS	25,850
14850	74	SHIP COMMUNICATIONS AUTOMATION	5,784
14900	75	COMMUNICATIONS ITEMS UNDER $5M	10,777
14950	83	NAVAL SHORE COMMUNICATIONS	1,077
15000	93	METEOROLOGICAL EQUIPMENT	---
15050	95	AVIATION LIFE SUPPORT	3,300
15150	122	CONSTRUCTION & MAINTENANCE EQUIPMENT	199,561
15200	123	FIRE FIGHTING EQUIPMENT	700
15250	124	TACTICAL VEHICLES	215,330
15300	127	ITEMS UNDER $5 MILLION	28,446
15350	129	MATERIALS HANDLING EQUIPMENT	46,810
15400	132	SPECIAL PURPOSE SUPPLY SYSTEMS	5,900
15450	134	COMMAND SUPPORT EQUIPMENT	28,720
15500	137	INTELLIGENCE SUPPORT EQUIPMENT	8,400
15550	138	OPERATING FORCES SUPT EQUIP	25,500
15600	141	PHYSICAL SECURITY EQUIPMENT	8,166
15650	147	SPARES AND REPAIR PARTS	28,922
15750		TOTAL, OTHER PROCUREMENT, NAVY	748,749

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
73	**Portable Radios**	**25,850**
	ELMR - Baseline Budget requirement	-15,000
93	**Meteorological Equipment**	**0**
	Non-emergency NITES upgrades	-7,497
122	**Construction & Maint Equip**	**199,561**
	Seabee equipment	25,700
124	**Tactical Vehicles**	**215,330**
	Mine Resistant Ambush Protected (MRAP) Vehicles	8,040
134	**Command Support Equipment**	**28,720**
	NMCMPS	-7,919

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

15800	PROCUREMENT, MARINE CORPS	
15850 1	AAV7A1 PIP	48,352
16050 8	M1A1 FIREPOWER ENHANCEMENTS	4,470
16100 13	HIGH MOBILITY ARTILLERY ROCKET SYSTEM	20,571
16150 14	WPNS & CMBT VEHS UNDER $5 MILLION	16,162
16200 15	MODULAR WEAPON SYSTEM	2,589
16250 17	WEAPONS ENHANCEMENT PROGRAM	21,170
16300 20	JAVELIN	1,200
16400 23	MODIFICATION KITS	34,623
16650 24	UNIT OPERATIONS CENTER	57,100
16700 25	REPAIR AND TEST EQUIPMENT	5,214
16750 29	COMBAT SUPPORT SYSTEM	85
16800 30	MODIFICATION KITS	16,571
16850 33	AIR OPERATIONS C2 SYSTEMS	---
16900 37	RADAR SYSTEMS	20,900
16950 41	FIRE SUPPORT SYSTEM	21,282
17000 43	INTELLIGENCE SUPPORT EQUIPMENT	32,073
17050 47	NIGHT VISION EQUIPMENT	73,431
17100 48	COMMON COMPUTER RESOURCES	27,631
17150 49	COMMAND POST SYSTEMS	18,083
17200 50	RADIO SYSTEMS	111,084
17250 51	COMM SWITCHING & CONTROL SYSTEMS	7,273
17300 52	COMM & ELEC INFRASTRUCTURE SUPT	1,606
17350 56	5/4T TRUCK HMMWV (MYP)	69,985
17400 57	MOTOR TRANSPORT MODIFICATIONS	52,000
17450 58	MEDIUM TACTICAL VEH REPL	26,215
17500 60	LOGISTICS VEHICLE SYSTEM REP	16,800
17550 61	FAMILY OF TACTICAL TRAILERS	2,818
17600 62	ITEMS LESS THAN $5 MILLION	2,370
17650 63	ENV CNTRL EQUIP ASSORTED	143
17700 65	BULK LIQUID EQUIPMENT	28
17750 66	TACTICAL FUEL SYSTEMS	168
17800 68	POWER EQUIPMENT ASSORTED	364
17850 70	EOD SYSTEMS	1,316,024
17950 72	PHYSICAL SECURITY EQUIPMENT	---

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

18000	74	MATERIAL HANDLING EQUIP	40,000
18050	77	FIELD MEDICAL EQUIPMENT	692
18100	79	TRAINING DEVICES	110,043
18150	80	CONTAINER FAMILY	2,172
18200	81	FAMILY OF CONSTRUCTION EQUIPMENT	45,000
18300	82	FAMILY OF INTERNALLY TRANS VEH (ITV)	7,875
18350	84	RAPID DEPLOYABLE KITCHEN	391
18500	86	ITEMS LESS THAN $5 MILLION	18,191
18700		TOTAL, PROCUREMENT, MARINE CORPS	2,252,749

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
33	**Air Operations C2 Systems**	**0**
	Premature Request	-56,800
50	**Radio Systems**	**111,084**
	E-Land Mobile Radios - Baseline budget requirement	-152,194
	Communications Installs on US Navy Ships Program Delay	-36,000
70	**EOD Systems**	**1,316,024**
	Mine Resistant Ambush Protected (MRAP) Vehicles	585,360
72	**Physical Security Equipment**	**0**
	Rapid Aerostat Initial Deployment (RAID)/Ground-Based Operational Surveillance System (G-BOSS)	-143,332

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

18750		AIRCRAFT PROCUREMENT, AIR FORCE	
18850	7	C -17	---
18900	11	C-130J	388,000
18950	18	CV-22 OSPREY	99,252
19000	25	PREDATOR UAV	443,700
19100	27	B-1	6,880
19150	30	A-10	163,886
19200	31	F-15	112,762
19250	35	C-5	35,600
19300	38	C-17	122,000
19350	41	C-37	112,400
19400	52	C-40	90,500
19450	53	C-130	252,663
19500	56	COMPASS CALL	23,700
19550	58	DARP	15,000
19600	61	E-8C	---
19650	65	OTHER AIRCRAFT	23,950
19700	69	INITIAL SPARES/REPAIR PARTS	2,480
19750	73	B-2A ICS	4,000
19800	80	OTHER PRODUCTION CHARGES	209,695
19850		TOTAL, AIRCRAFT PROCUREMENT, AIR FORCE	2,106,468

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
7	**C-17**	**0**
	Premature funding request	-111,100
11	**C-130J**	**388,000**
	Five Aircraft	388,000
18	**CV-22 Osprey**	**99,252**
	One Aircraft	146,300
	Transfer to Procurement, Defense-Wide, Line 42, for CV-22 SOF Modifications	-47,048
25	**Predator UAV**	**443,700**
	Predator UAV	10,000
	Reaper UAV	35,000
30	**A-10**	**163,886**
	Unjustified request	-32,400
	Premature funding request for missile rails and EIRCM	-53,500
31	**F-15**	**112,762**
	AESA	-9,200
	JHMCS	-70,000
35	**C-5**	**35,600**
	LAIRCM for C-5B Aircraft only	30,000
38	**C-17**	**122,000**
	LAIRCM	30,000
53	**C-130**	**252,663**
	LAIRCM	30,000
61	**E-8C**	**0**
	Premature funding request	-17,500
65	**Other Aircraft**	**23,950**
	TARS Block 40/50 Modification	-4,320
	TARS Initial Spares	-5,300
80	**Other Production Charges**	**209,695**
	Classified Requirement	65,000
	Baseline budget requirement	-3,800

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

19900		MISSILE PROCUREMENT, AIR FORCE	
19950	6	PREDATOR HELLFIRE MISSILE	78,900
20000	7	SMALL DIAMETER BOMB	16,000
20050		TOTAL, MISSILE PROCUREMENT, AIR FORCE	94,900

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
6	**Hellfire**	**78,900**
	Unexecutable request	-25,400
7	**Small Diameter Bomb**	**16,000**
	Unjustified request	-20,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

20100		PROCUREMENT OF AMMUNITION, AIR FORCE	
20150	2	CARTRIDGES	---
20200	9	EXPLOSIVE ORDNANCE DISPOSAL (EOD)	3,000
20250	16	SMALL ARMS	3,000
20300		TOTAL, PROCUREMENT OF AMMUNITION, AIR FORCE	6,000

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
2	**Cartridges**	**0**
	Handgun Replacement Program - Baseline budget requirement	-19,100
16	**Small Arms**	**3,000**
	Handgun Replacement Program - Baseline budget requirement	-65,700
	Transfer to Operation & Maintenance, Defense-Wide, only for the Handgun Replacement Study	-5,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

20350	OTHER PROCUREMENT, AIR FORCE	
20500 2	PASSENGER CARRYING VEHICLES	360
20550 8	MEDIUM TACTICAL VEHICLE	154,140
20600 22	FIRE FIGHTING/CRASH RESCUE VEHICLES	18,888
20650 26	HALVORSEN LOADER	620
20700 31	RUNWAY SNOW REMOVAL AND CLEANING EQUIPMENT	400
20750 34	ITEMS LESS THAN $5 MILLION (VEHICLES)	4,440
20800 39	INTELLIGENCE COMM EQUIPMENT	16,600
20850 40	TRAFFIC CONTROL/LANDING	3,300
20900 41	NATIONAL AIRSPACE SYSTEM	9,000
20950 42	THEATER AIR CONTROL SYSTEM IMPROVEMENT	14,800
21000 43	WEATHER OBSERVATION FORECAST	2,433
21050 51	AIR FORCE PHYSICAL SECURITY SYSTEM	10,680
21100 57	AIR OPERATIONS CENTER (AOC)	1,250
21150 66	MILSATCOM SPACE	---
21200 69	TACTICAL CE EQUIPMENT	34,750
21250 70	COMBAT SURVIVOR EVADER LOCATER	44,010
21300 71	RADIO EQUIPMENT	5,400
21350 74	BASE COMM INFRASTRUCTURE	19,020
21400 76	COMM ELECT MODS	16,000
21450 80	NIGHT VISION GOGGLES	9,317
21500 86	BASE PROCURED EQUIPMENT	10,530
21550 88	AIR BASE OPERABILITY	7,200
21600 93	ITEMS LESS THAN $5 MILLION (BASE SUPPORT)	18,000
21650 97	DARP, MRIGS	21,607
21700 999	CLASSIFIED PROGRAMS	1,658,455
21710	OPERATION ENDURING FREEDOM OPTEMPO	15,000
21750	TOTAL, OTHER PROCUREMENT, AIR FORCE	2,096,200

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
8	**Medium Tactical Vehicles**	**154,140**
	Mine Resistant Ambush Protected Vehicles	123,840
22	**Fire Fighting / Crash Rescue Vehicles**	**18,888**
	HAZMAT Vehicles - Baseline Budget Request	-4,325
40	**Traffic Control/Landing**	**3,300**
	USAFE Instrument Landing System	-4,200
66	**MILSATCOM Space**	**0**
	GBS-RPRS Premature funding request	-35,000
999	**Classified Programs**	**1,658,455**
	Program Adjustment	-91,869
	Operation Enduring Freedom OPTEMPO	**15,000**

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

21800		PROCUREMENT, DEFENSE-WIDE	
22400	11	GLOBAL COMMAND AND CONTROL SYSTEM	3,142
22450	13	TELEPORT	3,670
22500	16	NET-CENTRIC ENTERPRISE SERVICES (NCES)	975
22550	17	DEFENSE INFORMATION SYSTEMS NETWORK (DISN)	5,324
22600	23	MAJOR EQUIPMENT, DLA	1,600
22650	25	MAJOR EQUIPMENT, TJS	32,700
22660	38	MH-47 SLEP	22,000
22670	42	CV-22 MODIFICATIONS	47,048
22700	44	C-130 MODS	49,833
22750	48	SOF ORDNANCE REPLENISHMENT	45,788
22800	49	SOF ORDNANCE ACQUISITION	53,176
22850	50	COMM EQPT & ELECTRONICS	78,342
22900	51	SOF INTELLIGENCE SYSTEMS	5,120
22950	52	SMALL ARMS AND WEAPONS	57,805
23000	56	SOF COMBATANT CRAFT SYSTEMS	16,900
23050	59	TACTICAL VEHICLES	165,100
23100	60	MISSION TRAINING AND PREPARATION SYS	5,300
23150	61	COMBAT MISSION REQUIREMENTS	150,000
23200	63	UNMANNED VEHICLES	107,731
23250	67	MISC EQUIPMENT	1,000
23300	69	SOF OPERATIONAL ENHANCEMENTS	65,678
23350	999	CLASSIFIED PROGRAMS	60,662
23400	999	CLASSIFIED PROGRAMS	1,156
23450		TOTAL, PROCUREMENT, DEFENSE-WIDE	980,050

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

P-1		
25	**Major Equipment, TJS**	**32,700**
	Request in excess of validated requirement	-26,750
38	**MH-47 SLEP**	**22,000**
	MH-47 Mods for Battle-loss MH-47	22,000
42	**CV-22 SOF Modifications**	**47,048**
	CV-22 SOF Modifications (Transferred from AP,AF Line 18 for execution)	47,048
49	**SOF Ordnance Acquisition**	**53,176**
	SOPGM - Unexecutable request	-1,800
50	**Comm Eqpt & Electronics**	**78,342**
	TACLAN - E - Unexecutable Request	-300
	Forward Deployed Equipment - Transfer from Line 67	20,610
51	**SOF Intelligence Systems**	**5,120**
	MERLIN - Unjustified request	-29,983
	Forward Deployed Equipment - Transfer from line 67	1,220
52	**Small Arms and Weapons**	**57,805**
	Forward Deployed Equipment - Transfer from Line 67	8,030
56	**SOF Combatant Craft Systems**	**16,900**
	IBS Upgrade - Unexecutable request	-13,600
59	**Tactical Vehicles**	**165,100**
	Lightweight ATV - Unexecutable Request	-750
	Forward Deployed Equipment - Transfer from Line 67	21,540
	Mine Resistant Ambush Protected (MRAP) Vehicles	35,760
67	**Misc Equipment**	**1,000**
	Forward Deployed Equipment - Transfer to Lines 50,51,52,59 for execution	-51,410
	MK 5 Clamshell - Unexecutable request	-470
69	**SOF Operational Enhancements**	**65,678**
	Program Adjustments	-20,975
999	**Classified Programs**	**60,662**

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

RECAPITULATION	
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.....	100,006
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY.....	298,722
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE.	187,176
RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE.....	512,804
GRAND TOTAL.....	1,098,708

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

50		RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY	
100	34	COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECHNOLOGY.....	---
150	63	SOLDIER SUPPORT AND SURVIVABILITY.....	7,625
200	82	ALL SOURCE ANALYSIS SYSTEM (ASAS).....	3,400
250	85	INFANTRY SUPPORT WEAPONS.....	8,158
300	100	AIR DEFENSE COMMAND, CONTROL AND INTELLIGENCE.....	38,900
350	102	AUTOMATIC TEST EQUIPMENT DEVELOPMENT.....	---
400	141	MATERIEL SYSTEMS ANALYSIS.....	---
450	174	INFORMATION SYSTEMS SECURITY PROGRAM.....	31,600
500	177	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM.....	---
550		TACTICAL WHEELED VEHICLE (TWV) PRODUCT.....	10,323
600		TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, ARMY.....	100,006

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		Conference
34	**Combat Vehicle and Automotive Advanced Technology**	**0**
	Duplicates funding provided in Joint Improvised Explosive Device Defeat Fund	-3,560
63	**Soldier Support and Survivability**	**7,625**
	Duplicates funding provided in Joint Improvised Explosive Device Defeat Fund	-20,000
102	**Automatic Test Equipment Development**	**0**
	Defer non-emergency development of aviation test equipment	-6,500
141	**Materiel Systems Analysis**	**0**
	Duplicates funding provided in Joint Improvised Explosive Device Defeat Fund	-5,410
174	**Information Systems Security Program**	**31,600**
	Transfer from OPA, Line 46 for Execution	23,300
177	**WWMCCS/Global Command and Control System**	**0**
	Database interoperability applications for situational awareness	-3,800

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

650		RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY	
1000	58	MARINE CORPS GRND CMBT/SUPT SYS	5,000
1050	140	TACTICAL CRYPTOLOGIC SYSTEMS	5,000
1060	84	OTHER HELO DEVELOPMENT	13,000
1070	93	H-1 UPGRADES	18,000
1100	95	V-22A	---
1150	98	ELECTRONIC WARFARE (EW) DEV	1,245
1200	158	MARINE CORPS PROGRAM WIDE SUPT	2,000
1250	179	HARM IMPROVEMENT	---
1300	183	AVIATION IMPROVEMENTS	500
1350	186	MARINE CORPS COMMS SYSTEMS	41,540
1400	187	MC GROUND CMBT SPT ARMS SYS	2,000
1450	188	MARINE CORPS CMBT SERVICES SUPT	14,851
1500		CLASSIFIED PROGRAMS	130,500
1550	205	MANNED RECONNAISSANCE SYS	65,086
1600		TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, NAVY	298,722

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		
58	**Marine Corps Ground Combat/Support System**	**5,000**
	Joint Light Tactical Vehicle (JLTV)	-31,800
84	**Other Helo Development**	**13,000**
	DIRCM Integration (ASE for USMC)	1,000
	NRE for LW/DIRCM (ASE for USMC)	12,000
93	**H-1 Upgrades**	**18,000**
	Aircraft survivability (DIRCM) for H-1(ASE for USMC)	18,000
95	**V-22A**	**0**
	Excess to need	-3,800
158	**Marine Corps Program Wide Supt**	**2,000**
	Program Wide Support	-8,100
179	**Harm Improvement**	**0**
	Defer Thermobaric Modification	-2,230
186	**Marine Corps Communications Systems**	**41,540**
	Funds near-term deliverables	-123,808
187	**Marine Corps Ground Combat Support Arms System**	**2,000**
	Ground Weaponry PIP	-2,000
188	**Marine Corps Cmbt Services Supt**	**14,851**
	Funds near-term deliverables	-715
xx	**Classified Programs**	**130,500**
	Classified Program Adjustment	-20,000

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

1650		RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE	
1700	50	INTEGRATED BROADCAST SERVICE	4,000
1750	67	B-1B	17,030
1800	79	SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	2,000
1850	121	B-52 SQUADRONS	24,500
1900	129	A-10 SQUADRONS	10,000
1950	162	MISSION PLANNING SYSTEMS	13,300
2000	199	DRAGON U-2 (JMIP)	---
2050	200	AIRBORNE RECONNAISSANCE SYSTEMS	---
2100	201	MANNED RECONNAISSANCE SYSTEMS	20,540
2150	203	PREDATOR UAV (JMIP)	20,000
2200	204	GLOBAL HAWK UAV	---
2250	999	CLASSIFIED PROGRAMS	75,806
2300		TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, AIR FORCE	187,176

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1		
50	**Integrated Broadcast Service**	**4,000**
	CO-GINS Funding ahead of need	-5,000
199	**Dragon U-2 (JMIP)**	**0**
	SYERS-2 Qualification and Certification Testing	-660
200	**Airborne Reconnaissance Systems**	**0**
	TARS Integration on Block 40/50 F-16 Aircraft	-6,000
204	**Global Hawk UAV**	**0**
	MASINT and SIGINT Capability Development	-19,033
999	**Classified Programs**	**75,806**
	Program Adjustment	-2,852

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

2350		RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE	
2400	186	CRITICAL INFRASTRUCTURE PROGRAM (CIP).....	15,700
2450	999	CLASSIFIED PROGRAMS.....	497,104
2500		TOTAL, RESEARCH, DEVELOPMENT, TEST & EVAL, DW.....	512,804

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

R-1	
999 Classified Programs	**497,104**
Classified Program Adjustment	-138,060

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

Defense Working Capital Funds (emergency).....	1,115,526

FY 2007 DEPARTMENT OF DEFENSE SUPPLEMENTAL APPROPRIATIONS

(In thousands of dollars)

Defense Health Program (emergency)	3,001,853
Operation and maintenance (emergency)	(2,552,153)
Procurement (emergency)	(118,000)
Research, development, test and evaluation (emergency)	(331,700)
Medical support fund (emergency)	---

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS
[In thousands of dollars]

OPERATION AND MAINTENANCE	**2,552,153**
Amputee Care	61,950
Bethesda Emergency Preparedness Plan	5,000
Blast Injury Prevention, Mitigation & Treatment	14,800
Improved Identification and Access to Mental Health/PTSD Treatment	300,000
Improved Identification and Access to Traumatic Brain Injury Treatment	300,000
Care Givers Support Program	12,000
Burn Care	14,800
Comprehensive Combat Casualty Care (C5)	6,500
BAMC Infrastructure (Elevators)	1,500
WRAMC Infrastructure (Building 18 & other infrastructure)	20,000
Efficiency Wedge	382,000
Restores Funding for Legislative Proposal not adopted	410,750
PROCUREMENT	**118,000**
Efficiency Wedge	118,000
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION	**331,700**
Peer Reviewed Post Traumatic Stress Disorder Research	150,000
Peer Reviewed Traumatic Brain Injury Research	150,000
Peer Reviewed Burn, Orthopedic, and Trauma Research	31,700
MEDICAL SUPPORT FUND	**0**

The PRESIDING OFFICER. The Senator from Washington is recognized.

UNANIMOUS CONSENT AGREEMENT

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate, at 8:25 p.m., vote, without any intervening action or debate, on the motion to concur in the House amendment to the Senate amendment to H.R. 2206; that the time from 7:55 to 8:25 p.m. be equally divided between the two leaders, with the majority leader in control of the last 15 minutes, and that no other amendments or motions be in order prior to the vote, with the time allocated as follows: Senator DURBIN, 5 minutes; Senator LEVIN, 5 minutes; Senator LANDRIEU, 5 minutes, and Senator BROWN, 5 minutes.

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

The Senator from Illinois.

Mr. DURBIN. Mr. President, in a few moments, the Senate will vote on a funding bill for the war in Iraq.

It is a historic vote and a very important one over which many of us have anguished.

I come to this decision with sadness and anger—sadness that we are in the fifth year of this war, a war that has lasted longer than World War II; sadness that we have lost 3,435 of our bravest, our American soldiers; sadness that over 25,000 of these soldiers have been injured, 8,000 or 9,000 grievously injured; sadness that we spent over $500 billion on a war that is second only to World War II in its cost to our Nation.

I also come to this floor with anger—anger that we do not have it in our power to make the will of the people of America the law of our land; anger that this President has vetoed a bipartisan bill carefully crafted to start bringing America's troops home; anger that we continue to bury our Nation's heroes every day while this Congress fails to muster the votes and some of the will to bring this war to an end.

In October of 2002, I stood on this Senate floor and joined 22 other Senators in casting my vote against this war. I felt then, and I believe today, that the invasion of Iraq was a serious mistake. I believe, as I stand here, it has been the most flawed and failed policy of any administration in our history.

That night when the vote was cast, this ornate Chamber was quiet. There was a lonely feel about it in the closing moments of the session. Those of us who lingered knew that regardless of what the White House said, this President would waste no time invading Iraq—regardless of the flawed intelligence, regardless of the lack of allies, regardless of a battle plan that left us in a position stronger after the invasion than before.

Today, 4½ years later, 4½ years after that vote and after this invasion, America is not safer, Iraq is in turmoil, and our position as a nation in this world has been compromised by this tragic decision by this administration.

I said at the time, and I will stand by it with my vote this evening, that though I loathe this decision to go to war, I will not take my feelings out on the troops who are in the field. I will continue to provide the resources they need to be trained and equipped and rested and ready to go into battle and to come home safely.

The debate will continue over this policy, but our soldiers should never be bargaining chips in this political debate. That is why I will vote this evening for this bill. But I want to make it clear with this vote that this bill is not the end of the debate on the war in Iraq. This debate will continue until our Nation comes to its senses, until our troops come home, and until we put this sorry chapter in our Nation's history behind us.

We have summoned our friends on the Republican side of the aisle to join us in this effort. Two have had the courage to step forward. I hope that as they reflect on this war and its cost to America that more Republicans will join us, that we will not have to wait until President Bush walks out of the White House to see an end to this war.

I pledge to you, Mr. President, this Senator and so many others will continue this debate beyond today, beyond tonight, every day until those troops come home safely. When we consider the Defense authorization bill in just a few weeks, we will return to this national debate. We will push for that timetable to bring these troops home. We will stand by our soldiers and show our devotion to them with our commitment to bringing them home safely, in an honorable way. The debate will continue until the soldiers are safe and until they are home.

I pray this will happen soon, happen before we lose more of these great men and women. This morning at my desk upstairs, I sat down and penned more notes to the grieving parents and spouses of fallen soldiers in my State of Illinois. I never dreamed 4½ years ago that I would still be writing those notes today. It is a sad testimony to what this failed policy has cost our Nation.

With this vote tonight, the debate will not end; the debate will continue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I continue to believe that Congress must act to change course in Iraq because the Bush administration will not. Congress needs to force the Iraqi political leaders to accept responsibility for their country's future. Four years of painful history have shown that the only way to accomplish that goal is to write into law a requirement that we reduce the number of U.S. troops in Iraq beginning in 120 days. That amount of time would give the Iraqi leaders the time to make the political settlements that are the only hope of ending the sectarian fighting.

Setting that beginning point would also force the Iraqi leaders to face the reality that we will not be their endless security blanket. That approach got 51 votes in the Senate on March 29. It was sent to the President. The President vetoed it. But pressure continues to build for a change in course, even in the President's party.

We will renew the effort to force a change in course in June when we take up the Defense authorization bill currently scheduled for late June. The way we will do that is we will make and renew the effort to require the President to begin reducing American troops in Iraq within 120 days.

I voted against the authorization to attack Iraq 4 years ago, and I will continue to fight for a bill that forces the President to do the one thing which will successfully change course in Iraq. Reducing our presence starting in 120 days is a way of telling the Iraqi leaders that we cannot save them from themselves and that only they can make the decision as to whether they want an all-out civil war or they want a nation.

I cannot vote, however, to stop funding for our troops who are in harm's way. I simply cannot, and I will not do that. It is not the proper way we can bring this war to an end. It is not the proper way we can put pressure on the Iraqi leaders. It is a way of sending the wrong message to our troops because now that they are there, and now that they are in harm's way, I believe we must give them all of the support they need.

It is not only the absence from this bill of a beginning point for troop reductions, which is so troubling, I am also concerned about the benchmarks in this bill because they are not only toothless, they may actually be counterproductive. Benchmarks with no consequences for failure to achieve them will not put the necessary pressure on the Iraqi leaders to reach a political settlement. Only a law requiring the reduction of our troops can do that.

The benchmarks as written in this bill are doubly problematic because the schedule for reports, July 15 and September 15, could be used as a way of forestalling pressure on the administration and the Iraqi leaders since those reports are not due until after we are planning to take up the Defense authorization bill in June.

Perhaps the supporters of the current course in Iraq will say that those of us voting to fund the troops bill before us are also signing on to the toothless benchmarks with their arguably momentum-slowing requirements. So let me say plainly, I oppose the benchmarks and the reports as provided for in this bill.

Well, let me say plainly: I oppose the toothless benchmarks and momentum-delaying reports in this bill. I agree

with the Iraq Study Group that continued U.S. military support for Iraq ''depends on the Iraqi government's demonstrating political will and making substantial progress toward the achievement of milestones on national reconciliation, security and governance.''

It has been clear for a long time that there is no military solution in Iraq and that an Iraqi political settlement is necessary if there is a chance of ending the violence in Iraq.

Most telling, perhaps, was Iraqi Prime Minister Maliki's acknowledgement of this essential point when he stated in November:

The crisis is political, and the ones who can stop the cycle . . . of bloodletting of innocents are the [Iraqi] politicians.

Apparently, the Iraqi leaders, however, will realize that their future is in their hands only when they are forced into that recognition. That is one of the many reasons that we must pass a law requiring our President to begin reducing U.S. troops in Iraq in 120 days. We will continue our efforts to do so when the Defense authorization bill is before us.

The Washington Post reported yesterday that General Petraeus and Ambassador Crocker are working on a new strategy in Iraq. According to the Washington Post: ''The end of 2008, is more political than military: to negotiate settlements between warring factions in Iraq from the national level down to the local level. In essence, it is as much about the political deals needed to defuse a civil war as about the military operations aimed at quelling a complex insurgency, said officials with knowledge of the plan.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

Ms. LANDRIEU. Mr. President, I begin by thanking majority leader HARRY REID for his extraordinary work in helping to negotiate the full Katrina-Rita package that many of us worked on to try to accelerate and jump-start the recovery that is underway slowly, solidly in some places, and not so solidly in others along the entire gulf coast of this Nation, America's energy coast. Louisiana sits in the middle of this great coastline and was hit not by one but by two monstrous storms 18 months ago. But, as my colleagues have heard me say many times, it wasn't just Katrina and Rita that did so much damage, it was the collapse of a Federal levee system that should have held but didn't hold. In Louisiana alone, 200,000 homes were totally destroyed. In Mississippi, it was over 65,000 homes because of the surge that came out of the gulf.

It is hard for people to comprehend what that means. It is still difficult for those of us who live there to get a handle on the scope of the damage and devastation. We are grateful for the generosity of this Nation. We are grateful for the private contributions, the many church groups and people of faith who have come to help us, and we are excited about this package in this emergency supplemental.

When we began this journey 4 or 5 months ago, there were some on the opposition side that said we didn't need to include any of this; that this is for an emergency overseas. But I really want to remind everyone that we are still in a state of emergency on the gulf coast, and asking for $3.7 billion in a $120 billion bill is really not too much to ask for hard-working American taxpayers whose homes had never flooded before. Many of these home owners and business owners never had an inch of water in them, but they suddenly came home or woke up to 12 to 14 feet of water, up to their roofs, ruining everything they had worked for, sometimes everything their parents and grandparents had worked for.

Briefly, what we have done, in this last minute as I summarize, is to waive the 10-percent match, which is critical. It is not only the money that is helpful, obviously, to not have to put up that 10 percent, but mostly by waiving the match we are waiving 90 percent of the redtape that is keeping these hard-working people who are doing everything they can to rebuild their lives.

There were some in the administration who wanted to play games with the levees, and move levees from the east bank to the west bank and say we will fund it later. Well, there is no later for us. There is now, and we are going to build these levees and protect the people in south Louisiana. That has been done.

One other part that is very important to me, and a provision I objected to when it was first implemented 2 years ago, is the option for the forgiveness of loans, which had been taken away. I said, on behalf of the people I represent, we are entitled to the same response that other communities have received, and this bill gives us justice on the gulf coast.

In addition, there is some money for help for our criminal justice system that needs improvement, and to correct some of the teacher shortages as a result of the collapse and damage to many schools, and teachers who have had to move to higher ground but who want to come back to teach the children.

Finally, let me thank Senator MURRAY, who has been extraordinary in her efforts on our behalf. I also thank Senator BYRD, the chairman of our committee. They were not going to let this bill get through without Katrina and Rita being recognized and the hundreds of thousands of people who are depending on this Congress to keep fighting for them and to at least meet them halfway. We do not look for charity, we look for a hand up. We look for our Government to meet us halfway.

We can afford at least 10 to 15 days' worth of Iraq spending toward rebuilding the great energy coast of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, it was important from the outset that this supplemental, these funds, be provided to the troops by Memorial Day. The President told us the first week in February that he needed the funds to support troops stationed overseas. A month and a half after the Secretary of Defense stepped in, he said delays would seriously disrupt key military programs. The Army Chief of Staff told us if he didn't get the funds soon, he would have to take Draconian measures that would impact readiness and impose hardships on soldiers and their families. The Chairman of the Joint Chiefs of Staff, General Pace, said delays would force the Army to cut quality-of-life initiatives.

Then the calls started coming from Iraq. The chief spokesman of the Multinational Forces, General Caldwell, told us that delays in funding have already started to hamstring our efforts to train Iraqi security units. That was more than a month and a half ago.

It was 108 days ago the President said he needed funds for the troops. But since that first request in early February until today, Congress has voted more than 30 times on Iraq-related measures without approving a single dime. Mr. President, 108 days and more than 30 votes later, Congress is finally sending these funds to the troops.

Many on this side of the aisle are disappointed that the final bill contains billions of dollars in spending for items unrelated to the war, but we are relieved the Democratic leadership has decided to strip a reckless and nonsensical surrender date from the bill.

One other thing. It is important the Iraqi Government be held accountable. It needs to engage in political reconciliation, and this bill calls upon them to do just that. Members on both sides are deeply frustrated with the Iraqi Government. Anything that puts pressure on them without putting pressure on U.S. troops is a step in the right direction.

I have been saying since January that benchmarks would be a good idea. General Petraeus and General Pace have said the Baghdad security plan is a necessary precondition for political progress in Iraq. We need to be sure Iraqi politicians are putting the same effort into their half of the bargain as our men and women in uniform.

General Petraeus and Ambassador Crocker will report back to Congress at the end of the summer, and the success or failure of the security plan will be clear by the end of the year.

I strongly urge my colleagues to vote in favor of this bill, which finally gives the troops the funds they need. We

should remember as we return home to our families this weekend that thousands of American men and women will be fighting for us far away from their homes. The very least we can do for them this Memorial Day is to give them the tools they need to stay in the fight.

Mr. President, I yield the floor.

U.S. TROOP READINESS, VETERANS' CARE, KATRINA RECOVERY, AND IRAQ ACCOUNTABILITY APPROPRIATIONS ACT, 2007—CONFERENCE REPORT

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the bill, H.R. 2206, making emergency supplemental appropriations and additional supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

H.R. 2206

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2206) entitled ''An Act making emergency supplemental appropriations and additional supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30, 2007, and for other purposes'', with the following:

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007.

TITLE I—SUPPLEMENTAL APPROPRIATIONS FOR DEFENSE, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED NEEDS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $350,000,000, to remain available until expended.

CHAPTER 2

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and Expenses, General Legal Activities'', $1,648,000, to remain available until September 30, 2008.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and Expenses, United States Attorneys'', $5,000,000, to remain available until September 30, 2008.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $6,450,000, to remain available until September 30, 2008.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $1,736,000, to remain available until September 30, 2008.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $118,260,000, to remain available until September 30, 2008.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $8,468,000, to remain available until September 30, 2008.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $4,000,000, to remain available until September 30, 2008.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $17,000,000, to remain available until September 30, 2008.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1201. Funds provided in this Act for the ''Department of Justice, United States Marshals Service, Salaries and Expenses'' shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

SEC. 1202. Funds provided in this Act for the ''Department of Justice, Legal Activities, Salaries and Expenses, General Legal Activities'', shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $8,510,270,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $692,127,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $1,386,871,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $1,079,287,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $147,244,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $77,800,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $5,500,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $436,025,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $24,500,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $20,373,379,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Operation and Maintenance, Navy'', $4,652,670,000, of which up to $120,293,000 shall be transferred to Coast Guard, ''Operating Expenses'', for reimbursement for activities which support activities requested by the Navy.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,146,594,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $6,650,881,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $2,714,487,000, of which—

(1) not to exceed $25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom; and

(2) not to exceed $200,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $74,049,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $111,066,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $13,591,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $10,160,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $83,569,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $38,429,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for ''Afghanistan Security Forces Fund'', $5,906,400,000, to remain available until September 30, 2008.

IRAQ SECURITY FORCES FUND

For an additional amount for ''Iraq Security Forces Fund'', $3,842,300,000, to remain available until September 30, 2008.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Iraq Freedom Fund'', $355,600,000, to remain available for transfer until September 30, 2008: Provided, That up to $50,000,000 may be obligated and expended for purposes of the Task Force to Improve Business and Stability Operations in Iraq.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

For an additional amount for ''Joint Improvised Explosive Device Defeat Fund'', $2,432,800,000, to remain available until September 30, 2009.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $619,750,000, to remain available until September 30, 2009.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $111,473,000, to remain available until September 30, 2009.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $3,404,315,000, to remain available until September 30, 2009.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $681,500,000, to remain available until September 30, 2009.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $9,859,137,000, to remain available until September 30, 2009.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $1,090,287,000, to remain available until September 30, 2009.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $163,813,000, to remain available until September 30, 2009.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $159,833,000, to remain available until September 30, 2009.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $618,709,000, to remain available until September 30, 2009.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $989,389,000, to remain available until September 30, 2009.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $2,106,468,000, to remain available until September 30, 2009.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $94,900,000, to remain available until September 30, 2009.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for ''Procurement of Ammunition, Air Force'', $6,000,000, to remain available until September 30, 2009.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $1,957,160,000, to remain available until September 30, 2009.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $721,190,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $100,006,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $298,722,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $187,176,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $512,804,000, to remain available until September 30, 2008.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $1,115,526,000.

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for ''National Defense Sealift Fund'', $5,000,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $1,123,147,000.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $254,665,000, to remain available until expended.

RELATED AGENCIES

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

For an additional amount for ''Intelligence Community Management Account'', $71,726,000.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. Appropriations provided in this Act are available for obligation until September 30, 2007, unless otherwise provided herein.

(TRANSFER OF FUNDS)

SEC. 1302. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $3,500,000,000 of the funds made available to the Department of Defense (except for military construction) in this Act: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2007 (Public Law 109–289; 120 Stat. 1257), except for the fourth proviso: Provided further, That funds previously transferred to the ''Joint Improvised Explosive Device Defeat Fund'' and the ''Iraq Security Forces Fund'' under the authority of section 8005 of Public Law 109–289 and transferred back to their source appropriations accounts shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under section 8005.

SEC. 1303. Funds appropriated in this Act, or made available by the transfer of funds in or pursuant to this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 1304. None of the funds provided in this Act may be used to finance programs or activities denied by Congress in fiscal years 2006 or 2007 appropriations to the Department of Defense (except for military construction) or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

(TRANSFER OF FUNDS)

SEC. 1305. During fiscal year 2007, the Secretary of Defense may transfer not to exceed $6,300,000 of the amounts in or credited to the Defense Cooperation Account, pursuant to 10 U.S.C. 2608, to such appropriations or funds of the Department of Defense as he shall determine for use consistent with the purposes for which such funds were contributed and accepted: Provided, That such amounts shall be available for the same time period as the appropriation to which transferred: Provided further, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

SEC. 1306. (a) AUTHORITY TO PROVIDE SUPPORT.—Of the amount appropriated by this Act under the heading, ''Drug Interdiction and Counter-Drug Activities, Defense'', not to exceed $60,000,000 may be used for support for counter-drug activities of the Governments of Afghanistan and Pakistan: Provided, That such support shall be in addition to support provided for the counter-drug activities of such Governments under any other provision of the law.

(b) TYPES OF SUPPORT.—

(1) Except as specified in subsection (b)(2) of this section, the support that may be provided under the authority in this section shall be limited to the types of support specified in section 1033(c)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85, as amended by Public Laws 106–398, 108–136, and 109–364) and conditions on the provision of support as contained in section 1033 shall apply for fiscal year 2007.

(2) The Secretary of Defense may transfer vehicles, aircraft, and detection, interception, monitoring and testing equipment to said Governments for counter-drug activities.

SEC. 1307. (a) From funds made available for operation and maintenance in this Act to the Department of Defense, not to exceed $456,400,000 may be used, notwithstanding any other provision of law, to fund the Commanders' Emergency Response Program, for the purpose of enabling military commanders in Iraq and Afghanistan to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi and Afghan people.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter,

the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 1308. Section 9010 of division A of Public Law 109–289 is amended by striking ''2007'' each place it appears and inserting ''2008''.

SEC. 1309. During fiscal year 2007, supervision and administration costs associated with projects carried out with funds appropriated to ''Afghanistan Security Forces Fund'' or ''Iraq Security Forces Fund'' in this Act may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 1310. Section 1005(c)(2) of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364) is amended by striking ''$310,277,000'' and inserting ''$376,446,000''.

SEC. 1311. Section 9007 of Public Law 109–289 is amended by striking ''20'' and inserting ''287''.

SEC. 1312. From funds made available for the ''Iraq Security Forces Fund'' for fiscal year 2007, up to $155,500,000 may be used, notwithstanding any other provision of law, to provide assistance, with the concurrence of the Secretary of State, to the Government of Iraq to support the disarmament, demobilization, and reintegration of militias and illegal armed groups.

(TRANSFER OF FUNDS)

SEC. 1313. Notwithstanding any other provision of law, not to exceed $110,000,000 may be transferred to the ''Economic Support Fund'', Department of State, for use in programs in Pakistan from amounts appropriated by this Act as follows:

''Military Personnel, Army'', $70,000,000.

''National Guard Personnel, Army'', $13,183,000.

''Defense Health Program'', $26,817,000.

SEC. 1314. (a) FINDINGS REGARDING PROGRESS IN IRAQ, THE ESTABLISHMENT OF BENCHMARKS TO MEASURE THAT PROGRESS, AND REPORTS TO CONGRESS.—Congress makes the following findings:

(1) Over 145,000 American military personnel are currently serving in Iraq, like thousands of others since March 2003, with the bravery and professionalism consistent with the finest traditions of the United States Armed Forces, and are deserving of the strong support of all Americans.

(2) Many American service personnel have lost their lives, and many more have been wounded in Iraq; the American people will always honor their sacrifice and honor their families.

(3) The United States Army and Marine Corps, including their Reserve components and National Guard organizations, together with components of the other branches of the military, are performing their missions while under enormous strain from multiple, extended deployments to Iraq and Afghanistan. These deployments, and those that will follow, will have a lasting impact on future recruiting, retention, and readiness of our Nation's all volunteer force.

(4) Iraq is experiencing a deteriorating problem of sectarian and intrasectarian violence based upon political distrust and cultural differences among factions of the Sunni and Shia populations.

(5) Iraqis must reach political and economic settlements in order to achieve reconciliation, for there is no military solution. The failure of the Iraqis to reach such settlements to support a truly unified government greatly contributes to the increasing violence in Iraq.

(6) The responsibility for Iraq's internal security and halting sectarian violence rests with the sovereign Government of Iraq.

(7) In December 2006, the bipartisan Iraq Study Group issued a valuable report, suggesting a comprehensive strategy that includes new and enhanced diplomatic and political efforts in Iraq and the region, and a change in the primary mission of U.S. forces in Iraq, that will enable the United States to begin to move its combat forces out of Iraq responsibly.

(8) The President said on January 10, 2007, that ''I've made it clear to the Prime Minister and Iraq's other leaders that America's commitment is not open-ended'' so as to dispel the contrary impression that exists.

(9) It is essential that the sovereign Government of Iraq set out measurable and achievable benchmarks and President Bush said, on January 10, 2007, that ''America will change our approach to help the Iraqi government as it works to meet these benchmarks''.

(10) As reported by Secretary of State Rice, Iraq's Policy Committee on National Security agreed upon a set of political, security, and economic benchmarks and an associated timeline in September 2006 that were: (A) reaffirmed by Iraq's Presidency Council on October 6, 2006; (B) referenced by the Iraq Study Group; and (C) posted on the President of Iraq's Web site.

(11) On April 21, 2007, Secretary of Defense Robert Gates stated that ''our [American] commitment to Iraq is long-term, but it is not a commitment to have our young men and women patrolling Iraq's streets open-endedly'' and that ''progress in reconciliation will be an important element of our evaluation''.

(12) The President's January 10, 2007, address had three components: political, military, and economic. Given that significant time has passed since his statement, and recognizing the overall situation is ever changing, Congress must have timely reports to evaluate and execute its constitutional oversight responsibilities.

(b) CONDITIONING OF FUTURE UNITED STATES STRATEGY IN IRAQ ON THE IRAQI GOVERNMENT'S RECORD OF PERFORMANCE ON ITS BENCHMARKS.—

(1) IN GENERAL.—

(A) The United States strategy in Iraq, hereafter, shall be conditioned on the Iraqi government meeting benchmarks, as told to members of Congress by the President, the Secretary of State, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, and reflected in the Iraqi Government's commitments to the United States, and to the international community, including:

(i) Forming a Constitutional Review Committee and then completing the constitutional review.

(ii) Enacting and implementing legislation on de-Baathification.

(iii) Enacting and implementing legislation to ensure the equitable distribution of hydrocarbon resources of the people of Iraq without regard to the sect or ethnicity of recipients, and enacting and implementing legislation to ensure that the energy resources of Iraq benefit Sunni Arabs, Shia Arabs, Kurds, and other Iraqi citizens in an equitable manner.

(iv) Enacting and implementing legislation on procedures to form semi-autonomous regions.

(v) Enacting and implementing legislation establishing an Independent High Electoral Commission, provincial elections law, provincial council authorities, and a date for provincial elections.

(vi) Enacting and implementing legislation addressing amnesty.

(vii) Enacting and implementing legislation establishing a strong militia disarmament program to ensure that such security forces are accountable only to the central government and loyal to the Constitution of Iraq.

(viii) Establishing supporting political, media, economic, and services committees in support of the Baghdad Security Plan.

(ix) Providing three trained and ready Iraqi brigades to support Baghdad operations.

(x) Providing Iraqi commanders with all authorities to execute this plan and to make tactical and operational decisions, in consultation with U.S commanders, without political intervention, to include the authority to pursue all extremists, including Sunni insurgents and Shiite militias.

(xi) Ensuring that the Iraqi Security Forces are providing even handed enforcement of the law.

(xii) Ensuring that, according to President Bush, Prime Minister Maliki said ''the Baghdad security plan will not provide a safe haven for any outlaws, regardless of [their] sectarian or political affiliation''.

(xiii) Reducing the level of sectarian violence in Iraq and eliminating militia control of local security.

(xiv) Establishing all of the planned joint security stations in neighborhoods across Baghdad.

(xv) Increasing the number of Iraqi security forces units capable of operating independently.

(xvi) Ensuring that the rights of minority political parties in the Iraqi legislature are protected.

(xvii) Allocating and spending $10 billion in Iraqi revenues for reconstruction projects, including delivery of essential services, on an equitable basis.

(xviii) Ensuring that Iraq's political authorities are not undermining or making false accusations against members of the Iraqi Security Forces.

(B) The President shall submit reports to Congress on how the sovereign Government of Iraq is, or is not, achieving progress towards accomplishing the aforementioned benchmarks, and shall advise the Congress on how that assessment requires, or does not require, changes to the strategy announced on January 10, 2007.

(2) REPORTS REQUIRED.—

(A) The President shall submit an initial report, in classified and unclassified format, to the Congress, not later than July 15, 2007, assessing the status of each of the specific benchmarks established above, and declaring, in his judgment, whether satisfactory progress toward meeting these benchmarks is, or is not, being achieved.

(B) The President, having consulted with the Secretary of State, the Secretary of Defense, the Commander, Multi-National Forces-Iraq, the United States Ambassador to Iraq, and the Commander of U.S. Central Command, will prepare the report and submit the report to Congress.

(C) If the President's assessment of any of the specific benchmarks established above is unsatisfactory, the President shall include in that report a description of such revisions to the political, economic, regional, and military components of the strategy, as announced by the President on January 10, 2007. In addition, the President shall include in the report, the advisability of implementing such aspects of the bipartisan Iraq Study Group, as he deems appropriate.

(D) The President shall submit a second report to the Congress, not later than September 15, 2007, following the same procedures and criteria outlined above.

(E) The reporting requirement detailed in section 1227 of the National Defense Authorization Act for Fiscal Year 2006 is waived from the date of the enactment of this Act through the period ending September 15, 2007.

(3) TESTIMONY BEFORE CONGRESS.—Prior to the submission of the President's second report on September 15, 2007, and at a time to be agreed upon by the leadership of the Congress and the Administration, the United States Ambassador to Iraq and the Commander, Multi-National Forces Iraq will be made available to testify in open and closed sessions before the relevant committees of the Congress.

(c) LIMITATIONS ON AVAILABILITY OF FUNDS.—

(1) LIMITATION.—No funds appropriated or otherwise made available for the ''Economic Support Fund'' and available for Iraq may be obligated or expended unless and until the

President of the United States certifies in the report outlined in subsection (b)(2)(A) and makes a further certification in the report outlined in subsection (b)(2)(D) that Iraq is making progress on each of the benchmarks set forth in subsection (b)(1)(A).

(2) WAIVER AUTHORITY.—The President may waive the requirements of this section if he submits to Congress a written certification setting forth a detailed justification for the waiver, which shall include a detailed report describing the actions being taken by the United States to bring the Iraqi government into compliance with the benchmarks set forth in subsection (b)(1)(A). The certification shall be submitted in unclassified form, but may include a classified annex.

(d) REDEPLOYMENT OF U.S. FORCES FROM IRAQ.—The President of the United States, in respecting the sovereign rights of the nation of Iraq, shall direct the orderly redeployment of elements of U.S. forces from Iraq, if the components of the Iraqi government, acting in strict accordance with their respective powers given by the Iraqi Constitution, reach a consensus as recited in a resolution, directing a redeployment of U.S. forces.

(e) INDEPENDENT ASSESSMENTS.—

(1) ASSESSMENT BY THE COMPTROLLER GENERAL.—

(A) Not later than September 1, 2007, the Comptroller General of the United States shall submit to Congress an independent report setting forth—

(i) the status of the achievement of the benchmarks specified in subsection (b)(1)(A); and

(ii) the Comptroller General's assessment of whether or not each such benchmark has been met.

(2) ASSESSMENT OF THE CAPABILITIES OF IRAQI SECURITY FORCES.—

(A) IN GENERAL.—There is hereby authorized to be appropriated for the Department of Defense, $750,000, that the Department, in turn, will commission an independent, private sector entity, which operates as a 501(c)(3), with recognized credentials and expertise in military affairs, to prepare an independent report assessing the following:

(i) The readiness of the Iraqi Security Forces (ISF) to assume responsibility for maintaining the territorial integrity of Iraq, denying international terrorists a safe haven, and bringing greater security to Iraq's 18 provinces in the next 12 to 18 months, and bringing an end to sectarian violence to achieve national reconciliation.

(ii) The training, equipping, command, control and intelligence capabilities, and logistics capacity of the ISF.

(iii) The likelihood that, given the ISF's record of preparedness to date, following years of training and equipping by U.S. forces, the continued support of U.S. troops will contribute to the readiness of the ISF to fulfill the missions outlined in clause (i).

(B) REPORT.—Not later than 120 days after the enactment of this Act, the designated private sector entity shall provide an unclassified report, with a classified annex, containing its findings, to the House and Senate Committees on Armed Services, Appropriations, Foreign Relations/International Relations, and Intelligence.

CHAPTER 4

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for ''Defense Nuclear Nonproliferation'', $63,000,000, to remain available until expended.

CHAPTER 5

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for ''Military Construction, Army'', $1,255,890,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed $173,700,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That of the funds made available under this heading, $369,690,000 shall not be obligated or expended until the Secretary of Defense submits a detailed report explaining how military road construction is coordinated with NATO and coalition nations: Provided further, That of the funds made available under this heading, $401,700,000 shall not be obligated or expended until the Secretary of Defense submits a detailed stationing plan to support Army end-strength growth to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That of the funds provided under this heading, $274,800,000 shall not be obligated or expended until the Secretary of Defense certifies that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $370,990,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed $49,600,000 shall be available for study, planning, design, and architect and engineer services: Provided further, That of the funds made available under this heading, $324,270,000 shall not be obligated or expended until the Secretary of Defense submits a detailed stationing plan to support Marine Corps end-strength growth to the Committees on Appropriations of the House of Representatives and the Senate.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $43,300,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: Provided further, That of the funds provided under this heading, not to exceed $3,000,000 shall be available for study, planning, design, and architect and engineer services.

GENERAL PROVISION—THIS CHAPTER

SEC. 1501. (a) Funds provided in this Act for the following accounts shall be made available for programs under the conditions contained in the language of the joint explanatory statement of managers accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107):

''Military Construction, Army''.

''Military Construction, Navy and Marine Corps''.

''Military Construction, Air Force''.

(b) The Secretary of Defense shall submit all reports requested in House Report 110–60 and Senate Report 110–37 to the Committees on Appropriations of both Houses of Congress.

CHAPTER 6

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $836,555,000, to remain available until September 30, 2008, of which $64,655,000 for World Wide Security Upgrades is available until expended: Provided, That of the funds appropriated under this heading, not more than $20,000,000 shall be made available for public diplomacy programs: Provided further, That prior to the obligation of funds pursuant to the previous proviso, the Secretary of State shall submit a report to the Committees on Appropriations describing a comprehensive public diplomacy strategy, with goals and expected results, for fiscal years 2007 and 2008: Provided further, That 20 percent of the amount available for Iraq operations shall not be obligated until the Committees on Appropriations receive and approve a detailed plan for expenditure, prepared by the Secretary of State, and submitted within 60 days after the date of enactment of this Act: Provided further, That of the amount made available under this heading for Iraq, not to exceed $20,000,000 may be transferred to, and merged with, funds in the ''Emergencies in the Diplomatic and Consular Service'' appropriations account, to be available only for terrorism rewards.

OFFICE OF THE INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $35,000,000, to remain available until December 31, 2008: Provided, That such amount shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for ''Educational and Cultural Exchange Programs'', $20,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $283,000,000, to remain available until September 30, 2008.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'' for activities related to broadcasting to the Middle East, $10,000,000, to remain available until September 30, 2008.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Child Survival and Health Programs Fund'', $161,000,000, to remain available until September 30, 2008: Provided, That notwithstanding any other provision of law, if the President determines and reports to the Committees on Appropriations that the human-to-human transmission of the avian influenza virus is efficient and sustained, and is spreading internationally, funds made available under the heading ''Millennium Challenge Corporation'' and ''Global HIV/AIDS Initiative'' in prior Acts making appropriations for foreign operations, export financing, and related programs may be transferred to, and merged with, funds made available under this heading to combat avian influenza: Provided further, That funds made available pursuant to the authority of the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for ''International Disaster and Famine Assistance'', $105,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $5,700,000, to remain available until September 30, 2008.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $2,502,000,000, to remain available until September 30, 2008: Provided, That of the funds appropriated under this heading, $57,400,000 shall be made available to nongovernmental organizations in Iraq for economic and social development programs and activities in areas of conflict: Provided further, That the responsibility for policy decisions and justifications for the use of funds appropriated by the previous proviso shall be the responsibility of the United States Chief of Mission in Iraq: Provided further, That none of the funds appropriated under this heading in this Act or in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available for the Political Participation Fund and the National Institutions Fund: Provided further, That of the funds made available under the heading ''Economic Support Fund'' in Public Law 109–234 for Iraq to promote democracy, rule of law and reconciliation, $2,000,000 should be made available for the United States Institute of Peace for programs and activities in Afghanistan to remain available until September 30, 2008.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

For an additional amount for ''Assistance for Eastern Europe and the Baltic States'', $214,000,000, to remain available until September 30, 2008, for assistance for Kosovo.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for ''Democracy Fund'', $255,000,000, to remain available until September 30, 2008: Provided, That of the funds appropriated under this heading, not less than $190,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor, Department of State, and not less than $60,000,000 shall be made available for the United States Agency for International Development, for democracy, human rights and rule of law programs in Iraq: Provided further, That not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations describing a comprehensive, long-term strategy, with goals and expected results, for strengthening and advancing democracy in Iraq.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $210,000,000, to remain available until September 30, 2008.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $71,500,000, to remain available until September 30, 2008, of which not less than $5,000,000 shall be made available to rescue Iraqi scholars.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for ''United States Emergency Refugee and Migration Assistance Fund'', $30,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $27,500,000, to remain available until September 30, 2008.

DEPARTMENT OF THE TREASURY

INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For an additional amount for ''International Affairs Technical Assistance'', $2,750,000, to remain available until September 30, 2008.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $220,000,000, to remain available until September 30, 2008.

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $190,000,000, to remain available until September 30, 2008: Provided, That not later than 30 days after enactment of this Act and every 30 days thereafter until September 30, 2008, the Secretary of State shall submit a report to the Committees on Appropriations detailing the obligation and expenditure of funds made available under this heading in this Act and in prior Acts making appropriations for foreign operations, export financing, and related programs.

GENERAL PROVISION—THIS CHAPTER

AUTHORIZATION OF FUNDS

SEC. 1601. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

TITLE II—HURRICANE KATRINA RECOVERY

DEPARTMENT OF HOMELAND SECURITY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for ''Disaster Relief'', $3,400,000,000, to remain available until expended.

TITLE III—ADDITIONAL DEFENSE, INTERNATIONAL AFFAIRS, AND HOMELAND SECURITY PROVISIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $100,000,000, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

SEC. 3101. There is hereby appropriated $10,000,000 to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): Provided, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used to replenish the Bill Emerson Humanitarian Trust.

CHAPTER 2

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $139,740,000, of which $129,740,000 is to remain available until September 30, 2008 and $10,000,000 is to remain available until expended to implement corrective actions in response to the findings and recommendations in the Department of Justice Office of Inspector General report entitled, ''A Review of the Federal Bureau of Investigation's Use of National Security Letters'', of which $500,000 shall be transferred to and merged with ''Department of Justice, Office of the Inspector General''.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $3,698,000, to remain available until September 30, 2008.

GENERAL PROVISION—THIS CHAPTER

SEC. 3201. Funds provided in this Act for the ''Department of Justice, Federal Bureau of Investigation, Salaries and Expenses'', shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $343,080,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $408,283,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $108,956,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $139,300,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $8,223,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $5,660,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $6,073,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $109,261,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $19,533,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $24,000,000.

STRATEGIC RESERVE READINESS FUND

(INCLUDING TRANSFER OF FUNDS)

In addition to amounts provided in this or any other Act, for training, operations, repair of equipment, purchases of equipment, and other expenses related to improving the readiness of non-deployed United States military forces, $1,615,000,000, to remain available until September 30, 2009; of which $1,000,000,000 shall be transferred to ''National Guard and Reserve Equipment'' for the purchase of equipment for the Army National Guard; and of which $615,000,000 shall be transferred by the Secretary of Defense only to appropriations for military personnel, operation and maintenance, procurement, and defense working capital funds to accomplish the purposes provided herein: Provided, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: Provided further, That the Secretary of Defense shall, not fewer than 30 days prior to making transfers under this authority, notify the congressional defense committees in writing of the details of any such transfers made pursuant to this authority: Provided further, That funds shall be transferred to the appropriation accounts not

later than 120 days after the enactment of this Act: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $1,217,000,000, to remain available until September 30, 2009: Provided, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $130,040,000, to remain available until September 30, 2009: Provided, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $1,263,360,000, to remain available until September 30, 2009: Provided, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $139,040,000, to remain available until September 30, 2009: Provided, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $258,860,000, to remain available until September 30, 2009: Provided, That the amount provided under this heading shall be available only for the purchase of mine resistant ambush protected vehicles.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Defense Health Program'', $1,878,706,000; of which $1,429,006,000 shall be for operation and maintenance, including $600,000,000 which shall be available for the treatment of traumatic brain injury and post-traumatic stress disorder and remain available until September 30, 2008; of which $118,000,000 shall be for procurement, to remain available until September 30, 2009; and of which $331,700,000 shall be for research, development, test and evaluation, to remain available until September 30, 2008: Provided, That if the Secretary of Defense determines that funds made available in this paragraph for the treatment of traumatic brain injury and post-traumatic stress disorder are in excess of the requirements of the Department of Defense, the Secretary may transfer amounts in excess of that requirement to the Department of Veterans Affairs to be available only for the same purpose.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3301. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for a purpose as follows:

(1) To establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq.

(2) To exercise United States control over any oil resource of Iraq.

SEC. 3302. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984)—

(1) section 2340A of title 18, United States Code;

(2) section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations; and

(3) sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 3303. (a) REPORT BY SECRETARY OF DEFENSE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that contains individual transition readiness assessments by unit of Iraq and Afghan security forces. The Secretary of Defense shall submit to the congressional defense committees updates of the report required by this subsection every 90 days after the date of the submission of the report until October 1, 2008. The report and updates of the report required by this subsection shall be submitted in classified form.

(b) REPORT BY OMB.—

(1) The Director of the Office of Management and Budget, in consultation with the Secretary of Defense; the Commander, Multi-National Security Transition Command—Iraq; and the Commander, Combined Security Transition Command—Afghanistan, shall submit to the congressional defense committees not later than 120 days after the date of the enactment of this Act and every 90 days thereafter a report on the proposed use of all funds under each of the headings ''Iraq Security Forces Fund'' and ''Afghanistan Security Forces Fund'' on a project-by-project basis, for which the obligation of funds is anticipated during the three-month period from such date, including estimates by the commanders referred to in this paragraph of the costs required to complete each such project.

(2) The report required by this subsection shall include the following:

(A) The use of all funds on a project-by-project basis for which funds appropriated under the headings referred to in paragraph (1) were obligated prior to the submission of the report, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(B) The use of all funds on a project-by-project basis for which funds were appropriated under the headings referred to in paragraph (1) in prior appropriations Acts, or for which funds were made available by transfer, reprogramming, or allocation from other headings in prior appropriations Acts, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(C) An estimated total cost to train and equip the Iraq and Afghan security forces, disaggregated by major program and sub-elements by force, arrayed by fiscal year.

(c) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of $15,000,000 using funds appropriated by this Act under the headings ''Iraq Security Forces Fund'' and ''Afghanistan Security Forces Fund''.

SEC. 3304. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

SEC. 3305. Not more than 85 percent of the funds appropriated to the Department of Defense in this Act for operation and maintenance shall be available for obligation unless and until the Secretary of Defense submits to the congressional defense committees a report detailing the use of Department of Defense funded service contracts conducted in the theater of operations in support of United States military and reconstruction activities in Iraq and Afghanistan: Provided, That the report shall provide detailed information specifying the number of contracts and contract costs used to provide services in fiscal year 2006, with sub-allocations by major service categories: Provided further, That the report also shall include estimates of the number of contracts to be executed in fiscal year 2007: Provided further, That the report shall include the number of contractor personnel in Iraq and Afghanistan funded by the Department of Defense: Provided further, That the report shall be submitted to the congressional defense committees not later than August 1, 2007.

SEC. 3306. Section 1477 of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''A death gratuity'' and inserting ''Subject to subsection (d), a death gratuity'';

(2) by redesignating subsection (d) as subsection (e) and, in such subsection, by striking ''If an eligible survivor dies before he'' and inserting ''If a person entitled to all or a portion of a death gratuity under subsection (a) or (d) dies before the person''; and

(3) by inserting after subsection (c) the following new subsection (d):

''(d) During the period beginning on the date of the enactment of this subsection and ending on September 30, 2007, a person covered by section 1475 or 1476 of this title may designate another person to receive not more than 50 percent of the amount payable under section 1478 of this title. The designation shall indicate the percentage of the amount, to be specified only in 10 percent increments up to the maximum of 50 percent, that the designated person may receive. The balance of the amount of the death gratuity shall be paid to or for the living survivors of the person concerned in accordance with paragraphs (1) through (5) of subsection (a).''.

SEC. 3307. (a) INSPECTION OF MILITARY MEDICAL TREATMENT FACILITIES, MILITARY QUARTERS HOUSING MEDICAL HOLD PERSONNEL, AND MILITARY QUARTERS HOUSING MEDICAL HOLDOVER PERSONNEL.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall inspect each facility of the Department of Defense as follows:

(A) Each military medical treatment facility.

(B) Each military quarters housing medical hold personnel.

(C) Each military quarters housing medical holdover personnel.

(2) PURPOSE.—The purpose of an inspection under this subsection is to ensure that the facility or quarters concerned meets acceptable standards for the maintenance and operation of medical facilities, quarters housing medical hold personnel, or quarters housing medical holdover personnel, as applicable.

(b) ACCEPTABLE STANDARDS.—For purposes of this section, acceptable standards for the operation and maintenance of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel are each of the following:

(1) Generally accepted standards for the accreditation of medical facilities, or for facilities used to quarter individuals with medical conditions that may require medical supervision, as applicable, in the United States.

(2) Where appropriate, standards under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(c) ADDITIONAL INSPECTIONS ON IDENTIFIED DEFICIENCIES.—

(1) IN GENERAL.—In the event a deficiency is identified pursuant to subsection (a) at a facility or quarters described in paragraph (1) of that subsection—

(A) the commander of such facility or quarters, as applicable, shall submit to the Secretary a detailed plan to correct the deficiency; and

(B) the Secretary shall reinspect such facility or quarters, as applicable, not less often than once every 180 days until the deficiency is corrected.

(2) CONSTRUCTION WITH OTHER INSPECTIONS.—An inspection of a facility or quarters under this subsection is in addition to any inspection of such facility or quarters under subsection (a).

(d) REPORTS ON INSPECTIONS.—A complete copy of the report on each inspection conducted under subsections (a) and (c) shall be submitted in unclassified form to the applicable military medical command and to the congressional defense committees.

(e) REPORT ON STANDARDS.—In the event no standards for the maintenance and operation of military medical treatment facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel exist as of the date of the enactment of this Act, or such standards as do exist do not meet acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be, the Secretary shall, not later than 30 days after that date, submit to the congressional defense committees a report setting forth the plan of the Secretary to ensure—

(1) the adoption by the Department of standards for the maintenance and operation of military medical facilities, military quarters housing medical hold personnel, or military quarters housing medical holdover personnel, as applicable, that meet—

(A) acceptable standards for the maintenance and operation of such facilities or quarters, as the case may be; and

(B) where appropriate, standards under the Americans with Disabilities Act of 1990; and

(2) the comprehensive implementation of the standards adopted under paragraph (1) at the earliest date practicable.

SEC. 3308. (a) AWARD OF MEDAL OF HONOR TO WOODROW W. KEEBLE FOR VALOR DURING KOREAN WAR.—Notwithstanding any applicable time limitation under section 3744 of title 10, United States Code, or any other time limitation with respect to the award of certain medals to individuals who served in the Armed Forces, the President may award to Woodrow W. Keeble the Medal of Honor under section 3741 of that title for the acts of valor described in subsection (b).

(b) ACTS OF VALOR.—The acts of valor referred to in subsection (a) are the acts of Woodrow W. Keeble, then-acting platoon leader, carried out on October 20, 1951, during the Korean War.

(TRANSFER OF FUNDS)

SEC. 3309. Of the amount appropriated under the heading ''Other Procurement, Army'', in title III of division A of Public Law 109–148, $6,250,000 shall be transferred to ''Military Construction, Army''.

SEC. 3310. The Secretary of Defense, notwithstanding any other provision of law, acting through the Office of Economic Adjustment or the Office of Dependents Education of the Department of Defense, shall use not less than $10,000,000 of funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' to make grants and supplement other Federal funds to provide special assistance to local education agencies.

SEC. 3311. Congress finds that United States military units should not enter into combat unless they are fully capable of performing their assigned mission. Congress further finds that this is the policy of the Department of Defense. The Secretary of Defense shall notify Congress of any changes to this policy.

CHAPTER 4

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for ''Defense Nuclear Nonproliferation'', $72,000,000 is provided for the International Nuclear Materials Protection and Cooperation Program, to remain available until expended.

GENERAL PROVISION—THIS CHAPTER

(TRANSFER OF FUNDS)

SEC. 3401. The Administrator of the National Nuclear Security Administration is authorized to transfer up to $1,000,000 from Defense Nuclear Nonproliferation to the Office of the Administrator during fiscal year 2007 supporting nuclear nonproliferation activities.

CHAPTER 5

DEPARTMENT OF HOMELAND SECURITY

ANALYSIS AND OPERATIONS

For an additional amount for ''Analysis and Operations'', $8,000,000, to remain available until September 30, 2008, to be used for support of the State and Local Fusion Center program: Provided, That starting July 1, 2007, the Secretary of Homeland Security shall submit quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives detailing the information required in House Report 110–107.

UNITED STATES CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $75,000,000, to remain available until September 30, 2008, to support hiring not less than 400 additional United States Customs and Border Protection Officers, as well as additional intelligence analysts, trade specialists, and support staff to target and screen U.S.-bound cargo on the Northern Border, at overseas locations, and at the National Targeting Center; to support hiring additional staffing required for Northern Border Air and Marine operations; to implement Security and Accountability For Every Port Act of 2006 (Public Law 109–347) requirements; to advance the goals of the Secure Freight Initiative to improve significantly the ability of United States Customs and Border Protection to target and analyze U.S.-bound cargo containers; to expand overseas screening and physical inspection capacity for U.S.-bound cargo; to procure and integrate non-intrusive inspection equipment into inspection and radiation detection operations; and to improve supply chain security, to include enhanced analytic and targeting systems using data collected via commercial and government technologies and databases: Provided, That up to $3,000,000 shall be transferred to Federal Law Enforcement Training Center ''Salaries and Expenses'', for basic training costs associated with the additional personnel funded under this heading: Provided further, That the Secretary shall submit an expenditure plan for the use of these funds to the Committees on Appropriations of the Senate and the House of Representatives no later than 30 days after enactment of this Act: Provided further, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives immediately if United States Customs and Border Protection does not expect to achieve its plan of having at least 1,158 Border Patrol agents permanently deployed to the Northern Border by the end of fiscal year 2007, and explain in detail the reasons for any shortfall.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Air and Marine Interdiction, Operations, Maintenance, and Procurement'', for air and marine operations on the Northern Border, including the final Northern Border air wing, $75,000,000, to remain available until September 30, 2008, to accelerate planned deployment of Northern Border Air and Marine operations, including establishment of the final Northern Border airwing, procurement of assets such as fixed wing aircraft, helicopters, unmanned aerial systems, marine and riverine vessels, and other equipment, relocation of aircraft, site acquisition, and the design and building of facilities: Provided, That the Secretary shall submit an expenditure plan for the use of these funds to the Committees on Appropriations of the Senate and the House of Representatives no later than 30 days after enactment of this Act.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $6,000,000, to remain available until September 30, 2008; of which $5,000,000 shall be for the creation of a security advisory opinion unit within the Visa Security Program; and of which $1,000,000 shall be for the Human Smuggling and Trafficking Center.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For an additional amount for ''Aviation Security'', $390,000,000; of which $285,000,000 shall be for procurement and installation of checked baggage explosives detection systems, to remain available until expended; of which $25,000,000 shall be for checkpoint explosives detection equipment and pilot screening technologies, to remain available until expended; and of which $80,000,000 shall be for air cargo security, to remain available until September 30, 2009: Provided, That of the air cargo funding made available under this heading, the Transportation Security Administration shall hire no fewer than 150 additional air cargo inspectors to establish a more robust enforcement and compliance program; complete air cargo vulnerability assessments for all Category X airports; expand the National Explosives Detection Canine Program by no fewer than 170 additional canine teams, including the use of agency led teams; pursue canine screening methods utilized internationally that focus on air samples; and procure and install explosive detection systems, explosive trace machines, and other technologies to screen air cargo: Provided further, That no later than 90 days after the date of enactment of this Act, the Secretary shall provide the Committees on Appropriations of the Senate and the House of Representatives an expenditure plan detailing how the Transportation Security Administration will utilize funding provided under this heading.

FEDERAL AIR MARSHALS

For an additional amount for ''Federal Air Marshals'', $5,000,000, to remain available until September 30, 2008: Provided, That no later than 30 days after enactment of this Act, the Secretary shall provide the Committees on Appropriations of the Senate and the House of Representatives a report on how these additional funds will be allocated.

NATIONAL PROTECTION AND PROGRAMS

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For an additional amount for ''Infrastructure Protection and Information Security'', $24,000,000, to remain available until September 30, 2008; of which $12,000,000 shall be for development of State and local interoperability plans as discussed in House Report 110–107; and of which $12,000,000 shall be for implementation of chemical facility security regulations: Provided, That within 30 days of the date of enactment of this Act the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives detailed expenditure plans for execution of these funds: Provided further, That within 30

days of the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on the computer forensics training center detailing the information required in House Report 110–107.

OFFICE OF HEALTH AFFAIRS

For expenses for the ''Office of Health Affairs'', $8,000,000, to remain available until September 30, 2008: Provided, That of the amount made available under this heading, $5,500,000 is for nuclear event public health assessment and planning: Provided further, That the Office of Health Affairs shall conduct a nuclear event public health assessment as described in House Report 110–107: Provided further, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For expenses for management and administration of the Federal Emergency Management Agency (''FEMA''), $14,000,000, to remain available until September 30, 2008: Provided, That of the amount made available under this heading, $6,000,000 shall be for financial and information systems, $2,500,000 shall be for interstate mutual aid agreements, $2,500,000 shall be for FEMA Regional Office communication equipment, $2,500,000 shall be for FEMA strike teams, and $500,000 shall be for the Law Enforcement Liaison Office, the Disability Coordinator and the National Advisory Council: Provided further, That none of such funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure: Provided further, That unobligated amounts in the ''Administrative and Regional Operations'' and ''Readiness, Mitigation, Response, and Recovery'' accounts shall be transferred to ''Management and Administration'' and may be used for any purpose authorized for such amounts and subject to limitation on the use of such amounts.

STATE AND LOCAL PROGRAMS

For an additional amount for ''State and Local Programs'', $247,000,000; of which $110,000,000 shall be for port security grants pursuant to section 70107(l) of title 46, United States Code to be awarded by September 30, 2007, to tier 1, 2, 3, and 4 ports; of which $100,000,000 shall be for intercity rail passenger transportation, freight rail, and transit security grants to be awarded by September 30, 2007; of which $35,000,000 shall be for regional grants and regional technical assistance to tier one Urban Area Security Initiative cities and other participating governments for the purpose of developing all-hazard regional catastrophic event plans and preparedness, as described in House Report 110–107; and of which $2,000,000 shall be for technical assistance for operation and maintenance training on detection and response equipment that must be competitively awarded: Provided, That none of the funds made available under this heading may be obligated for such regional grants and regional technical assistance until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure: Provided further, That the Federal Emergency Management Agency shall provide the regional grants and regional technical assistance expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives on or before August 1, 2007: Provided further, That funds for such regional grants and regional technical assistance shall remain available until September 30, 2008.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For an additional amount for ''Emergency Management Performance Grants'', $50,000,000.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For an additional amount for expenses of ''United States Citizenship and Immigration Services'' to address backlogs of security checks associated with pending applications and petitions, $8,000,000, to remain available until September 30, 2008: Provided, That none of the funds made available under this heading shall be available for obligation until the Secretary of Homeland Security, in consultation with the United States Attorney General, submits to the Committees on Appropriations of the Senate and the House of Representatives a plan to eliminate the backlog of security checks that establishes information sharing protocols to ensure United States Citizenship and Immigration Services has the information it needs to carry out its mission.

SCIENCE AND TECHNOLOGY

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For an additional amount for ''Research, Development, Acquisition, and Operations'' for air cargo security research, $5,000,000, to remain available until expended.

DOMESTIC NUCLEAR DETECTION OFFICE

RESEARCH, DEVELOPMENT, AND OPERATIONS

For an additional amount for ''Research, Development, and Operations'' for non-container, rail, aviation and intermodal radiation detection activities, $35,000,000, to remain available until expended: Provided, That $5,000,000 is to enhance detection links between seaports and railroads as authorized in section 121(i) of the Security and Accountability For Every Port Act of 2006 (Public Law 109–347); $8,000,000 is to accelerate development and deployment of detection systems at international rail border crossings; and $22,000,000 is for development and deployment of a variety of screening technologies at aviation facilities.

SYSTEMS ACQUISITION

For an additional amount for ''Systems Acquisition'', $100,000,000, to remain available until expended: Provided, That none of the funds appropriated under this heading shall be obligated for full scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness will be achieved.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3501. None of the funds provided in this Act, or Public Law 109–295, shall be available to carry out section 872 of Public Law 107–296.

SEC. 3502. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

CHAPTER 6

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $6,437,000, as follows:

ALLOWANCES AND EXPENSES

For an additional amount for allowances and expenses as authorized by House resolution or law, $6,437,000 for business continuity and disaster recovery, to remain available until expended.

GOVERNMENT ACCOUNTABILITY OFFICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' of the Government Accountability Office, $374,000, to remain available until September 30, 2008.

CHAPTER 7

DEPARTMENT OF DEFENSE

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $3,136,802,000, to remain available until expended: Provided, That within 30 days of the enactment of this Act, the Secretary of Defense shall submit a detailed spending plan to the Committees on Appropriations of the House of Representatives and the Senate.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 3701. Notwithstanding any other provision of law, none of the funds in this or any other Act may be used to close Walter Reed Army Medical Center until equivalent medical facilities at the Walter Reed National Military Medical Center at Naval Medical Center, Bethesda, Maryland, and/or the Fort Belvoir, Virginia, Community Hospital have been constructed and equipped: Provided, That to ensure that the quality of care provided by the Military Health System is not diminished during this transition, the Walter Reed Army Medical Center shall be adequately funded, to include necessary renovation and maintenance of existing facilities, to maintain the maximum level of inpatient and outpatient services.

SEC. 3702. Notwithstanding any other provision of law, none of the funds in this or any other Act shall be used to reorganize or relocate the functions of the Armed Forces Institute of Pathology (AFIP) until the Secretary of Defense has submitted, not later than December 31, 2007, a detailed plan and timetable for the proposed reorganization and relocation to the Committees on Appropriations and Armed Services of the Senate and House of Representatives. The plan shall take into consideration the recommendations of a study being prepared by the Government Accountability Office (GAO), provided that such study is available not later than 45 days before the date specified in this section, on the impact of dispersing selected functions of AFIP among several locations, and the possibility of consolidating those functions at one location. The plan shall include an analysis of the options for the location and operation of the Program Management Office for second opinion consults that are consistent with the recommendations of the Base Realignment and Closure Commission, together with the rationale for the option selected by the Secretary.

SEC. 3703. The Secretary of the Navy shall, notwithstanding any other provision of law, transfer to the Secretary of the Air Force, at no cost, all lands, easements, Air Installation Compatible Use Zones, and facilities at NASJRB Willow Grove designated for operation as a Joint Interagency Installation for use by the Pennsylvania National Guard and other Department of Defense components, government agencies, and associated users to perform national defense, homeland security, and emergency preparedness missions.

CHAPTER 8

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $34,103,000, to remain available until September 30, 2008, of which $31,845,000 for World Wide Security Upgrades is available until expended: Provided, That of the amount available under this heading, $258,000 shall be transferred to, and merged with, funds available in fiscal year 2007 for expenses for the United States Commission on International Religious Freedom: Provided further, That within 15

days of enactment of this Act, the Office of Management and Budget shall apportion $15,000,000 from amounts appropriated or otherwise made available by chapter 8 of title II of division B of Public Law 109–148 under the heading ''Emergencies in the Diplomatic and Consular Service'' to reimburse expenditures from that account in facilitating the evacuation of persons from Lebanon between July 16, 2006, and the date of enactment of this Act.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $1,500,000, to remain available until December 31, 2008.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for ''Contributions to International Organizations'', $50,000,000, to remain available until September 30, 2008.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for ''International Disaster and Famine Assistance'', $60,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $3,000,000, to remain available until September 30, 2008.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $3,500,000, to remain available until September 30, 2008.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for ''Economic Support Fund'', $122,300,000, to remain available until September 30, 2008.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for ''Democracy Fund'', $5,000,000, to remain available until September 30, 2008.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for ''International Narcotics Control and Law Enforcement'', $42,000,000, to remain available until September 30, 2008.

Of the amounts made available for procurement of a maritime patrol aircraft for the Colombian Navy under this heading in Public Law 109–234, $13,000,000 are rescinded.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $59,000,000, to remain available until September 30, 2008.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for ''United States Emergency Refugee and Migration Assistance Fund'', $25,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $30,000,000, to remain available until September 30, 2008.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $45,000,000, to remain available until September 30, 2008.

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $40,000,000, to remain available until September 30, 2008: Provided, That funds appropriated under this heading shall be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, for assistance for Liberia for security sector reform.

GENERAL PROVISIONS—THIS CHAPTER

EXTENSION OF OVERSIGHT AUTHORITY

SEC. 3801. Section 3001(o)(1)(B) of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1238; 5 U.S.C. App., note to section 8G of Public Law 95–452), as amended by section 1054(b) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2397) and section 2 of the Iraq Reconstruction Accountability Act of 2006 (Public Law 109–440), is amended by inserting ''or fiscal year 2007'' after ''fiscal year 2006''.

LEBANON

SEC. 3802. (a) LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR LEBANON.—None of the funds made available in this Act under the heading ''Economic Support Fund'' for cash transfer assistance for the Government of Lebanon may be made available for obligation until the Secretary of State reports to the Committees on Appropriations on Lebanon's economic reform plan and on the specific conditions and verifiable benchmarks that have been agreed upon by the United States and the Government of Lebanon pursuant to the Memorandum of Understanding on cash transfer assistance for Lebanon.

(b) LIMITATION ON FOREIGN MILITARY FINANCING PROGRAM AND INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT ASSISTANCE FOR LEBANON.—None of the funds made available in this Act under the heading ''Foreign Military Financing Program'' or ''International Narcotics Control and Law Enforcement'' for military or police assistance to Lebanon may be made available for obligation until the Secretary of State submits to the Committees on Appropriations a report on procedures established to determine eligibility of members and units of the armed forces and police forces of Lebanon to participate in United States training and assistance programs and on the end use monitoring of all equipment provided under such programs to the Lebanese armed forces and police forces.

(c) CERTIFICATION REQUIRED.—Prior to the initial obligation of funds made available in this Act for assistance for Lebanon under the headings ''Foreign Military Financing Program'' and ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', the Secretary of State shall certify to the Committees on Appropriations that all practicable efforts have been made to ensure that such assistance is not provided to or through any individual, or private or government entity, that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity.

(d) REPORT REQUIRED.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report on the Government of Lebanon's actions to implement section 14 of United Nations Security Council Resolution 1701 (August 11, 2006).

(e) SPECIAL AUTHORITY.—This section shall be effective notwithstanding section 534(a) of Public Law 109–102, which is made applicable to funds appropriated for fiscal year 2007 by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5).

DEBT RESTRUCTURING

SEC. 3803. Amounts appropriated for fiscal year 2007 for ''Bilateral Economic Assistance—Department of the Treasury—Debt Restructuring'' may be used to assist Liberia in retiring its debt arrearages to the International Monetary Fund, the International Bank for Reconstruction and Development, and the African Development Bank.

GOVERNMENT ACCOUNTABILITY OFFICE

SEC. 3804. To facilitate effective oversight of programs and activities in Iraq by the Government Accountability Office (GAO), the Department of State shall provide GAO staff members the country clearances, life support, and logistical and security support necessary for GAO personnel to establish a presence in Iraq for periods of not less than 45 days.

HUMAN RIGHTS AND DEMOCRACY FUND

SEC. 3805. The Assistant Secretary of State for Democracy, Human Rights, and Labor shall be responsible for all policy, funding, and programming decisions regarding funds made available under this Act and prior Acts making appropriations for foreign operations, export financing and related programs for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor.

INSPECTOR GENERAL OVERSIGHT OF IRAQ AND AFGHANISTAN

SEC. 3806. (a) IN GENERAL.—Subject to paragraph (2), the Inspector General of the Department of State and the Broadcasting Board of Governors (referred to in this section as the ''Inspector General'') may use personal services contracts to engage citizens of the United States to facilitate and support the Office of the Inspector General's oversight of programs and operations related to Iraq and Afghanistan. Individuals engaged by contract to perform such services shall not, by virtue of such contract, be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management. The Secretary of State may determine the applicability to such individuals of any law administered by the Secretary concerning the performance of such services by such individuals.

(b) CONDITIONS.—The authority under paragraph (1) is subject to the following conditions:

(1) The Inspector General determines that existing personnel resources are insufficient.

(2) The contract length for a personal services contractor, including options, may not exceed 1 year, unless the Inspector General makes a finding that exceptional circumstances justify an extension of up to 1 additional year.

(3) Not more than 10 individuals may be employed at any time as personal services contractors under the program.

(c) TERMINATION OF AUTHORITY.—The authority to award personal services contracts under this section shall terminate on December 31, 2007. A contract entered into prior to the termination date under this paragraph may remain in effect until not later than December 31, 2009.

(d) OTHER AUTHORITIES NOT AFFECTED.—The authority under this section is in addition to any other authority of the Inspector General to hire personal services contractors.

FUNDING TABLES, REPORTS AND DIRECTIVES

SEC. 3807. (a) Funds provided in this Act for the following accounts shall be made available for countries, programs and activities in the amounts contained in the respective tables and should be expended consistent with the reporting requirements and directives included in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107):

''Diplomatic and Consular Programs''.

''Office of the Inspector General''.

''Educational and Cultural Exchange Programs''.

''Contributions to International Organizations''.

''Contributions for International Peacekeeping Activities''.

''Child Survival and Health Programs Fund''.

''International Disaster and Famine Assistance''.

''Operating Expenses of the United States Agency for International Development''.

''Operating Expenses of the United States Agency for International Development Office of Inspector General''.

''Economic Support Fund''.

''Assistance for Eastern Europe and the Baltic States''.

''Democracy Fund''.

''International Narcotics Control and Law Enforcement''.

''Migration and Refugee Assistance''.

''Nonproliferation, Anti-Terrorism, Demining and Related Programs''.

''Foreign Military Financing Program''.

''Peacekeeping Operations''.

(b) Any proposed increases or decreases to the amounts contained in the tables in the joint explanatory statement shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 3808. Not later than 45 days after enactment of this Act the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in this chapter and under the headings in chapter 6 of title I, except for funds appropriated under the heading ''International Disaster and Famine Assistance'': Provided, That funds appropriated under the headings in this chapter and in chapter 6 of title I, except for funds appropriated under the heading named in this section, shall be subject to the regular notification procedures of the Committees on Appropriations.

CONDITIONS ON ASSISTANCE FOR PAKISTAN

SEC. 3809. None of the funds made available for assistance for the central Government of Pakistan under the heading ''Economic Support Fund'' in this Act may be made available for non-project assistance until the Secretary of State submits to the Committees on Appropriations a report on the oversight mechanisms, performance benchmarks, and implementation processes for such funds: Provided, That notwithstanding any other provision of law, funds made available for non-project assistance pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations: Provided further, That of the funds made available for assistance for Pakistan under the heading ''Economic Support Fund'' in this Act, $5,000,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights, and Labor, Department of State, for political party development and election observation programs.

CIVILIAN RESERVE CORPS

SEC. 3810. Of the funds appropriated by this Act under the heading ''Diplomatic and Consular Programs'', up to $50,000,000 may be made available to support and maintain a civilian reserve corps: Provided, That none of the funds for a civilian reserve corps may be obligated without specific authorization in a subsequent Act of Congress: Provided further, That funds made available for this purpose shall be subject to the regular notification procedures of the Committees on Appropriations.

EXTENSION OF AVAILABILITY OF FUNDS

SEC. 3811. Section 1302(a) of Public Law 109–234 is amended by striking ''one additional year'' and inserting ''two additional years''.

SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS SERVING AS TRANSLATORS OR INTERPRETERS WITH FEDERAL AGENCIES

SEC. 3812. (a) INCREASE IN NUMBERS ADMITTED.—Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking ''as a translator'' and inserting '', or under Chief of Mission authority, as a translator or interpreter'';

(B) in subparagraph (C), by inserting ''the Chief of Mission or'' after ''recommendation from''; and

(C) in subparagraph (D), by inserting ''the Chief of Mission or'' after ''as determined by''; and

(2) in subsection (c)(1), by striking ''section during any fiscal year shall not exceed 50.'' and inserting the following: ''section—

''(A) during each of the fiscal years 2007 and 2008, shall not exceed 500; and

''(B) during any other fiscal year shall not exceed 50.''.

(b) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—Section 1059(c)(2) of such Act is amended—

(1) by amending the paragraph designation and heading to read as follows:

''(2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—''; and

(2) by inserting ''and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4))'' before the period at the end.

(c) ADJUSTMENT OF STATUS.—Section 1059 of such Act is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

''(1) was paroled or admitted as a nonimmigrant into the United States; and

''(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act.''.

TITLE IV—ADDITIONAL HURRICANE DISASTER RELIEF AND RECOVERY

CHAPTER 1

DEPARTMENT OF AGRICULTURE

GENERAL PROVISION—THIS CHAPTER

SEC. 4101. Section 1231(k)(2) of the Food Security Act of 1985 (16 U.S.C. 3831(k)(2)) is amended by striking ''During calendar year 2006, the'' and inserting ''The''.

CHAPTER 2

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'', for discretionary grants authorized by subpart 2 of part E, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as in effect on September 30, 2006, notwithstanding the provisions of section 511 of said Act, $50,000,000, to remain available until expended: Provided, That the amount made available under this heading shall be for local law enforcement initiatives in the Gulf Coast region related to the aftermath of Hurricane Katrina: Provided further, That these funds shall be apportioned among the States in quotient to their level of violent crime as estimated by the Federal Bureau of Investigation's Uniform Crime Report for the year 2005.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', for necessary expenses related to the consequences of Hurricanes Katrina and Rita on the shrimp and fishing industries, $110,000,000, to remain available until September 30, 2008.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

EXPLORATION CAPABILITIES

For an additional amount for ''Exploration Capabilities'' for necessary expenses related to the consequences of Hurricane Katrina, $20,000,000, to remain available until September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4201. Funds provided in this Act for the ''Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities'', shall be made available according to the language relating to such account in the joint explanatory statement accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107).

SEC. 4202. Up to $48,000,000 of amounts made available to the National Aeronautics and Space Administration in Public Law 109–148 and Public Law 109–234 for emergency hurricane and other natural disaster-related expenses may be used to reimburse hurricane-related costs incurred by NASA in fiscal year 2005.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'' for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $25,300,000, to remain available until expended, which may be used to continue construction of projects related to interior drainage for the greater New Orleans metropolitan area.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricanes Katrina and Rita and for other purposes, $1,407,700,000, to remain available until expended: Provided, That $1,300,000,000 of the amount provided may be used by the Secretary of the Army to carry out projects and measures for the West Bank and Vicinity and Lake Ponchartrain and Vicinity, Louisiana, projects, as described under the heading ''Flood Control and Coastal Emergencies'', in chapter 3 of Public Law 109–148: Provided further, That $107,700,000 of the amount provided may be used to implement the projects for hurricane storm damage reduction, flood damage reduction, and ecosystem restoration within Hancock, Harrison, and Jackson Counties, Mississippi substantially in accordance with the Report of the Chief of Engineers dated December 31, 2006, and entitled ''Mississippi, Coastal Improvements Program Interim Report, Hancock, Harrison, and Jackson Counties, Mississippi'': Provided further, That projects authorized for implementation under this Chief's report shall be carried out at full Federal expense, except that the non-Federal interests shall be responsible for providing for all costs associated with operation and maintenance of the project: Provided further, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project and to hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: Provided further, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide

a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4301. The Secretary is authorized and directed to determine the value of eligible reimbursable expenses incurred by local governments in storm-proofing pumping stations, constructing safe houses for operators, and other interim flood control measures in and around the New Orleans metropolitan area that the Secretary determines to be integral to the overall plan to ensure operability of the stations during hurricanes, storms and high water events and the flood control plan for the area.

SEC. 4302. (a) The Secretary of the Army is authorized and directed to utilize funds remaining available for obligation from the amounts appropriated in chapter 3 of Public Law 109–234 under the heading ''Flood Control and Coastal Emergencies'' for projects in the greater New Orleans metropolitan area to prosecute these projects in a manner which promotes the goal of continuing work at an optimal pace, while maximizing, to the greatest extent practicable, levels of protection to reduce the risk of storm damage to people and property.

(b) The expenditure of funds as provided in subsection (a) may be made without regard to individual amounts or purposes specified in chapter 3 of Public Law 109–234.

(c) Any reallocation of funds that are necessary to accomplish the goal established in subsection (a) are authorized, subject to the approval of the House and Senate Committees on Appropriation.

SEC. 4303. The Chief of Engineers shall investigate the overall technical advantages, disadvantages and operational effectiveness of operating the new pumping stations at the mouths of the 17th Street, Orleans Avenue and London Avenue canals in the New Orleans area directed for construction in Public Law 109–234 concurrently or in series with existing pumping stations serving these canals and the advantages, disadvantages and technical operational effectiveness of removing the existing pumping stations and configuring the new pumping stations and associated canals to handle all needed discharges to the lakefront or in combination with discharges directly to the Mississippi River in Jefferson Parish; and the advantages, disadvantages and technical operational effectiveness of replacing or improving the floodwalls and levees adjacent to the three outfall canals: Provided, That the analysis should be conducted at Federal expense: Provided further, That the analysis shall be completed and furnished to the Congress not later than three months after enactment of this Act.

SEC. 4304. Using funds made available in Chapter 3 under title II of Public Law 109–234, under the heading ''Investigations'', the Secretary of the Army, in consultation with other agencies and the State of Louisiana shall accelerate completion as practicable the final report of the Chief of Engineers recommending a comprehensive plan to deauthorize deep draft navigation on the Mississippi River Gulf Outlet: Provided, That the plan shall incorporate and build upon the Interim Mississippi River Gulf Outlet Deep-Draft De-Authorization Report submitted to Congress in December 2006 pursuant to Public Law 109–234.

CHAPTER 4

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

Of the unobligated balances under the heading ''Small Business Administration, Disaster Loans Program Account'', $181,069,000, to remain available until expended, shall be used for administrative expenses to carry out the disaster loan program, which may be transferred to and merged with ''Small Business Administration, Salaries and Expenses'', of which $500,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program and shall be paid to appropriations for the Office of Inspector General; of which $171,569,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program; and of which $9,000,000 is for indirect administrative expenses.

Of the unobligated balances under the heading ''Small Business Administration, Disaster Loans Program Account'', $25,000,000 shall be made available for loans under section 7(b)(2) of the Small Business Act to pre-existing businesses located in an area for which the President declared a major disaster because of the hurricanes in the Gulf of Mexico in calendar year 2005, of which not to exceed $8,750,000 is for direct administrative expenses and may be transferred to and merged with ''Small Business Administration, Salaries and Expenses'' to carry out the disaster loan program of the Small Business Administration.

Of the unobligated balances under the heading ''Small Business Administration, Disaster Loans Program Account'', $150,000,000 is transferred to the ''Federal Emergency Management Agency, Disaster Relief'' account.

CHAPTER 5

DEPARTMENT OF HOMELAND SECURITY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Disaster Relief'', $710,000,000, to remain available until expended: Provided, That $4,000,000 shall be transferred to ''Office of Inspector General'': Provided further, That the Government Accountability Office shall review how the Federal Emergency Management Agency develops its estimates of the funds needed to respond to any given disaster as described in House Report 110–60.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4501. (a) IN GENERAL.—Notwithstanding any other provision of law, including any agreement, the Federal share of assistance, including direct Federal assistance, provided for the States of Louisiana, Mississippi, Florida, Alabama, and Texas in connection with Hurricanes Katrina, Wilma, Dennis, and Rita under sections 403, 406, 407, and 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172, 5173, and 5174) shall be 100 percent of the eligible costs under such sections.

(b) APPLICABILITY.—

(1) IN GENERAL.—The Federal share provided by subsection (a) shall apply to disaster assistance applied for before the date of enactment of this Act.

(2) LIMITATION.—In the case of disaster assistance provided under sections 403, 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Federal share provided by subsection (a) shall be limited to assistance provided for projects for which a ''request for public assistance form'' has been submitted.

SEC. 4502. (a) COMMUNITY DISASTER LOAN ACT.—

(1) IN GENERAL.—Section 2(a) of the Community Disaster Loan Act of 2005 (Public Law 109–88) is amended by striking ''Provided further, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled:''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on the date of enactment of the Community Disaster Loan Act of 2005 (Public Law 109–88).

(b) EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT.—

(1) IN GENERAL.—Chapter 4 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234) is amended under Federal Emergency Management Agency, ''Disaster Assistance Direct Loan Program Account'' by striking ''Provided further, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled:''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

SEC. 4503. (a) IN GENERAL.—Section 2401 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234) is amended by striking ''12 months'' and inserting ''24 months''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234).

CHAPTER 6

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

For an additional amount for the ''Historic Preservation Fund'' for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, $10,000,000, to remain available until September 30, 2008: Provided, That the funds provided under this heading shall be provided to the State Historic Preservation Officer, after consultation with the National Park Service, for grants for disaster relief in areas of Louisiana impacted by Hurricanes Katrina or Rita: Provided further, That grants shall be for the preservation, stabilization, rehabilitation, and repair of historic properties listed in or eligible for the National Register of Historic Places, for planning and technical assistance: Provided further, That grants shall only be available for areas that the President determines to be a major disaster under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) due to Hurricanes Katrina or Rita: Provided further, That individual grants shall not be subject to a non-Federal matching requirement: Provided further, That no more than 5 percent of funds provided under this heading for disaster relief grants may be used for administrative expenses.

GENERAL PROVISION—THIS CHAPTER

(INCLUDING TRANSFER OF FUNDS)

SEC. 4601. Of the disaster relief funds from Public Law 109–234, 120 Stat. 418, 461, (June 30, 2006), chapter 5, ''National Park Service—Historic Preservation Fund'', for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season that were allocated to the State of Mississippi by the National Park Service, $500,000 is hereby transferred to the ''National Park Service—National Recreation and Preservation'' appropriation: Provided, That these funds may be used to reconstruct destroyed properties that at the time of destruction were listed in the National Register of Historic Places and are otherwise qualified to receive these funds: Provided further, That the State Historic Preservation Officer certifies that, for the community where that destroyed property was located, the property is iconic to or essential to illustrating that community's historic identity, that no other property in that community with the same associative historic value has survived, and that sufficient historical documentation exists to ensure an accurate reproduction.

CHAPTER 7

DEPARTMENT OF EDUCATION

HIGHER EDUCATION

For an additional amount under part B of title VII of the Higher Education Act of 1965

(''HEA'') for institutions of higher education (as defined in section 101 or section 102(c) of that Act) that are located in an area in which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to Hurricanes Katrina or Rita, $30,000,000: Provided, That such funds shall be available to the Secretary of Education only for payments to help defray the expenses (which may include lost revenue, reimbursement for expenses already incurred, and construction) incurred by such institutions of higher education that were forced to close, relocate or significantly curtail their activities as a result of damage directly caused by such hurricanes and for payments to enable such institutions to provide grants to students who attend such institutions for academic years beginning on or after July 1, 2006: Provided further, That such payments shall be made in accordance with criteria established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act, section 553 of title 5, United States Code, or part B of title VII of the HEA: Provided further, That the Secretary shall award funds available under this paragraph not later than 60 days after the date of the enactment of this Act.

HURRICANE EDUCATION RECOVERY

For carrying out activities authorized by subpart 1 of part D of title V of the Elementary and Secondary Education Act of 1965, $30,000,000, to remain available until expended, for use by the States of Louisiana, Mississippi, and Alabama primarily for recruiting, retaining, and compensating new and current teachers, school principals, assistant principals, principal resident directors, assistant directors, and other educators, who commit to work for at least three years in school-based positions in public elementary and secondary schools located in an area with respect to which a major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) by reason of Hurricane Katrina or Hurricane Rita, including through such mechanisms as paying salary premiums, performance bonuses, housing subsidies, signing bonuses, and relocation costs and providing loan forgiveness, with priority given to teachers and school-based school principals, assistant principals, principal resident directors, assistant directors, and other educators who previously worked or lived in one of the affected areas, are currently employed (or become employed) in such a school in any of the affected areas after those disasters, and commit to continue that employment for at least 3 years, Provided, That funds available under this heading to such States may also be used for 1 or more of the following activities: (1) to build the capacity, knowledge, and skill of teachers and school-based school principals, assistant principals, principal resident directors, assistant directors, and other educators in such public elementary and secondary schools to provide an effective education, including the design, adaptation, and implementation of high-quality formative assessments; (2) the establishment of partnerships with nonprofit entities with a demonstrated track record in recruiting and retaining outstanding teachers and other school-based school principals, assistant principals, principal resident directors, and assistant directors; and (3) paid release time for teachers and principals to identify and replicate successful practices from the fastest-improving and highest-performing schools: Provided further, That the Secretary of Education shall allocate amounts available under this heading among such States that submit applications; that such allocation shall be based on the number of public elementary and secondary schools in each State that were closed for 19 days or more during the period beginning on August 29, 2005, and ending on December 31, 2005, due to Hurricane Katrina or Hurricane Rita; and that such States shall in turn allocate funds to local educational agencies, with priority given first to such agencies with the highest percentages of public elementary and secondary schools that are closed as a result of such hurricanes as of the date of enactment of this Act and then to such agencies with the highest percentages of public elementary and secondary schools with a student-teacher ratio of at least 25 to 1, and with any remaining amounts to be distributed to such agencies with demonstrated need, as determined by the State Superintendent of Education: Provided further, That, in the case of any State that chooses to use amounts available under this heading for performance bonuses, not later than 60 days after the date of enactment of this Act, and in collaboration with local educational agencies, teachers' unions, local principals' organizations, local parents' organizations, local business organizations, and local charter schools organizations, the State educational agency shall develop a plan for a rating system for performance bonuses, and if no agreement has been reached that is satisfactory to all consulting entities by such deadline, the State educational agency shall immediately send a letter notifying Congress and shall, not later than 30 days after such notification, establish and implement a rating system that shall be based on classroom observation and feedback more than once annually, conducted by multiple sources (including, but not limited to, principals and master teachers), and evaluated against research-based rubrics that use planning, instructional, and learning environment standards to measure teacher performance, except that the requirements of this proviso shall not apply to a State that has enacted a State law in 2006 authorizing performance pay for teachers.

PROGRAMS TO RESTART SCHOOL OPERATIONS

Funds made available under section 102 of the Hurricane Education Recovery Act (title IV of division B of Public Law 109–148) may be used by the States of Louisiana, Mississippi, Alabama, and Texas, in addition to the uses of funds described in section 102(e), for the following costs: (1) recruiting, retaining, and compensating new and current teachers, school principals, assistant principals, principal resident directors, assistant directors, and other educators for school-based positions in public elementary and secondary schools impacted by Hurricane Katrina or Hurricane Rita, including through such mechanisms as paying salary premiums, performance bonuses, housing subsidies, signing bonuses, and relocation costs and providing loan forgiveness; (2) activities to build the capacity, knowledge, and skills of teachers and school-based school principals, assistant principals, principal resident directors, assistant directors, and other educators in such public elementary and secondary schools to provide an effective education, including the design, adaptation, and implementation of high-quality formative assessments; (3) the establishment of partnerships with nonprofit entities with a demonstrated track record in recruiting and retaining outstanding teachers and school-based school principals, assistant principals, principal resident directors, and assistant directors; and (4) paid release time for teachers and principals to identify and replicate successful practices from the fastest-improving and highest-performing schools.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4701. Section 105(b) of title IV of division B of Public Law 109–148 is amended by adding at the end the following new sentence: ''With respect to the program authorized by section 102 of this Act, the waiver authority in subsection (a) of this section shall be available until the end of fiscal year 2008.''.

SEC. 4702. Notwithstanding section 2002(c) of the Social Security Act (42 U.S.C. 1397a(c)), funds made available under the heading ''Social Services Block Grant'' in division B of Public Law 109–148 shall be available for expenditure by the States through the end of fiscal year 2009.

SEC. 4703. (a) In the event that Louisiana, Mississippi, Alabama, or Texas fails to meet its match requirement with funds appropriated in fiscal year 2006 or 2007, for fiscal years 2008 and 2009, the Secretary of Health and Human Services may waive the application of section 2617(d)(4) of the Public Health Service Act for Louisiana, Mississippi, Alabama, and Texas.

(b) The Secretary may not exercise the waiver authority available under subsection (a) to allow a grantee to provide less than a 25 percent matching grant.

(c) For grant years beginning in 2008, Louisiana, Mississippi, Alabama, and Texas and any eligible metropolitan area in Louisiana, Mississippi, Alabama, and Texas shall comply with each of the applicable requirements under title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.).

CHAPTER 8

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for the Emergency Relief Program as authorized under section 125 of title 23, United States Code, $871,022,000, to remain available until expended: Provided, That section 125(d)(1) of title 23, United States Code, shall not apply to emergency relief projects that respond to damage caused by the 2005–2006 winter storms in the State of California: Provided further, That of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, $871,022,000 are rescinded: Provided further, That such rescission shall not apply to the funds distributed in accordance with sections 130(f) and 104(b)(5) of title 23, United States Code; sections 133(d)(1) and 163 of such title, as in effect on the day before the date of enactment of Public Law 109–59; and the first sentence of section 133(d)(3)(A) of such title.

FEDERAL TRANSIT ADMINISTRATION

FORMULA GRANTS

For an additional amount to be allocated by the Secretary to recipients of assistance under chapter 53 of title 49, United States Code, directly affected by Hurricanes Katrina and Rita, $35,000,000, for the operating and capital costs of transit services, to remain available until expended: Provided, That the Federal share for any project funded from this amount shall be 100 percent.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

For an additional amount for the Office of Inspector General, for the necessary costs related to the consequences of Hurricanes Katrina and Rita, $7,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4801. The third proviso under the heading ''Department of Housing and Urban Development—Public and Indian Housing—Tenant-Based Rental Assistance'' in chapter 9 of title I of division B of Public Law 109–148 (119 Stat. 2779) is amended by striking ''for up to 18 months'' and inserting ''until December 31, 2007''.

SEC. 4802. Section 21033 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by adding after the third proviso: '': Provided further, That notwithstanding the previous proviso, except for applying the 2007 Annual Adjustment Factor and making any other specified adjustments, public housing agencies specified in category 1 below shall receive funding for calendar year 2007 based on

the higher of the amounts the agencies would receive under the previous proviso or the amounts the agencies received in calendar year 2006, and public housing agencies specified in categories 2 and 3 below shall receive funding for calendar year 2007 equal to the amounts the agencies received in calendar year 2006, except that public housing agencies specified in categories 1 and 2 below shall receive funding under this proviso only if, and to the extent that, any such public housing agency submits a plan, approved by the Secretary, that demonstrates that the agency can effectively use within 12 months the funding that the agency would receive under this proviso that is in addition to the funding that the agency would receive under the previous proviso: (1) public housing agencies that are eligible for assistance under section 901 in Public Law 109–148 (119 Stat. 2781) or are located in the same counties as those eligible under section 901 and operate voucher programs under section 8(o) of the United States Housing Act of 1937 but do not operate public housing under section 9 of such Act, and any public housing agency that otherwise qualifies under this category must demonstrate that they have experienced a loss of rental housing stock as a result of the 2005 hurricanes; (2) public housing agencies that would receive less funding under the previous proviso than they would receive under this proviso and that have been placed in receivership or the Secretary has declared to be in breach of an Annual Contributions Contract by June 1, 2007; and (3) public housing agencies that spent more in calendar year 2006 than the total of the amounts of any such public housing agency's allocation amount for calendar year 2006 and the amount of any such public housing agency's available housing assistance payments undesignated funds balance from calendar year 2005 and the amount of any such public housing agency's available administrative fees undesignated funds balance through calendar year 2006''.

SEC. 4803. Section 901 of Public Law 109–148 is amended by deleting ''calendar year 2006'' and inserting ''calendar years 2006 and 2007''.

CHAPTER 9

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MINOR PROJECTS

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for Department of Veterans Affairs, ''Construction, Minor Projects'', $14,484,754, to remain available until September 30, 2008, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season.

Of the funds available until September 30, 2007, for the ''Construction, Minor Projects'' account of the Department of Veterans Affairs, pursuant to section 2702 of Public Law 109–234, $14,484,754 are hereby rescinded.

TITLE V—OTHER EMERGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

GENERAL PROVISION—THIS CHAPTER

SEC. 5101. In addition to any other available funds, there is hereby appropriated $40,000,000 to the Secretary of Agriculture, to remain available until expended, for programs and activities of the Department of Agriculture, as determined by the Secretary, to provide recovery assistance in response to damage in conjunction with the Presidential declaration of a major disaster (FEMA–1699–DR) dated May 6, 2007, for needs not met by the Federal Emergency Management Agency or private insurers: Provided, That, in addition, the Secretary may use funds provided under this section, consistent with the provisions of this section, to respond to any other Presidential declaration of a major disaster issued under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), declared during fiscal year 2007 for events occurring before the date of the enactment of this Act or a Secretary of Agriculture declaration of a natural disaster, declared during fiscal year 2007 for events occurring before the date of the enactment of this Act.

CHAPTER 2

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for ''Operations, Research, and Facilities'', $60,400,000, to remain available until September 30, 2008: Provided, That the National Marine Fisheries Service shall cause such amounts to be distributed among eligible recipients of assistance for the commercial fishery failure designated under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and declared by the Secretary of Commerce on August 10, 2006.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for ''Investigations'' for flood damage reduction studies to address flooding associated with disasters covered by Presidential Disaster Declaration FEMA–1692–DR, $8,165,000, to remain available until expended.

CONSTRUCTION

For an additional amount for ''Construction'' for flood damage reduction activities associated with disasters covered by Presidential Disaster Declarations FEMA–1692–DR and FEMA–1694–DR, $11,200,000, to remain available until expended.

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' to dredge navigation channels related to the consequences of hurricanes of the 2005 season, $3,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), to support emergency operations, repairs and other activities in response to flood, drought and earthquake emergencies as authorized by law, $153,300,000, to remain available until expended: Provided, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: Provided further, That of the funds provided under this heading, $7,000,000 shall be available for drought emergency assistance.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources'', $18,000,000, to remain available until expended for drought assistance: Provided, That drought assistance may be provided under the Reclamation States Drought Emergency Act or other applicable Reclamation authorities to assist drought plagued areas of the West.

CHAPTER 4

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $95,000,000, to remain available until expended, for urgent wildland fire suppression activities: Provided, That such funds shall only become available if funds previously provided for wildland fire suppression will be exhausted imminently and the Secretary of the Interior notifies the House and Senate Committees on Appropriations in writing of the need for these additional funds: Provided further, That such funds are also available for repayment to other appropriations accounts from which funds were transferred for wildfire suppression.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for ''Resource Management'' for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, $7,398,000, to remain available until September 30, 2008.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for ''Operation of the National Park System'' for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, $525,000, to remain available until September 30, 2008.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for ''Surveys, Investigations, and Research'' for the detection of highly pathogenic avian influenza in wild birds, including the investigation of morbidity and mortality events, targeted surveillance in live wild birds, and targeted surveillance in hunter-taken birds, $5,270,000, to remain available until September 30, 2008.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for ''National Forest System'' for the implementation of a nationwide initiative to increase protection of national forest lands from drug-trafficking organizations, including funding for additional law enforcement personnel, training, equipment and cooperative agreements, $12,000,000, to remain available until expended.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Wildland Fire Management'', $370,000,000, to remain available until expended, for urgent wildland fire suppression activities: Provided, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and the Secretary of Agriculture notifies the House and Senate Committees on Appropriations in writing of the need for these additional funds: Provided further, That such funds are also available for repayment to other appropriation accounts from which funds were transferred for wildfire suppression.

GENERAL PROVISION—THIS CHAPTER

SEC. 5401. (a) For fiscal year 2007, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated $425,000,000, to remain available until December 31, 2007, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking ''2006'' and ''2007'' each place they appear and inserting ''2007'' and ''2008'', respectively.

CHAPTER 5

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH AND TRAINING

For an additional amount for ''Department of Health and Human Services, Centers for Disease Control and Prevention, Disease Control, Research and Training'', to carry out section 501 of the Federal Mine Safety and Health Act of 1977 and section 6 of the Mine Improvement and New Emergency Response Act of 2006, $13,000,000 for research to develop mine safety technology, including necessary repairs and improvements to leased laboratories: Provided, That progress reports on technology development shall be submitted to the House and Senate Committees on Appropriations and the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives on a quarterly basis: Provided further, That the amount provided under this heading shall remain available until September 30, 2008.

For an additional amount for ''Department of Health and Human Services, Centers for Disease Control and Prevention, Disease Control, Research and Training'', to carry out activities under section 5011(b) of the Emergency Supplemental Appropriations Act to Address Hurricanes in the Gulf of Mexico and Pandemic Influenza, 2006 (Public Law 109–148), $50,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING RESCISSIONS)

SEC. 5501. (a). From unexpended balances available for the Training and Employment Services account under the Department of Labor, the following amounts are hereby rescinded—

(1) $3,589,000 transferred pursuant to the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38);

(2) $834,000 transferred pursuant to the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211); and

(3) $71,000 for the Consortium for Worker Education pursuant to the Emergency Supplemental Act, 2002 (Public Law 107–117).

(b) From unexpended balances available for the State Unemployment Insurance and Employment Service Operations account under the Department of Labor pursuant to the Emergency Supplemental Act, 2002 (Public Law 107–117), $4,100,000 are hereby rescinded.

SEC. 5502. (a) For an additional amount under ''Department of Education, Safe Schools and Citizenship Education'', $8,594,000 shall be available for Safe and Drug-Free Schools National Programs for competitive grants to local educational agencies to address youth violence and related issues.

(b) The competition under subsection (a) shall be limited to local educational agencies that operate schools currently identified as persistently dangerous under section 9532 of the Elementary and Secondary Education Act of 1965.

SEC. 5503. Unobligated balances from funds appropriated in the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117) to the Department of Health and Human Services under the heading ''Public Health and Social Services Emergency Fund'' that are available for bioterrorism preparedness and disaster response activities in the Office of the Secretary shall also be available for the construction, renovation and improvement of facilities on federally-owned land as necessary for continuity of operations activities.

CHAPTER 6

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'', $10,000,000 for a radio modernization program, to remain available until expended: Provided, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

ARCHITECT OF THE CAPITOL

CAPITOL POWER PLANT

For an additional amount for ''Capitol Power Plant'', $50,000,000, for utility tunnel repairs and asbestos abatement, to remain available until September 30, 2011: Provided, That the Architect of the Capitol may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and House of Representatives.

CHAPTER 7

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for ''Medical Services'', $466,778,000, to remain available until expended, of which $30,000,000 shall be for the establishment of at least one new Level I comprehensive polytrauma center; $9,440,000 shall be for the establishment of polytrauma residential transitional rehabilitation programs; $10,000,000 shall be for additional transition caseworkers; $20,000,000 shall be for substance abuse treatment programs; $20,000,000 shall be for readjustment counseling; $10,000,000 shall be for blind rehabilitation services; $100,000,000 shall be for enhancements to mental health services; $8,000,000 shall be for polytrauma support clinic teams; $5,356,000 shall be for additional polytrauma points of contact; $228,982,000 shall be for treatment of Operation Enduring Freedom and Operation Iraqi Freedom veterans; and $25,000,000 shall be for prosthetics.

MEDICAL ADMINISTRATION

For an additional amount for ''Medical Administration'', $250,000,000, to remain available until expended.

MEDICAL FACILITIES

For an additional amount for ''Medical Facilities'', $595,000,000, to remain available until expended, of which $45,000,000 shall be used for facility and equipment upgrades at the Department of Veterans Affairs polytrauma network sites; and $550,000,000 shall be for non-recurring maintenance as identified in the Department of Veterans Affairs Facility Condition Assessment report: Provided, That the amount provided under this heading for non-recurring maintenance shall be allocated in a manner not subject to the Veterans Equitable Resource Allocation: Provided further, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan, by project, for non-recurring maintenance prior to obligation: Provided further, That semi-annually, on October 1 and April 1, the Secretary shall submit to the Committees on Appropriations of both Houses of Congress a report on the status of funding for non-recurring maintenance, including obligations and unobligated balances for each project identified in the expenditure plan.

MEDICAL AND PROSTHETIC RESEARCH

For an additional amount for ''Medical and Prosthetic Research'', $32,500,000, to remain available until expended, which shall be used for research related to the unique medical needs of returning Operation Enduring Freedom and Operation Iraqi Freedom veterans.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''General Operating Expenses'', $83,200,000, to remain available until expended, of which $1,250,000 shall be for digitization of military records; $60,750,000 shall be for expenses related to hiring and training new claims processing personnel; up to $1,200,000 shall be for an independent study of the organizational structure, management and coordination processes, including seamless transition, utilized by the Department of Veterans Affairs to provide health care and benefits to active duty personnel and veterans, including those returning Operation Enduring Freedom and Operation Iraqi Freedom veterans; and $20,000,000 shall be for disability examinations: Provided, That not to exceed $1,250,000 of the amount appropriated under this heading may be transferred to the Department of Defense for the digitization of military records used to verify stressors for benefits claims.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for ''Information Technology Systems'', $35,100,000, to remain available until expended, of which $20,000,000 shall be for information technology support and improvements for processing of Operation Enduring Freedom and Operation Iraqi Freedom veterans benefits claims, including making electronic Department of Defense medical records available for claims processing and enabling electronic benefits applications by veterans; and $15,100,000 shall be for electronic data breach remediation and prevention.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for ''Construction, Minor Projects'', $326,000,000, to remain available until expended, of which up to $36,000,000 shall be for construction costs associated with the establishment of polytrauma residential transitional rehabilitation programs.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 5701. The Director of the Congressional Budget Office shall, not later than November 15, 2007, submit to the Committees on Appropriations of the House of Representatives and the Senate a report projecting appropriations necessary for the Departments of Defense and Veterans Affairs to continue providing necessary health care to veterans of the conflicts in Iraq and Afghanistan. The projections should span several scenarios for the duration and number of forces deployed in Iraq and Afghanistan, and more generally, for the long-term health care needs of deployed troops engaged in the global war on terrorism over the next 10 years.

SEC. 5702. Notwithstanding any other provision of law, appropriations made by Public Law 110–5, which the Secretary of Veterans Affairs contributes to the Department of Defense/Department of Veterans Affairs Health Care Sharing Incentive Fund under the authority of section 8111(d) of title 38, United States Code, shall remain available until expended for any purpose authorized by section 8111 of title 38, United States Code.

SEC. 5703. (a)(1) The Secretary of Veterans Affairs (referred to in this section as the ''Secretary'') may convey to the State of Texas, without consideration, all rights, title, and interest of the United States in and to the parcel of real property comprising the location of the Marlin, Texas, Department of Veterans Affairs Medical Center.

(2) The property conveyed under paragraph (1) shall be used by the State of Texas for the purposes of a prison.

(b) In carrying out the conveyance under subsection (a), the Secretary shall conduct environmental cleanup on the parcel to be conveyed, at a cost not to exceed $500,000, using amounts made available for environmental cleanup of sites under the jurisdiction of the Secretary.

(c) Nothing in this section may be construed to affect or limit the application of or obligation

to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

SEC. 5704. (a) Funds provided in this Act for the following accounts shall be made available for programs under the conditions contained in the language of the joint explanatory statement of managers accompanying the conference report on H.R. 1591 of the 110th Congress (H. Rept. 110–107):

''Medical Services''.

''Medical Administration''.

''Medical Facilities''.

''Medical and Prosthetic Research''.

''General Operating Expenses''.

''Information Technology Systems''.

''Construction, Minor Projects''.

(b) The Secretary of Veterans Affairs shall submit all reports requested in House Report 110–60 and Senate Report 110–37, to the Committees on Appropriations of both Houses of Congress.

SEC. 5705. Subsection (d) of section 2023 of title 38, United States Code, is amended by striking ''shall cease'' and all that follows through ''program'' and inserting ''shall cease on September 30, 2007''.

TITLE VI—OTHER MATTERS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' of the Farm Service Agency, $37,500,000, to remain available until September 30, 2008: Provided, That this amount shall only be available for network and database/application stabilization.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6101. Of the funds made available through appropriations to the Food and Drug Administration for fiscal year 2007, not less than $4,000,000 shall be for the Office of Women's Health of such Administration.

SEC. 6102. None of the funds made available to the Department of Agriculture for fiscal year 2007 may be used to implement the risk-based inspection program in the 30 prototype locations announced on February 22, 2007, by the Under Secretary for Food Safety, or at any other locations, until the USDA Office of Inspector General has provided its findings to the Food Safety and Inspection Service and the Committees on Appropriations of the House of Representatives and the Senate on the data used in support of the development and design of the risk-based inspection program and FSIS has addressed and resolved issues identified by OIG.

CHAPTER 2

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6201. Hereafter, Federal employees at the National Energy Technology Laboratory shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 6202. None of the funds made available under this or any other Act shall be used during fiscal year 2007 to make, or plan or prepare to make, any payment on bonds issued by the Administrator of the Bonneville Power Administration (referred in this section as the ''Administrator'') or for an appropriated Federal Columbia River Power System investment, if the payment is both—

(1) greater, during any fiscal year, than the payments calculated in the rate hearing of the Administrator to be made during that fiscal year using the repayment method used to establish the rates of the Administrator as in effect on October 1, 2006; and

(2) based or conditioned on the actual or expected net secondary power sales receipts of the Administrator.

CHAPTER 3

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6301. (a) Section 102(a)(3)(B) of the Help America Vote Act of 2002 (42 U.S.C. 15302(a)(3)(B)) is amended by striking ''January 1, 2006'' and inserting ''March 1, 2008''.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Help America Vote Act of 2002.

SEC. 6302. The structure of any of the offices or components within the Office of National Drug Control Policy shall remain as they were on October 1, 2006. None of the funds appropriated or otherwise made available in the Continuing Appropriations Resolution, 2007 (Public Law 110–5) may be used to implement a reorganization of offices within the Office of National Drug Control Policy without the explicit approval of the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 6303. From the amount provided by section 21067 of the Continuing Appropriations Resolution, 2007 (Public Law 110–5), the National Archives and Records Administration may obligate monies necessary to carry out the activities of the Public Interest Declassification Board.

SEC. 6304. Notwithstanding the notice requirement of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, 119 Stat. 2509 (Public Law 109–115), as continued in section 104 of the Continuing Appropriations Resolution, 2007 (Public Law 110–5), the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided for fiscal year 2007 under the Federal Payment to the District of Columbia Courts for facilities among the items and entities funded under that heading for operations.

SEC. 6305. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of the Treasury, in coordination with the Securities and Exchange Commission and in consultation with the Departments of State and Energy, shall prepare and submit to the Senate Committee on Appropriations, the House Committee on Appropriations, the Senate Committee on Banking, Housing, and Urban Affairs, the House Committee on Financial Services, the Senate Foreign Relations Committee, and the House Foreign Affairs Committee a written report, which may include a classified annex, containing the names of companies which either directly or through a parent or subsidiary company, including partly-owned subsidiaries, are known to conduct significant business operations in Sudan relating to natural resource extraction, including oil-related activities and mining of minerals. The reporting provision shall not apply to companies operating under licenses from the Office of Foreign Assets Control or otherwise expressly exempted under United States law from having to obtain such licenses in order to operate in Sudan.

(b) Not later than 45 days following the submission to Congress of the list of companies conducting business operations in Sudan relating to natural resource extraction as required above, the General Services Administration shall determine whether the United States Government has an active contract for the procurement of goods or services with any of the identified companies, and provide notification to the appropriate committees of Congress, which may include a classified annex, regarding the companies, nature of the contract, and dollar amounts involved.

(INCLUDING RESCISSION)

SEC. 6306. (a) Of the funds provided for the General Services Administration, ''Office of Inspector General'' in section 21061 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5), $4,500,000 are rescinded.

(b) For an additional amount for the General Services Administration, ''Office of Inspector General'', $4,500,000, to remain available until September 30, 2008.

(c) With the additional amount of $9,336,000 appropriated in Public Law 110–5 and in this Act, above the amount appropriated in Public Law 109–115, of which $4,500,000 remains available for obligation in fiscal year 2008, the Office of Inspector General shall hire additional staff for internal audits and investigations, and the remaining funds shall be for one-time associated needs such as information technology and other such administrative support.

SEC. 6307. Section 21073 of the Continuing Appropriations Resolution, 2007 (Public Law 110–5) is amended by adding a new subsection (j) as follows:

''(j) Notwithstanding section 101, any appropriation or funds made available to the District of Columbia pursuant to this Act for 'Federal Payment for Foster Care Improvement in the District of Columbia' shall be available in accordance with an expenditure plan submitted by the Mayor of the District of Columbia not later than 60 days after the enactment of this section which details the activities to be carried out with such Federal Payment.''.

SEC. 6308. It is the sense of Congress that the Small Business Administration will provide, through funds available within amounts already appropriated for Small Business Administration disaster assistance, physical and economic injury disaster loans to Kansas businesses and homeowners devastated by the severe tornadoes, storms, and flooding that occurred beginning on May 4, 2007.

CHAPTER 4

DEPARTMENT OF HOMELAND SECURITY

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6401. Not to exceed $30,000,000 from unobligated balances remaining from prior appropriations for United States Coast Guard, ''Retired Pay'', shall remain available until expended in the account and for the purposes for which the appropriations were provided, including the payment of obligations otherwise chargeable to lapsed or current appropriations for this purpose: Provided, That within 45 days after the date of enactment of this Act, the United States Coast Guard shall submit to the Committees on Appropriations of the Senate and the House of Representatives the following: (1) a report on steps being taken to improve the accuracy of its estimates for the ''Retired Pay'' appropriation; and (2) quarterly reports on the use of unobligated balances made available by this Act to address the projected shortfall in the ''Retired Pay'' appropriation, as well as updated estimates for fiscal year 2008.

SEC. 6402. (a) IN GENERAL.—Any contract, subcontract, task or delivery order described in subsection (b) shall contain the following:

(1) A requirement for a technical review of all designs, design changes, and engineering change proposals, and a requirement to specifically address all engineering concerns identified in the review before the obligation of further funds may occur.

(2) A requirement that the Coast Guard maintain technical warrant holder authority, or the equivalent, for major assets.

(3) A requirement that no procurement subject to subsection (b) for lead asset production or the implementation of a major design change shall be entered into unless an independent third party with no financial interest in the development, construction, or modification of any component of the asset, selected by the Commandant, determines that such action is advisable.

(4) A requirement for independent life-cycle cost estimates of lead assets and major design and engineering changes.

(5) A requirement for the measurement of contractor and subcontractor performance based on the status of all work performed. For contracts under the Integrated Deepwater Systems program, such requirement shall include a provision that links award fees to successful acquisition outcomes (which shall be defined in terms of cost, schedule, and performance).

(6) A requirement that the Commandant of the Coast Guard assign an appropriate officer or employee of the Coast Guard to act as chair of each integrated product team and higher-level team assigned to the oversight of each integrated product team.

(7) A requirement that the Commandant of the Coast Guard may not award or issue any contract, task or delivery order, letter contract modification thereof, or other similar contract, for the acquisition or modification of an asset under a procurement subject to subsection (b) unless the Coast Guard and the contractor concerned have formally agreed to all terms and conditions or the head of contracting activity for the Coast Guard determines that a compelling need exists for the award or issue of such instrument.

(b) CONTRACTS, SUBCONTRACTS, TASK AND DELIVERY ORDERS COVERED.—Subsection (a) applies to—

(1) any major procurement contract, first-tier subcontract, delivery or task order entered into by the Coast Guard;

(2) any first-tier subcontract entered into under such a contract; and

(3) any task or delivery order issued pursuant to such a contract or subcontract.

(c) EXPENDITURE OF DEEPWATER FUNDS.—Of the funds available for the Integrated Deepwater Systems program, $650,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan directly from the Coast Guard that—

(1) defines activities, milestones, yearly costs, and life-cycle costs for each procurement of a major asset;

(2) identifies life-cycle staffing and training needs of Coast Guard project managers and of procurement and contract staff;

(3) identifies competition to be conducted in each procurement;

(4) describes procurement plans that do not rely on a single industry entity or contract;

(5) contains very limited indefinite delivery/indefinite quantity contracts and explains the need for any indefinite delivery/indefinite quantity contracts;

(6) complies with all applicable acquisition rules, requirements, and guidelines, and incorporates the best systems acquisition management practices of the Federal Government;

(7) complies with the capital planning and investment control requirements established by the Office of Management and Budget, including circular A–11, part 7;

(8) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department of Homeland Security that the Coast Guard has established sufficient controls and procedures and has sufficient staffing to comply with all contracting requirements, and that any conflicts of interest have been sufficiently addressed;

(9) includes a description of the process used to act upon deviations from the contractually specified performance requirements and clearly explains the actions taken on such deviations;

(10) includes a certification that the Assistant Commandant of the Coast Guard for Engineering and Logistics is designated as the technical authority for all engineering, design, and logistics decisions pertaining to the Integrated Deepwater Systems program; and

(11) identifies progress in complying with the requirements of subsection (a).

(d) REPORTS.—(1) Not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science and Transportation of the Senate; and the Committee on Transportation and Infrastructure of the House of Representatives: (i) a report on the resources (including training, staff, and expertise) required by the Coast Guard to provide appropriate management and oversight of the Integrated Deepwater Systems program; and (ii) a report on how the Coast Guard will utilize full and open competition for any contract that provides for the acquisition or modification of assets under, or in support of, the Integrated Deepwater Systems program, entered into after the date of enactment of this Act.

(2) Within 30 days following the submission of the expenditure plan required under subsection (c), the Government Accountability Office shall review the plan and brief the Committees on Appropriations of the Senate and the House of Representatives on its findings.

SEC. 6403. None of the funds provided in this Act or any other Act may be used to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design and construction centers, maintenance and logistics command centers, and the Coast Guard Academy, except as specifically authorized by a statute enacted after the date of enactment of this Act.

(INCLUDING RESCISSIONS OF FUNDS)

SEC. 6404. (a) RESCISSIONS.—The following unobligated balances made available pursuant to section 505 of Public Law 109–90 are rescinded: $1,200,962 from the ''Office of the Secretary and Executive Management''; $512,855 from the ''Office of the Under Secretary for Management''; $461,874 from the ''Office of the Chief Information Officer''; $45,080 from the ''Office of the Chief Financial Officer''; $968,211 from Preparedness ''Management and Administration''; $1,215,486 from Science and Technology ''Management and Administration''; $450,000 from United States Secret Service ''Salaries and Expenses''; $450,000 from Federal Emergency Management Agency ''Administrative and Regional Operations''; and $25,595,532 from United States Coast Guard ''Operating Expenses''.

(b) ADDITIONAL APPROPRIATIONS.—

(1) For an additional amount for United States Coast Guard ''Acquisition, Construction, and Improvements'', $30,000,000, to remain available until September 30, 2009, to mitigate the Service's patrol boat operational gap.

(2) For an additional amount for the ''Office of the Under Secretary for Management'', $900,000 for an independent study to compare the Department of Homeland Security senior career and political staffing levels and senior career training programs with those of similarly structured cabinet-level agencies as detailed in House Report 110–107: Provided, That the Department of Homeland Security shall provide to the Committees on Appropriations of the Senate and the House of Representatives by July 20, 2007, a report on senior staffing, as detailed in Senate Report 110–37, and the Government Accountability Office shall report on the strengths and weakness of this report within 90 days after its submission.

SEC. 6405. (a) IN GENERAL.—With respect to contracts entered into after July 1, 2007, and except as provided in subsection (b), no entity performing lead system integrator functions in the acquisition of a major system by the Department of Homeland Security may have any direct financial interest in the development or construction of any individual system or element of any system of systems.

(b) EXCEPTION.—An entity described in subsection (a) may have a direct financial interest in the development or construction of an individual system or element of a system of systems if—

(1) the Secretary of Homeland Security certifies to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science and Transportation of the Senate that—

(A) the entity was selected by the Department of Homeland Security as a contractor to develop or construct the system or element concerned through the use of competitive procedures; and

(B) the Department took appropriate steps to prevent any organizational conflict of interest in the selection process; or

(2) the entity was selected by a subcontractor to serve as a lower-tier subcontractor, through a process over which the entity exercised no control.

(c) CONSTRUCTION.—Nothing in this section shall be construed to preclude an entity described in subsection (a) from performing work necessary to integrate two or more individual systems or elements of a system of systems with each other.

(d) REGULATIONS UPDATE.—Not later than July 1, 2007, the Secretary of Homeland Security shall update the acquisition regulations of the Department of Homeland Security in order to specify fully in such regulations the matters with respect to lead system integrators set forth in this section. Included in such regulations shall be: (1) a precise and comprehensive definition of the term ''lead system integrator'', modeled after that used by the Department of Defense; and (2) a specification of various types of contracts and fee structures that are appropriate for use by lead system integrators in the production, fielding, and sustainment of complex systems.

CHAPTER 5

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6501. Section 20515 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting before the period: ''; and of which, not to exceed $143,628,000 shall be available for contract support costs under the terms and conditions contained in Public Law 109–54''.

SEC. 6502. Section 20512 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting after the first dollar amount: '', of which not to exceed $7,300,000 shall be transferred to the 'Indian Health Facilities' account; the amount in the second proviso shall be $18,000,000; the amount in the third proviso shall be $525,099,000; the amount in the ninth proviso shall be $269,730,000; and the $15,000,000 allocation of funding under the eleventh proviso shall not be required''.

SEC. 6503. Section 20501 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting after ''$55,663,000'' the following: ''of which $13,000,000 shall be for Save America's Treasures''.

SEC. 6504. Funds made available to the United States Fish and Wildlife Service for fiscal year 2007 under the heading ''Land Acquisition'' may be used for land conservation partnerships authorized by the Highlands Conservation Act of 2004.

CHAPTER 6

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(TRANSFER OF FUNDS)

Of the amount provided by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for ''National Institute of Allergy and Infectious Diseases'', $49,500,000 shall be transferred to ''Public Health and Social Services Emergency Fund'' to carry out activities relating to advanced research and development as provided by section 319L of the Public Health Service Act.

OFFICE OF THE DIRECTOR

(TRANSFER OF FUNDS)

Of the amount provided by the Continuing Appropriations Resolution, 2007 (division B of

Public Law 109–289, as amended by Public Law 110–5) for ''Office of the Director'', $49,500,000 shall be transferred to ''Public Health and Social Services Emergency Fund'' to carry out activities relating to advanced research and development as provided by section 319L of the Public Health Service Act.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $300,000, to remain available until expended, for necessary expenses related to the requirements of the Post-Katrina Emergency Management Reform Act of 2006, as enacted by the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

GENERAL PROVISIONS—THIS CHAPTER

(INCLUDING TRANSFERS OF FUNDS AND RESCISSIONS)

SEC. 6601. Section 20602 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting the following after ''$5,000,000'': ''(together with an additional $7,000,000 which shall be transferred by the Pension Benefit Guaranty Corporation as an authorized administrative cost), to remain available through September 30, 2008,''.

SEC. 6602. (a) None of the funds available to the Mine Safety and Health Administration under the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) shall be used to enter into or carry out a contract for the performance by a contractor of any operations or services pursuant to the public-private competitions conducted under Office of Management and Budget Circular A–76.

(b) Hereafter, Federal employees at the Mine Safety and Health Administration shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 6603. Section 20607 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by inserting ''of which $9,666,000 shall be for the Women's Bureau,'' after ''for child labor activities,''.

SEC. 6604. Of the amount provided for ''Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services'' in the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5), $23,000,000 shall be for Poison Control Centers.

SEC. 6605. From the amounts made available by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for the Office of the Secretary, General Departmental Management under the Department of Health and Human Services, $500,000 are rescinded.

SEC. 6606. Section 20625(b)(1) of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by—

(1) striking ''$7,172,994,000'' and inserting ''$7,176,431,000'';

(2) amending subparagraph (A) to read as follows: ''(A) $5,454,824,000 shall be for basic grants under section 1124 of the Elementary and Secondary Education Act of 1965 (ESEA), of which up to $3,437,000 shall be available to the Secretary of Education on October 1, 2006, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census;''; and

(3) amending subparagraph (C) to read as follows: ''(C) not to exceed $2,352,000 may be available for section 1608 of the ESEA and for a clearinghouse on comprehensive school reform under part D of title V of the ESEA;''.

SEC. 6607. The provision in the first proviso under the heading ''Rehabilitation Services and Disability Research'' in the Department of Education Appropriations Act, 2006, relating to alternative financing programs under section 4(b)(2)(D) of the Assistive Technology Act of 1998 shall not apply to funds appropriated by the Continuing Appropriations Resolution, 2007.

SEC. 6608. From the amounts made available by the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) for administrative expenses of the Department of Education, $500,000 are rescinded: Provided, That such reduction shall not apply to funds available to the Office for Civil Rights and the Office of the Inspector General.

SEC. 6609. Notwithstanding sections 20639 and 20640 of the Continuing Appropriations Resolution, 2007, as amended by section 2 of the Revised Continuing Appropriations Resolution, 2007 (Public Law 110–5), the Chief Executive Officer of the Corporation for National and Community Service may transfer an amount of not more than $1,360,000 from the account under the heading ''National and Community Service Programs, Operating Expenses'' under the heading ''Corporation for National and Community Service'', to the account under the heading ''Salaries and Expenses'' under the heading ''Corporation for National and Community Service''.

SEC. 6610. (a) Section 1310.12(a) of title 45, Code of Federal Regulations, shall take effect 30 days after the date of enactment of this Act.

(b)(1) Not later than 60 days after the National Highway Traffic Safety Administration of the Department of Transportation submits its study on occupant protection on Head Start transit vehicles (related to Government Accountability Office report GAO–06–767R), the Secretary of Health and Human Services shall review and shall revise as necessary the allowable alternate vehicle standards described in that part 1310 (or any corresponding similar regulation or ruling) relating to allowable alternate vehicles used to transport children for a Head Start program. In making any such revision, the Secretary shall revise the standards to be consistent with the findings contained in such study, including making a determination on the exemption of such a vehicle from Federal seat spacing requirements, and Federal supporting seating requirements related to compartmentalization, if such vehicle meets all other applicable Federal motor vehicle safety standards, including standards for seating systems, occupant crash protection, seat belt assemblies, and child restraint anchorage systems consistent with that part 1310 (or any corresponding similar regulation or ruling).

(2) Notwithstanding subsection (a), until such date as the Secretary of Health and Human Services completes the review and any necessary revision specified in paragraph (1), the provisions of section 1310.12(a) relating to Federal seat spacing requirements, and Federal supporting seating requirements related to compartmentalization, for allowable alternate vehicles used to transport children for a Head Start program, shall not apply to such a vehicle if such vehicle meets all other applicable Federal motor vehicle safety standards, as described in paragraph (1).

SEC. 6611. (a)(1) Section 3(37)(G) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)(G)) (as amended by section 1106(a) of the Pension Protection Act of 2006) is amended—

(A) in clause (i)(II)(aa), by striking ''for each of the 3 plan years immediately before the date of the enactment of the Pension Protection Act of 2006,'' and inserting ''for each of the 3 plan years immediately preceding the first plan year for which the election under this paragraph is effective with respect to the plan,'';

(B) in clause (ii), by striking ''starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006'' and inserting ''starting with any plan year beginning on or after January 1, 1999, and ending before January 1, 2008, as designated by the plan in the election made under clause (i)(II)''; and

(C) by adding at the end the following new clause:

''(vii) For purposes of this Act and the Internal Revenue Code of 1986, a plan making an election under this subparagraph shall be treated as maintained pursuant to a collective bargaining agreement if a collective bargaining agreement, expressly or otherwise, provides for or permits employer contributions to the plan by one or more employers that are signatory to such agreement, or participation in the plan by one or more employees of an employer that is signatory to such agreement, regardless of whether the plan was created, established, or maintained for such employees by virtue of another document that is not a collective bargaining agreement.''.

(2) Paragraph (6) of section 414(f) of the Internal Revenue Code of 1986 (relating to election with regard to multiemployer status) (as amended by section 1106(b) of the Pension Protection Act of 2006) is amended—

(A) in subparagraph (A)(ii)(I), by striking ''for each of the 3 plan years immediately before the date of enactment of the Pension Protection Act of 2006,'' and inserting ''for each of the 3 plan years immediately preceding the first plan year for which the election under this paragraph is effective with respect to the plan,'';

(B) in subparagraph (B), by striking ''starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006'' and inserting ''starting with any plan year beginning on or after January 1, 1999, and ending before January 1, 2008, as designated by the plan in the election made under subparagraph (A)(ii)''; and

(C) by adding at the end the following new subparagraph:

''(F) MAINTENANCE UNDER COLLECTIVE BARGAINING AGREEMENT.—For purposes of this title and the Employee Retirement Income Security Act of 1974, a plan making an election under this paragraph shall be treated as maintained pursuant to a collective bargaining agreement if a collective bargaining agreement, expressly or otherwise, provides for or permits employer contributions to the plan by one or more employers that are signatory to such agreement, or participation in the plan by one or more employees of an employer that is signatory to such agreement, regardless of whether the plan was created, established, or maintained for such employees by virtue of another document that is not a collective bargaining agreement.''.

(b)(1) Clause (vi) of section 3(37)(G) of the Employee Retirement Income Security Act of 1974 (as amended by section 1106(a) of the Pension Protection Act of 2006) is amended by striking ''if it is a plan—'' and all that follows and inserting the following: ''if it is a plan sponsored by an organization which is described in section 501(c)(5) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which was established in Chicago, Illinois, on August 12, 1881.''.

(2) Subparagraph (E) of section 414(f)(6) of the Internal Revenue Code of 1986 (as amended by section 1106(b) of the Pension Protection Act of 2006) is amended by striking ''if it is a plan—'' and all that follows and inserting the following: ''if it is a plan sponsored by an organization which is described in section 501(c)(5) and exempt from tax under section 501(a) and which was established in Chicago, Illinois, on August 12, 1881.''.

(c) The amendments made by this section shall take effect as if included in section 1106 of the Pension Protection Act of 2006.

SEC. 6612. (a) Subclause (III) of section 420(f)(2)(E)(i) of the Internal Revenue Code of 1986 is amended by striking ''subsection (c)(2)(E)(ii)(II)'' and inserting ''subsection (c)(3)(E)(ii)(II)''.

(b) Section 420(e)(2)(B) of the Internal Revenue Code of 1986 is amended by striking ''funding shortfall'' and inserting ''funding target''.

(c) The amendments made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which they relate.

SEC. 6613. (a) Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by striking ''transfer.'' and inserting ''transfer or, in the case of a transfer which involves a plan maintained by an employer described in subsection (f)(2)(E)(i)(III), if the plan meets the requirements of subsection (f)(2)(D)(i)(II).''.

(b) The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

SEC. 6614. (a) Section 402(i)(1) of the Pension Protection Act of 2006 is amended by striking ''December 28, 2007'' and inserting ''January 1, 2008''.

(b) The amendment made by subsection (a) shall take effect as if included in section 402 of the Pension Protection Act of 2006.

SEC. 6615. (a) Section 402(a)(2) of the Pension Protection Act of 2006 is amended by inserting ''and by using, in determining the funding target for each of the 10 plan years during such period, an interest rate of 8.25 percent (rather than the segment rates calculated on the basis of the corporate bond yield curve)'' after ''such plan year''.

(b) The amendment made by this section shall take effect as if included in the provisions of the Pension Protection Act of 2006 to which such amendment relates.

CHAPTER 7

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Gloria W. Norwood, widow of Charles W. Norwood, Jr., late a Representative from the State of Georgia, $165,200.

For payment to James McDonald, Jr., widower of Juanita Millender-McDonald, late a Representative from the State of California, $165,200.

GENERAL PROVISION—THIS CHAPTER

SEC. 6701. (a) There is established in the Office of the Architect of the Capitol the position of Chief Executive Officer for Visitor Services (in this section referred to as the ''Chief Executive Officer''), who shall be appointed by the Architect of the Capitol.

(b) The Chief Executive Officer shall be responsible for the operation and management of the Capitol Visitor Center, subject to the direction of the Architect of the Capitol. In carrying out these responsibilities, the Chief Executive Officer shall report directly to the Architect of the Capitol and shall be subject to policy review and oversight by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

(c) The Chief Executive Officer shall be paid at an annual rate equal to the annual rate of pay for the Chief Operating Officer of the Office of the Architect of the Capitol.

(d) This section shall apply with respect to fiscal year 2007 and each succeeding fiscal year.

CHAPTER 8

GENERAL PROVISIONS—THIS CHAPTER

TECHNICAL AMENDMENT

SEC. 6801. (a) Notwithstanding any other provision of law, subsection (c) under the heading ''Assistance for the Independent States of the Former Soviet Union'' in Public Law 109–102, shall not apply to funds appropriated by the Continuing Appropriations Resolution, 2007 (Public Law 109–289, division B) as amended by Public Laws 109–369, 109–383, and 110–5.

(b) Section 534(k) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102) is amended, in the second proviso, by inserting after ''subsection (b) of that section'' the following: ''and the requirement that a majority of the members of the board of directors be United States citizens provided in subsection (d)(3)(B) of that section''.

(c) Subject to section 101(c)(2) of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5), the amount of funds appropriated for ''Foreign Military Financing Program'' pursuant to such Resolution shall be construed to be the total of the amount appropriated for such program by section 20401 of that Resolution and the amount made available for such program by section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102) which is made applicable to the fiscal year 2007 by the provisions of such Resolution.

SEC. 6802. Notwithstanding any provision of title I of division B of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Laws 109–369, 109–383, and 110–5), the dollar amount limitation of the first proviso under the heading, ''Administration of Foreign Affairs, Diplomatic and Consular Programs'', in title IV of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2319) shall not apply to funds appropriated under such heading for fiscal year 2007.

CHAPTER 9

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to carry out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, $6,150,000, to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund and to be subject to the same terms and conditions pertaining to funds provided under this heading in Public Law 109–115: Provided, That not to exceed the total amount provided for these activities for fiscal year 2007 shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: Provided further, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than $0.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 6901. (a) Hereafter, funds limited or appropriated for the Department of Transportation may be obligated or expended to grant authority to a Mexico-domiciled motor carrier to operate beyond United States municipalities and commercial zones on the United States-Mexico border only to the extent that—

(1) granting such authority is first tested as part of a pilot program;

(2) such pilot program complies with the requirements of section 350 of Public Law 107–87 and the requirements of section 31315(c) of title 49, United States Code, related to pilot programs; and

(3) simultaneous and comparable authority to operate within Mexico is made available to motor carriers domiciled in the United States.

(b) Prior to the initiation of the pilot program described in subsection (a) in any fiscal year—

(1) the Inspector General of the Department of Transportation shall transmit to Congress and the Secretary of Transportation a report verifying compliance with each of the requirements of subsection (a) of section 350 of Public Law 107–87, including whether the Secretary of Transportation has established sufficient mechanisms to apply Federal motor carrier safety laws and regulations to motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border and to ensure compliance with such laws and regulations; and

(2) the Secretary of Transportation shall—

(A) take such action as may be necessary to address any issues raised in the report of the Inspector General under subsection (b)(1) and submit a report to Congress detailing such actions; and

(B) publish in the Federal Register, and provide sufficient opportunity for public notice and comment—

(i) comprehensive data and information on the pre-authorization safety audits conducted before and after the date of enactment of this Act of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border;

(ii) specific measures to be required to protect the health and safety of the public, including enforcement measures and penalties for noncompliance;

(iii) specific measures to be required to ensure compliance with section 391.11(b)(2) and section 365.501(b) of title 49, Code of Federal Regulations;

(iv) specific standards to be used to evaluate the pilot program and compare any change in the level of motor carrier safety as a result of the pilot program; and

(v) a list of Federal motor carrier safety laws and regulations, including the commercial drivers license requirements, for which the Secretary of Transportation will accept compliance with a corresponding Mexican law or regulation as the equivalent to compliance with the United States law or regulation, including for each law or regulation an analysis as to how the corresponding United States and Mexican laws and regulations differ.

(c) During and following the pilot program described in subsection (a), the Inspector General of the Department of Transportation shall monitor and review the conduct of the pilot program and submit to Congress and the Secretary of Transportation an interim report, 6 months after the commencement of the pilot program, and a final report, within 60 days after the conclusion of the pilot program. Such reports shall address whether—

(1) the Secretary of Transportation has established sufficient mechanisms to determine whether the pilot program is having any adverse effects on motor carrier safety;

(2) Federal and State monitoring and enforcement activities are sufficient to ensure that participants in the pilot program are in compliance with all applicable laws and regulations; and

(3) the pilot program consists of a representative and adequate sample of Mexico-domiciled carriers likely to engage in cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border.

(d) In the event that the Secretary of Transportation in any fiscal year seeks to grant operating authority for the purpose of initiating cross-border operations beyond United States municipalities and commercial zones on the United States-Mexico border either with Mexico-domiciled motor coaches or Mexico-domiciled commercial motor vehicles carrying placardable quantities of hazardous materials, such activities shall be initiated only after the conclusion of a separate pilot program limited to vehicles of the pertinent type. Each such separate pilot program shall follow the same requirements and processes stipulated under subsections (a) through (c) of this section and shall be planned, conducted and evaluated in concert with the Department of Homeland Security or its Inspector General, as appropriate, so as to address any and all security concerns associated with such cross-border operations.

SEC. 6902. Funds provided for the ''National Transportation Safety Board, Salaries and Expenses'' in section 21031 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) include amounts necessary to make lease payments due in fiscal year 2007 only, on an obligation incurred in 2001 under a capital lease.

SEC. 6903. Section 21033 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289, as amended by Public Law 110–5) is amended by adding after the second proviso: '': Provided further, That paragraph (2) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at $149,300,000, but additional section 8 tenant protection rental assistance costs may be funded in 2007 by using unobligated balances, notwithstanding the purposes for which such amounts were appropriated, including recaptures and carryover, remaining from funds appropriated to the Department of Housing and Urban Development under this heading, the heading 'Annual Contributions for Assisted Housing', the heading 'Housing Certificate Fund', and the heading 'Project-Based Rental Assistance' for fiscal year 2006 and prior fiscal years: Provided further, That paragraph (3) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at $47,500,000: Provided further, That paragraph (4) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at $5,900,000: Provided further, That paragraph (5) under such heading in Public Law 109–115 (119 Stat. 2441) shall be funded at $1,281,100,000, of which $1,251,100,000 shall be allocated for the calendar year 2007 funding cycle on a pro rata basis to public housing agencies based on the amount public housing agencies were eligible to receive in calendar year 2006, and of which up to $30,000,000 shall be available to the Secretary to allocate to public housing agencies that need additional funds to administer their section 8 programs, with up to $20,000,000 to be for fees associated with section 8 tenant protection rental assistance''.

SEC. 6904. Section 232(b) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001 (Public Law 106–377) is amended to read as follows:

''(b) APPLICABILITY.—In the case of any dwelling unit that, upon the date of the enactment of this Act, is assisted under a housing assistance payment contract under section 8(o)(13) as in effect before such enactment, or under section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) as in effect before the enactment of the Quality Housing and Work Responsibility Act of 1998 (title V of Public Law 105–276), assistance may be renewed or extended under such section 8(o)(13), as amended by subsection (a), provided that the initial contract term and rent of such renewed or extended assistance shall be determined pursuant to subparagraphs (F) and (H), and subparagraphs (C) and (D) of such section shall not apply to such extensions or renewals.''.

TITLE VII—ELIMINATION OF SCHIP SHORTFALL AND OTHER HEALTH MATTERS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE AND MEDICAID SERVICES

STATE CHILDREN'S HEALTH INSURANCE FUND

For an additional amount to provide additional allotments to remaining shortfall States under section 2104(h)(4) of the Social Security Act, as inserted by section 6001, such sums as may be necessary, but not to exceed $650,000,000 for fiscal year 2007, to remain available until expended.

GENERAL PROVISIONS—THIS TITLE

SEC. 7001. (a) ELIMINATION OF REMAINDER OF SCHIP FUNDING SHORTFALLS, TIERED MATCH, AND OTHER LIMITATION ON EXPENDITURES.—Section 2104(h) of the Social Security Act (42 U.S.C. 1397dd(h)), as added by section 201(a) of the National Institutes of Health Reform Act of 2006 (Public Law 109–482), is amended—

(1) in the heading for paragraph (2), by striking ''REMAINDER OF REDUCTION'' and inserting ''PART''; and

(2) by striking paragraph (4) and inserting the following:

''(4) ADDITIONAL AMOUNTS TO ELIMINATE REMAINDER OF FISCAL YEAR 2007 FUNDING SHORTFALLS.—

''(A) IN GENERAL.—From the amounts provided in advance in appropriations Acts, the Secretary shall allot to each remaining shortfall State described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State for fiscal year 2007.

''(B) REMAINING SHORTFALL STATE DESCRIBED.—For purposes of subparagraph (A), a remaining shortfall State is a State with a State child health plan approved under this title for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of the date of the enactment of this paragraph, that the projected Federal expenditures under such plan for the State for fiscal year 2007 will exceed the sum of—

''(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;

''(ii) the amount of the State's allotment for fiscal year 2007; and

''(iii) the amounts, if any, that are to be redistributed to the State during fiscal year 2007 in accordance with paragraphs (1) and (2).''.

(b) CONFORMING AMENDMENTS.—Section 2104(h) of such Act (42 U.S.C. 1397dd(h)) (as so added), is amended—

(1) in paragraph (1)(B), by striking ''subject to paragraph (4)(B) and'';

(2) in paragraph (2)(B), by striking ''subject to paragraph (4)(B) and'';

(3) in paragraph (5)(A), by striking ''and (3)'' and inserting ''(3), and (4)''; and

(4) in paragraph (6)—

(A) in the first sentence—

(i) by inserting ''or allotted'' after ''redistributed''; and

(ii) by inserting ''or allotments'' after ''redistributions''; and

(B) by striking ''and (3)'' and inserting ''(3), and (4)''.

SEC. 7002. (a) PROHIBITION.—

(1) LIMITATION ON SECRETARIAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to the date that is 1 year after the date of enactment of this Act, take any action (through promulgation of regulation, issuance of regulatory guidance, or other administrative action) to—

(A) finalize or otherwise implement provisions contained in the proposed rule published on January 18, 2007, on pages 2236 through 2248 of volume 72, Federal Register (relating to parts 433, 447, and 457 of title 42, Code of Federal Regulations);

(B) promulgate or implement any rule or provisions similar to the provisions described in subparagraph (A) pertaining to the Medicaid program established under title XIX of the Social Security Act or the State Children's Health Insurance Program established under title XXI of such Act; or

(C) promulgate or implement any rule or provisions restricting payments for graduate medical education under the Medicaid program.

(2) CONTINUATION OF OTHER SECRETARIAL AUTHORITY.—The Secretary of Health and Human Service shall not be prohibited during the period described in paragraph (1) from taking any action (through promulgation of regulation, issuance of regulatory guidance, or other administrative action) to enforce a provision of law in effect as of the date of enactment of this Act with respect to the Medicaid program or the State Children's Health Insurance Program, or to promulgate or implement a new rule or provision during such period with respect to such programs, other than a rule or provision described in paragraph (1) and subject to the prohibition set forth in that paragraph.

(b) REQUIREMENT FOR USE OF TAMPER-RESISTANT PRESCRIPTION PADS UNDER THE MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking ''or'' at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting ''; or''; and

(C) by inserting after paragraph (22) the following new paragraph:

''(23) with respect to amounts expended for medical assistance for covered outpatient drugs (as defined in section 1927(k)(2)) for which the prescription was executed in written (and non-electronic) form unless the prescription was executed on a tamper-resistant pad.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to prescriptions executed after September 30, 2007.

(c) EXTENSION OF CERTAIN PHARMACY PLUS WAIVERS.—

(1) AUTHORITY TO CONTINUE TO OPERATE WAIVERS.—Notwithstanding any other provision of law, any State that is operating a Pharmacy Plus waiver described in paragraph (2) which would otherwise expire on June 30, 2007, may elect to continue to operate the waiver through December 31, 2009, and if a State elects to continue to operate such a waiver, the Secretary of Health and Human Services shall approve the continuation of the waiver through December 31, 2009.

(2) PHARMACY PLUS WAIVER DESCRIBED.—For purposes of paragraph (1), a Pharmacy Plus waiver described in this paragraph is a waiver approved by the Secretary of Health and Human Services under the authority of section 1115 of the Social Security Act (42 U.S.C. 1315) that provides coverage for prescription drugs for individuals who have attained age 65 and whose family income does not exceed 200 percent of the poverty line (as defined in section 2110(c)(5) of such Act (42 U.S.C. 1397jj(c)(5))).

TITLE VIII—FAIR MINIMUM WAGE AND TAX RELIEF

Subtitle A—Fair Minimum Wage

SEC. 8101. SHORT TITLE.

This subtitle may be cited as the ''Fair Minimum Wage Act of 2007''.

SEC. 8102. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007;

''(B) $6.55 an hour, beginning 12 months after that 60th day; and

''(C) $7.25 an hour, beginning 24 months after that 60th day;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. 8103. APPLICABILITY OF MINIMUM WAGE TO AMERICAN SAMOA AND THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to American Samoa and the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a)—

(1) the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(B) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 1 year after the date of enactment of this Act and each year thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this paragraph is equal to the minimum wage set forth in such section; and

(2) the minimum wage applicable to American Samoa under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) the applicable wage rate in effect for each industry and classification under section 697 of title 29, Code of Federal Regulations, on the date of enactment of this Act;

(B) increased by $0.50 an hour, beginning on the 60th day after the date of enactment of this Act; and

(C) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 1 year after the date of enactment of this Act and each year thereafter until the minimum wage applicable to American Samoa under this paragraph is equal to the minimum wage set forth in such section.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended—

(A) by striking sections 5 and 8; and

(B) in section 6(a), by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 60 days after the date of enactment of this Act.

SEC. 8104. STUDY ON PROJECTED IMPACT.

(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, the Secretary of Labor shall, through the Bureau of Labor Statistics, conduct a study to—

(1) assess the impact of the wage increases required by this Act through such date; and

(2) project the impact of any further wage increase,

on living standards and rates of employment in American Samoa and the Commonwealth of the Northern Mariana Islands.

(b) REPORT.—Not later than the date that is 8 months after the date of enactment of this Act, the Secretary of Labor shall transmit to Congress a report on the findings of the study required by subsection (a).

Subtitle B—Small Business Tax Incentives

SEC. 8201. SHORT TITLE; AMENDMENT OF CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Small Business and Work Opportunity Tax Act of 2007''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

PART 1—SMALL BUSINESS TAX RELIEF PROVISIONS

Subpart A—General Provisions

SEC. 8211. EXTENSION AND MODIFICATION OF WORK OPPORTUNITY TAX CREDIT.

(a) EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''August 31, 2011''.

(b) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, renewal community, or rural renewal county.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE, COMMUNITY, OR COUNTY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, renewal community, or rural renewal county.

''(C) RURAL RENEWAL COUNTY.—For purposes of this paragraph, the term 'rural renewal county' means any county which—

''(i) is outside a metropolitan statistical area (defined as such by the Office of Management and Budget), and

''(ii) during the 5-year periods 1990 through 1994 and 1995 through 1999 had a net population loss.''.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.''.

(d) TREATMENT OF DISABLED VETERANS UNDER THE WORK OPPORTUNITY TAX CREDIT.—

(1) DISABLED VETERANS TREATED AS MEMBERS OF TARGETED GROUP.—

(A) IN GENERAL.—Subparagraph (A) of section 51(d)(3) (relating to qualified veteran) is amended by striking ''agency as being a member of a family'' and all that follows and inserting ''agency as—

''(i) being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date, or

''(ii) entitled to compensation for a service-connected disability, and—

''(I) having a hiring date which is not more that 1 year after having been discharged or released from active duty in the Armed Forces of the United States, or

''(II) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.''.

(B) DEFINITIONS.—Paragraph (3) of section 51(d) is amended by adding at the end the following new subparagraph:

''(C) OTHER DEFINITIONS.—For purposes of subparagraph (A), the terms 'compensation' and 'service-connected' have the meanings given such terms under section 101 of title 38, United States Code.''.

(2) INCREASE IN AMOUNT OF WAGES TAKEN INTO ACCOUNT FOR DISABLED VETERANS.—Paragraph (3) of section 51(b) is amended—

(A) by inserting ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))'' before the period at the end, and

(B) by striking ''ONLY FIRST $6,000 OF'' in the heading and inserting ''LIMITATION ON''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 8212. EXTENSION AND INCREASE OF EXPENSING FOR SMALL BUSINESS.

(a) EXTENSION.—Subsections (b)(1), (b)(2), (b)(5), (c)(2), and (d)(1)(A)(ii) of section 179 (relating to election to expense certain depreciable business assets) are each amended by striking ''2010'' and inserting ''2011''.

(b) INCREASE IN LIMITATIONS.—Subsection (b) of section 179 is amended—

(1) by striking ''$100,000 in the case of taxable years beginning after 2002'' in paragraph (1) and inserting ''$125,000 in the case of taxable years beginning after 2006'', and

(2) by striking ''$400,000 in the case of taxable years beginning after 2002'' in paragraph (2) and inserting ''$500,000 in the case of taxable years beginning after 2006''.

(c) INFLATION ADJUSTMENT.—Subparagraph (A) of section 179(b)(5) is amended—

(1) by striking ''2003'' and inserting ''2007'',

(2) by striking ''$100,000 and $400,000'' and inserting ''$125,000 and $500,000'', and

(3) by striking ''2002'' in clause (ii) and inserting ''2006''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 8213. DETERMINATION OF CREDIT FOR CERTAIN TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subparagraph (B) of section 45B(b)(1) is amended by inserting ''as in effect on January 1, 2007, and'' before ''determined without regard to''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to tips received for services performed after December 31, 2006.

SEC. 8214. WAIVER OF INDIVIDUAL AND CORPORATE ALTERNATIVE MINIMUM TAX LIMITS ON WORK OPPORTUNITY CREDIT AND CREDIT FOR TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended by striking ''and'' at the end of clause (i), by inserting a comma at the end of clause (ii), and by adding at the end the following new clauses:

''(iii) the credit determined under section 45B, and

''(iv) the credit determined under section 51.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined under sections 45B and 51 of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2006, and to carrybacks of such credits.

SEC. 8215. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) IN GENERAL.—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) QUALIFIED JOINT VENTURE.—

''(1) IN GENERAL.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

''(A) such joint venture shall not be treated as a partnership,

''(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

''(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

''(2) QUALIFIED JOINT VENTURE.—For purposes of paragraph (1), the term 'qualified joint venture' means any joint venture involving the conduct of a trade or business if—

''(A) the only members of such joint venture are a husband and wife,

''(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

''(C) both spouses elect the application of this subsection.''.

(b) NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking '', and'' at the end of paragraph (15) and inserting a semicolon, by striking the period at the end of paragraph (16) and inserting ''; and'', and by inserting after paragraph (16) the following new paragraph:

''(17) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.''.

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking ''and'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; and'', and by inserting after paragraph (15) the following new paragraph:

''(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Subpart B—Gulf Opportunity Zone Tax Incentives

SEC. 8221. EXTENSION OF INCREASED EXPENSING FOR QUALIFIED SECTION 179 GULF OPPORTUNITY ZONE PROPERTY.

Paragraph (2) of section 1400N(e) (relating to qualified section 179 Gulf Opportunity Zone property) is amended—

(1) by striking ''this subsection, the term'' and inserting:

''this subsection—

''(A) IN GENERAL.—The term'', and

(2) by adding at the end the following new subparagraph:

''(B) EXTENSION FOR CERTAIN PROPERTY.—In the case of property substantially all of the use of which is in one or more specified portions of the GO Zone (as defined by subsection (d)(6)), such term shall include section 179 property (as so defined) which is described in subsection (d)(2), determined—

''(i) without regard to subsection (d)(6), and

''(ii) by substituting '2008' for '2007' in subparagraph (A)(v) thereof.''.

SEC. 8222. EXTENSION AND EXPANSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN THE GO ZONES.

(a) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Subsection (c) of section 1400N (relating to low-income housing credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) TIME FOR MAKING LOW-INCOME HOUSING CREDIT ALLOCATIONS.—Section 42(h)(1)(B) shall not apply to an allocation of housing credit dollar amount to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone, if such allocation is made in 2006, 2007, or 2008, and such building is placed in service before January 1, 2011.''.

(b) EXTENSION OF PERIOD FOR TREATING GO ZONES AS DIFFICULT DEVELOPMENT AREAS.—

(1) IN GENERAL.—Subparagraph (A) of section 1400N(c)(3) is amended by striking ''2006, 2007, or 2008'' and inserting ''the period beginning on January 1, 2006, and ending on December 31, 2010''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 1400N(c)(3)(B) is amended by striking ''such period'' and inserting ''the period described in subparagraph (A)''.

(c) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—Subsection (c) of section 1400N (relating to low-income housing credit), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) COMMUNITY DEVELOPMENT BLOCK GRANTS NOT TAKEN INTO ACCOUNT IN DETERMINING IF BUILDINGS ARE FEDERALLY SUBSIDIZED.—For purpose of applying section 42(i)(2)(D) to any building which is placed in service in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan shall not be treated as a below market Federal loan solely by reason of any assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of section 122 of such Act or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.''.

SEC. 8223. SPECIAL TAX-EXEMPT BOND FINANCING RULE FOR REPAIRS AND RECONSTRUCTIONS OF RESIDENCES IN THE GO ZONES.

Subsection (a) of section 1400N (relating to tax-exempt bond financing) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR REPAIRS AND RECONSTRUCTIONS.—

''(A) IN GENERAL.—For purposes of section 143 and this subsection, any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation.

''(B) QUALIFIED GO ZONE REPAIR OR RECONSTRUCTION.—For purposes of subparagraph (A), the term 'qualified GO Zone repair or reconstruction' means any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such repair or reconstruction are 25 percent or more of the mortgagor's adjusted basis in the residence. For purposes of the preceding sentence, the mortgagor's adjusted basis shall be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.

''(C) TERMINATION.—This paragraph shall apply only to owner-financing provided after the date of the enactment of this paragraph and before January 1, 2011.''.

SEC. 8224. GAO STUDY OF PRACTICES EMPLOYED BY STATE AND LOCAL GOVERNMENTS IN ALLOCATING AND UTILIZING TAX INCENTIVES PROVIDED PURSUANT TO THE GULF OPPORTUNITY ZONE ACT OF 2005.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the practices employed by State and local governments, and subdivisions thereof, in allocating and utilizing tax incentives provided pursuant to the Gulf Opportunity Zone Act of 2005 and this Act.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit a report on the findings of the study conducted under subsection (a) and shall include therein recommendations (if any) relating to such findings. The report shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) CONGRESSIONAL HEARINGS.—In the case that the report submitted under this section includes findings of significant fraud, waste or abuse, each Committee specified in subsection (b) shall, within 60 days after the date the report is submitted under subsection (b), hold a public hearing to review such findings.

Subpart C—Subchapter S Provisions

SEC. 8231. CAPITAL GAIN OF S CORPORATION NOT TREATED AS PASSIVE INVESTMENT INCOME.

(a) IN GENERAL.—Section 1362(d)(3) is amended by striking subparagraphs (B), (C), (D), (E), and (F) and inserting the following new subparagraphs:

''(B) GROSS RECEIPTS FROM THE SALES OF CERTAIN ASSETS.—For purposes of this paragraph—

''(i) in the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom, and

''(ii) in the case of sales or exchanges of stock or securities, gross receipts shall be taken into account only to the extent of the gains therefrom.

''(C) PASSIVE INVESTMENT INCOME DEFINED.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(ii) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(iii) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(iv) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(v) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), the term 'passive investment income' shall not include—

''(I) interest income earned by such bank or company, or

''(II) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 8232. TREATMENT OF BANK DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—

''(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

''(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term 'restricted bank director stock' means stock in a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), if such stock—

''(A) is required to be held by an individual under applicable Federal or State law in order to permit such individual to serve as a director, and

''(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

''(3) CROSS REFERENCE.—

''For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f).''.

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

''(1) shall be includible in gross income of the director, and

''(2) shall be deductible by the corporation for the taxable year of such corporation in or with which ends the taxable year in which such amount in included in the gross income of the director.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

(2) SPECIAL RULE FOR TREATMENT AS SECOND CLASS OF STOCK.—In the case of any taxable year beginning after December 31, 1996, restricted bank director stock (as defined in section 1361(f) of the Internal Revenue Code of 1986, as added by this section) shall not be taken into account in determining whether an S corporation has more than 1 class of stock.

SEC. 8233. SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.

(a) IN GENERAL.—Section 1361, as amended by this Act, is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.—In the case of a bank which changes from the reserve method of accounting for bad debts described in section 585 or 593 for its first taxable year for which an election under section 1362(a) is in effect, the bank may elect to take into account any adjustments under section 481 by reason of such change for the taxable year immediately preceding such first taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 8234. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Subparagraph (C) of section 1361(b)(3) (relating to treatment of terminations of qualified subchapter S subsidiary status) is amended—

(1) by striking ''For purposes of this title,'' and inserting the following:

''(i) IN GENERAL.—For purposes of this title,'', and

(2) by inserting at the end the following new clause:

''(ii) TERMINATION BY REASON OF SALE OF STOCK.—If the failure to meet the requirements of subparagraph (B) is by reason of the sale of stock of a corporation which is a qualified subchapter S subsidiary, the sale of such stock shall be treated as if—

''(I) the sale were a sale of an undivided interest in the assets of such corporation (based on the percentage of the corporation's stock sold), and

''(II) the sale were followed by an acquisition by such corporation of all of its assets (and the assumption by such corporation of all of its liabilities) in a transaction to which section 351 applies.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 8235. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS FOR CERTAIN CORPORATIONS.

In the case of a corporation which is—

(1) described in section 1311(a)(1) of the Small Business Job Protection Act of 1996, and

(2) not described in section 1311(a)(2) of such Act,

the amount of such corporation's accumulated earnings and profits (for the first taxable year beginning after the date of the enactment of this Act) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under subchapter S of the Internal Revenue Code of 1986.

SEC. 8236. DEDUCTIBILITY OF INTEREST EXPENSE ON INDEBTEDNESS INCURRED BY AN ELECTING SMALL BUSINESS TRUST TO ACQUIRE S CORPORATION STOCK.

(a) IN GENERAL.—Subparagraph (C) of section 641(c)(2) (relating to modifications) is amended by inserting after clause (iii) the following new clause:

''(iv) Any interest expense paid or accrued on indebtedness incurred to acquire stock in an S corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

PART 2—REVENUE PROVISIONS

SEC. 8241. INCREASE IN AGE OF CHILDREN WHOSE UNEARNED INCOME IS TAXED AS IF PARENT'S INCOME.

(a) IN GENERAL.—Subparagraph (A) of section 1(g)(2) (relating to child to whom subsection applies) is amended to read as follows:

''(A) such child—

''(i) has not attained age 18 before the close of the taxable year, or

''(ii)(I) has attained age 18 before the close of the taxable year and meets the age requirements of section 152(c)(3) (determined without regard to subparagraph (B) thereof), and

''(II) whose earned income (as defined in section 911(d)(2)) for such taxable year does not exceed one-half of the amount of the individual's support (within the meaning of section 152(c)(1)(D) after the application of section 152(f)(5) (without regard to subparagraph (A) thereof)) for such taxable year,''.

(b) CONFORMING AMENDMENT.—Subsection (g) of section 1 is amended by striking ''MINOR'' in the heading thereof.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 8242. SUSPENSION OF CERTAIN PENALTIES AND INTEREST.

(a) IN GENERAL.—Paragraphs (1)(A) and (3)(A) of section 6404(g) are each amended by striking ''18-month period'' and inserting ''36-month period''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices provided by the Secretary of the Treasury, or his delegate, after the date which is 6 months after the date of the enactment of this Act.

SEC. 8243. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.

(a) IN GENERAL.—Section 6330(f) (relating to jeopardy and State refund collection) is amended—

(1) by striking ''; or'' at the end of paragraph (1) and inserting a comma,

(2) by adding ''or'' at the end of paragraph (2), and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) the Secretary has served a disqualified employment tax levy,''.

(b) DISQUALIFIED EMPLOYMENT TAX LEVY.—Section 6330 of such Code (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(h) DISQUALIFIED EMPLOYMENT TAX LEVY.—For purposes of subsection (f), a disqualified employment tax levy is any levy in connection with the collection of employment taxes for any taxable period if the person subject to the levy (or any predecessor thereof) requested a hearing under this section with respect to unpaid employment taxes arising in the most recent 2-year period before the beginning of the taxable period with respect to which the levy is served. For purposes of the preceding sentence, the term 'employment taxes' means any taxes under chapter 21, 22, 23, or 24.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to levies served on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 8244. PERMANENT EXTENSION OF IRS USER FEES.

Section 7528 (relating to Internal Revenue Service user fees) is amended by striking subsection (c).

SEC. 8245. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 8246. UNDERSTATEMENT OF TAXPAYER LIABILITY BY RETURN PREPARERS.

(a) APPLICATION OF RETURN PREPARER PENALTIES TO ALL TAX RETURNS.—

(1) DEFINITION OF TAX RETURN PREPARER.—Paragraph (36) of section 7701(a) (relating to income tax preparer) is amended—

(A) by striking ''income'' each place it appears in the heading and the text, and

(B) in subparagraph (A), by striking ''subtitle A'' each place it appears and inserting ''this title''.

(2) CONFORMING AMENDMENTS.—

(A)(i) Section 6060 is amended by striking ''**INCOME TAX RETURN PREPARERS**'' in the heading and inserting ''4TAX RETURN PREPARERS''.

(ii) Section 6060(a) is amended—

(I) by striking ''an income tax return preparer'' each place it appears and inserting ''a tax return preparer'',

(II) by striking ''each income tax return preparer'' and inserting ''each tax return preparer'', and

(III) by striking ''another income tax return preparer'' and inserting ''another tax return preparer''.

(iii) The item relating to section 6060 in the table of sections for subpart F of part III of subchapter A of chapter 61 is amended by striking ''income tax return preparers'' and inserting ''tax return preparers''.

(iv) Subpart F of part III of subchapter A of chapter 61 is amended by striking ''**Income Tax Return Preparers**'' in the heading and inserting ''**Tax Return Preparers**''.

(v) The item relating to subpart F in the table of subparts for part III of subchapter A of chapter 61 is amended by striking ''income tax return preparers'' and inserting ''tax return preparers''.

(B) Section 6103(k)(5) is amended—

(i) by striking ''income tax return preparer'' each place it appears and inserting ''tax return preparer'', and

(ii) by striking ''income tax return preparers'' each place it appears and inserting ''tax return preparers''.

(C)(i) Section 6107 is amended—

(I) by striking ''**INCOME TAX RETURN PREPARER**'' in the heading and inserting ''**TAX RETURN PREPARER**'',

(II) by striking ''an income tax return preparer'' each place it appears in subsections (a) and (b) and inserting ''a tax return preparer'',

(III) by striking ''INCOME TAX RETURN PREPARER'' in the heading for subsection (b) and inserting ''TAX RETURN PREPARER'', and

(IV) in subsection (c), by striking ''income tax return preparers'' and inserting ''tax return preparers''.

(ii) The item relating to section 6107 in the table of sections for subchapter B of chapter 61 is amended by striking ''Income tax return preparer'' and inserting ''Tax return preparer''.

(D) Section 6109(a)(4) is amended—

(i) by striking ''an income tax return preparer'' and inserting ''a tax return preparer'', and

(ii) by striking ''INCOME RETURN PREPARER'' in the heading and inserting ''TAX RETURN PREPARER''.

(E) Section 6503(k)(4) is amended by striking ''Income tax return preparers'' and inserting ''Tax return preparers''.

(F)(i) Section 6694 is amended—

(I) by striking ''**INCOME TAX RETURN PREPARER**'' in the heading and inserting ''**TAX RETURN PREPARER**'',

(II) by striking ''an income tax return preparer'' each place it appears and inserting ''a tax return preparer'',

(III) in subsection (c)(2), by striking ''the income tax return preparer'' and inserting ''the tax return preparer'',

(IV) in subsection (e), by striking ''subtitle A'' and inserting ''this title'', and

(V) in subsection (f), by striking ''income tax return preparer'' and inserting ''tax return preparer''.

(ii) The item relating to section 6694 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''income tax return preparer'' and inserting ''tax return preparer''.

(G)(i) Section 6695 is amended—

(I) by striking ''**INCOME**'' in the heading, and

(II) by striking ''an income tax return preparer'' each place it appears and inserting ''a tax return preparer''.

(ii) Section 6695(f) is amended—

(I) by striking ''subtitle A'' and inserting ''this title'', and

(II) by striking ''the income tax return preparer'' and inserting ''the tax return preparer''.

(iii) The item relating to section 6695 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''income''.

(H) Section 6696(e) is amended by striking ''subtitle A'' each place it appears and inserting ''this title''.

(I)(i) Section 7407 is amended—

(I) by striking ''**INCOME TAX RETURN PREPARERS**'' in the heading and inserting ''**TAX RETURN PREPARERS**'',

(II) by striking ''an income tax return preparer'' each place it appears and inserting ''a tax return preparer'',

(III) by striking ''income tax preparer'' both places it appears in subsection (a) and inserting ''tax return preparer'', and

(IV) by striking ''income tax return'' in subsection (a) and inserting ''tax return''.

(ii) The item relating to section 7407 in the table of sections for subchapter A of chapter 76 is amended by striking ''income tax return preparers'' and inserting ''tax return preparers''.

(J)(i) Section 7427 is amended—

(I) by striking ''**INCOME TAX RETURN PREPARERS**'' in the heading and inserting ''**TAX RETURN PREPARERS**'', and

(II) by striking ''an income tax return preparer'' and inserting ''a tax return preparer''.

(ii) The item relating to section 7427 in the table of sections for subchapter B of chapter 76 is amended to read as follows:

''Sec. 7427. Tax return preparers.''.

(b) MODIFICATION OF PENALTY FOR UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY TAX RETURN PREPARER.—Subsections (a) and (b) of section 6694 are amended to read as follows:

''(a) UNDERSTATEMENT DUE TO UNREASONABLE POSITIONS.—

''(1) IN GENERAL.—Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

''(A) $1,000, or

''(B) 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

''(2) UNREASONABLE POSITION.—A position is described in this paragraph if—

''(A) the tax return preparer knew (or reasonably should have known) of the position,

''(B) there was not a reasonable belief that the position would more likely than not be sustained on its merits, and

''(C)(i) the position was not disclosed as provided in section 6662(d)(2)(B)(ii), or

''(ii) there was no reasonable basis for the position.

''(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.

''(b) UNDERSTATEMENT DUE TO WILLFUL OR RECKLESS CONDUCT.—

''(1) IN GENERAL.—Any tax return preparer who prepares any return or claim for refund with respect to which any part of an understatement of liability is due to a conduct described in paragraph (2) shall pay a penalty with respect to each such return or claim in an amount equal to the greater of—

''(A) $5,000, or

''(B) 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

''(2) WILLFUL OR RECKLESS CONDUCT.—Conduct described in this paragraph is conduct by the tax return preparer which is—

''(A) a willful attempt in any manner to understate the liability for tax on the return or claim, or

''(B) a reckless or intentional disregard of rules or regulations.

''(3) REDUCTION IN PENALTY.—The amount of any penalty payable by any person by reason of this subsection for any return or claim for refund shall be reduced by the amount of the penalty paid by such person by reason of subsection (a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns prepared after the date of the enactment of this Act.

SEC. 8247. PENALTY FOR FILING ERRONEOUS REFUND CLAIMS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6675 the following new section:

''SEC. 6676. ERRONEOUS CLAIM FOR REFUND OR CREDIT.

''(a) CIVIL PENALTY.—If a claim for refund or credit with respect to income tax (other than a claim for a refund or credit relating to the earned income credit under section 32) is made for an excessive amount, unless it is shown that the claim for such excessive amount has a reasonable basis, the person making such claim shall be liable for a penalty in an amount equal to 20 percent of the excessive amount.

''(b) EXCESSIVE AMOUNT.—For purposes of this section, the term 'excessive amount' means in the case of any person the amount by which the amount of the claim for refund or credit for any taxable year exceeds the amount of such claim allowable under this title for such taxable year.

''(c) COORDINATION WITH OTHER PENALTIES.—This section shall not apply to any portion of the excessive amount of a claim for refund or credit which is subject to a penalty imposed under part II of subchapter A of chapter 68.''.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6675 the following new item:

''Sec. 6676. Erroneous claim for refund or credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim filed or submitted after the date of the enactment of this Act.

SEC. 8248. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of

2005 is amended by striking ''106.25 percent'' and inserting ''114.25 percent''.

Subtitle C—Small Business Incentives

SEC. 8301. SHORT TITLE.

This subtitle may be cited as the ''Small Business and Work Opportunity Act of 2007''.

SEC. 8302. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

''(6) REPORTING.—Not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency's compliance with paragraphs (1) through (5).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

SEC. 8303. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT AND PERIOD OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section. The Secretary shall make the grant for a period of 3 years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school-aged children;

(F) the entering into of contracts with local resource and referral organizations or local health departments;

(G) assistance for care for children with disabilities;

(H) payment of expenses for renovation or operation of a child care facility; or

(I) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATIONS.—With respect to grant funds received under this section, a State may not provide in excess of $500,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the covered entity under the grant);

(2) for the second fiscal year in which the covered entity receives such assistance, not less than 66⅔ percent of such costs ($2 for each $1 of assistance provided to the covered entity under the grant); and

(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the covered entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and

(2) who receives assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.

(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of covered entities to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term ''covered entity'' means a small business or a consortium formed in accordance with subsection (d)(3).

(2) INDIAN COMMUNITY.—The term ''Indian community'' means a community served by an Indian tribe or tribal organization.

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms ''Indian tribe'' and ''tribal organization'' have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(4) SMALL BUSINESS.—The term ''small business'' means an employer who employed an average of at least 2 but not more than 50 employees on the business days during the preceding calendar year.

(5) STATE.—The term ''State'' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3), the term ''State'' includes an Indian tribe or tribal organization.

(2) GEOGRAPHIC REFERENCES.—The term ''State'' includes an Indian community in subsections (c) (the second and third place the term appears), (d)(1) (the second place the term appears), (d)(3)(A) (the second place the term appears), and (i)(1)(A)(i).

(3) STATE-LEVEL ACTIVITIES.—The term ''State-level activities'' includes activities at the tribal level.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for the period of fiscal years 2008 through 2012.

(2) STUDIES AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than $2,500,000 of that amount may be used for expenditures related to conducting studies required under, and the administration of, this section.

(m) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2012.

SEC. 8304. STUDY OF UNIVERSAL USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on a study of the benefits, costs, risks, and barriers to workers and to businesses (with a special emphasis on small businesses) if the advance earned income tax credit program (under section 3507 of the Internal Revenue Code of 1986) included all recipients of the earned income tax credit (under section 32 of such Code) and what steps would be necessary to implement such inclusion.

SEC. 8305. RENEWAL GRANTS FOR WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(m) CONTINUED FUNDING FOR CENTERS.—

''(1) IN GENERAL.—A nonprofit organization described in paragraph (2) shall be eligible to receive, subject to paragraph (3), a 3-year grant under this subsection.

''(2) APPLICABILITY.—A nonprofit organization described in this paragraph is a nonprofit organization that has received funding under subsection (b) or (l).

''(3) APPLICATION AND APPROVAL CRITERIA.—

''(A) CRITERIA.—Subject to subparagraph (B), the Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

''(B) CONTENTS.—Except as otherwise provided in this subsection, the conditions for participation in the grant program under this subsection shall be the same as the conditions for participation in the program under subsection (l), as in effect on the date of enactment of this Act.

''(C) NOTIFICATION.—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this subsection and notify the applicant for each such application.

''(4) AWARD OF GRANTS.—

''(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make a grant for the Federal share of the cost of activities described in the application to each applicant approved under this subsection.

''(B) AMOUNT.—A grant under this subsection shall be for not more than $150,000, for each year of that grant.

''(C) FEDERAL SHARE.—The Federal share under this subsection shall be not more than 50 percent.

''(D) PRIORITY.—In allocating funds made available for grants under this section, the Administrator shall give applications under this subsection or subsection (l) priority over first-time applications under subsection (b).

''(5) RENEWAL.—

''(A) IN GENERAL.—The Administrator may renew a grant under this subsection for additional 3-year periods, if the nonprofit organization submits an application for such renewal at such time, in such manner, and accompanied by such information as the Administrator may establish.

''(B) UNLIMITED RENEWALS.—There shall be no limitation on the number of times a grant may be renewed under subparagraph (A).

''(n) PRIVACY REQUIREMENTS.—

''(1) IN GENERAL.—A women's business center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

''(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

''(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a women's business center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

''(2) ADMINISTRATION USE OF INFORMATION.—This subsection shall not—

''(A) restrict Administration access to program activity data; or

''(B) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

''(3) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under paragraph (1)(B).''.

(b) REPEAL.—Section 29(l) of the Small Business Act (15 U.S.C. 656(l)) is repealed effective October 1 of the first full fiscal year after the date of enactment of this Act.

(c) TRANSITIONAL RULE.—Notwithstanding any other provision of law, a grant or cooperative agreement that was awarded under subsection (l) of section 29 of the Small Business Act (15 U.S.C. 656), on or before the day before the date described in subsection (b) of this section, shall remain in full force and effect under the terms, and for the duration, of such grant or agreement.

SEC. 8306. REPORTS ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(b) REPORTS.—

''(1) IN GENERAL.—Not later than 180 days after the end of each of fiscal years 2007 through 2011, the head of each Federal agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the amount of the acquisitions made by the agency in that fiscal year of articles, materials, or supplies purchased from entities that manufacture the articles, materials, or supplies outside of the United States.

''(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall separately include, for the fiscal year covered by such report—

''(A) the dollar value of any articles, materials, or supplies that were manufactured outside the United States;

''(B) an itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act, and a citation to the treaty, international agreement, or other law under which each waiver was granted;

''(C) if any articles, materials, or supplies were acquired from entities that manufacture articles, materials, or supplies outside the United States, the specific exception under this section that was used to purchase such articles, materials, or supplies; and

''(D) a summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available to the maximum extent practicable.

''(4) EXCEPTION FOR INTELLIGENCE COMMUNITY.—This subsection shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as specified in, or designated under, section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

TITLE IX—AGRICULTURAL ASSISTANCE

SEC. 9001. CROP DISASTER ASSISTANCE.

(a) ASSISTANCE AVAILABLE.—There are hereby appropriated to the Secretary of Agriculture such sums as are necessary, to remain available until expended, to make emergency financial assistance available to producers on a farm that incurred qualifying quantity or quality losses for the 2005, 2006, or 2007 crop, due to damaging weather or any related condition (including losses due to crop diseases, insects, and delayed planting), as determined by the Secretary. However, to be eligible for assistance, the crop subject to the loss must have been planted before February 28, 2007, or, in the case of prevented planting or other total loss, would have been planted before February 28, 2007, in the absence of the damaging weather or any related condition.

(b) ELECTION OF CROP YEAR.—If a producer incurred qualifying crop losses in more than one of the 2005, 2006, or 2007 crop years, the producer shall elect to receive assistance under this section for losses incurred in only one of such crop years. The producer may not receive assistance under this section for more than one crop year.

(c) ADMINISTRATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Agriculture shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for quantity and economic losses as were used in administering that section, except that the payment rate shall be 42 percent of the established price, instead of 65 percent.

(2) LOSS THRESHOLDS FOR QUALITY LOSSES.—In the case of a payment for quality loss for a crop under subsection (a), the loss thresholds for quality loss for the crop shall be determined under subsection (d).

(d) QUALITY LOSSES.—

(1) IN GENERAL.—Subject to paragraph (3), the amount of a payment made to producers on a farm for a quality loss for a crop under subsection (a) shall be equal to the amount obtained by multiplying—

(A) 65 percent of the payment quantity determined under paragraph (2); by

(B) 42 percent of the payment rate determined under paragraph (3).

(2) PAYMENT QUANTITY.—For the purpose of paragraph (1)(A), the payment quantity for quality losses for a crop of a commodity on a farm shall equal the lesser of—

(A) the actual production of the crop affected by a quality loss of the commodity on the farm; or

(B) the quantity of expected production of the crop affected by a quality loss of the commodity on the farm, using the formula used by the Secretary of Agriculture to determine quantity losses for the crop of the commodity under subsection (a).

(3) PAYMENT RATE.—For the purpose of paragraph (1)(B) and in accordance with paragraphs (5) and (6), the payment rate for quality losses for a crop of a commodity on a farm shall be equal to the difference between—

(A) the per unit market value that the units of the crop affected by the quality loss would have had if the crop had not suffered a quality loss; and

(B) the per unit market value of the units of the crop affected by the quality loss.

(4) ELIGIBILITY.—For producers on a farm to be eligible to obtain a payment for a quality loss for a crop under subsection (a), the amount obtained by multiplying the per unit loss determined under paragraph (1) by the number of units affected by the quality loss shall be at least 25 percent of the value that all affected production of the crop would have had if the crop had not suffered a quality loss.

(5) MARKETING CONTRACTS.—In the case of any production of a commodity that is sold pursuant to one or more marketing contracts (regardless of whether the contract is entered into by the producers on the farm before or after harvest) and for which appropriate documentation exists, the quantity designated in the contracts shall be eligible for quality loss assistance based on the one or more prices specified in the contracts.

(6) OTHER PRODUCTION.—For any additional production of a commodity for which a marketing contract does not exist or for which production continues to be owned by the producer, quality losses shall be based on the average local market discounts for reduced quality, as determined by the appropriate State committee of the Farm Service Agency.

(7) QUALITY ADJUSTMENTS AND DISCOUNTS.—The appropriate State committee of the Farm Service Agency shall identify the appropriate quality adjustment and discount factors to be considered in carrying out this subsection, including—

(A) the average local discounts actually applied to a crop; and

(B) the discount schedules applied to loans made by the Farm Service Agency or crop insurance coverage under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(8) ELIGIBLE PRODUCTION.—The Secretary of Agriculture shall carry out this subsection in a fair and equitable manner for all eligible production, including the production of fruits and vegetables, other specialty crops, and field crops.

(e) PAYMENT LIMITATIONS.—

(1) LIMIT ON AMOUNT OF ASSISTANCE.—Assistance provided under this section to a producer for losses to a crop, together with the amounts specified in paragraph (2) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary of Agriculture.

(2) OTHER PAYMENTS.—In applying the limitation in paragraph (1), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(B) The value of the crop that was not lost (if any), as estimated by the Secretary.

(f) ELIGIBILITY REQUIREMENTS AND LIMITATIONS.—The producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses;

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses; or

(3) were not in compliance with highly erodible land conservation and wetland conservation provisions.

(g) TIMING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall make payments to producers on a farm for a crop under this section not later than 60 days after the date the producers on the farm submit to the Secretary a completed application for the payments.

(2) INTEREST.—If the Secretary does not make payments to the producers on a farm by the date described in paragraph (1), the Secretary shall pay to the producers on a farm interest on the payments at a rate equal to the current (as of the sign-up deadline established by the Secretary) market yield on outstanding, marketable obligations of the United States with maturities of 30 years.

(h) DEFINITIONS.—In this section:

(1) INSURABLE COMMODITY.—The term ''insurable commodity'' means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) NONINSURABLE COMMODITY.—The term ''noninsurable commodity'' means a crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 9002. LIVESTOCK ASSISTANCE.

(a) LIVESTOCK COMPENSATION PROGRAM.—

(1) AVAILABILITY OF ASSISTANCE.—There are hereby appropriated to the Secretary of Agriculture such sums as are necessary, to remain available until expended, to carry out the livestock compensation program established under subpart B of part 1416 of title 7, Code of Federal Regulations, as announced by the Secretary on February 12, 2007 (72 Fed. Reg. 6443), to provide compensation for livestock losses between January 1, 2005 and February 28, 2007, due to a disaster, as determined by the Secretary (including losses due to blizzards that started in 2006 and continued into January 2007). However, the payment rate for compensation under this subsection shall be 61 percent of the payment rate otherwise applicable under such program. In addition, section 1416.102(b)(2)(ii) of title 7, Code of Federal Regulations (72 Fed. Reg. 6444) shall not apply.

(2) ELIGIBLE APPLICANTS.—In carrying out the program described in paragraph (1), the Secretary shall provide assistance to any applicant that—

(A) conducts a livestock operation that is located in a disaster county with eligible livestock specified in paragraph (1) of section 1416.102(a) of title 7, Code of Federal Regulations (72 Fed. Reg. 6444), an animal described in section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1)), or other animals designated by the Secretary as livestock for purposes of this subsection; and

(B) meets the requirements of paragraphs (3) and (4) of section 1416.102(a) of title 7, Code of Federal Regulations, and all other eligibility requirements established by the Secretary for the program.

(3) ELECTION OF LOSSES.—

(A) If a producer incurred eligible livestock losses in more than one of the 2005, 2006, or 2007 calendar years, the producer shall elect to receive payments under this subsection for losses incurred in only one of such calendar years, and such losses must have been incurred in a county declared or designated as a disaster county in that same calendar year.

(B) Producers may elect to receive compensation for losses in the calendar year 2007 grazing season that are attributable to wildfires occurring during the applicable period, as determined by the Secretary.

(4) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock compensation program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

(5) DEFINITIONS.—In this subsection:

(A) DISASTER COUNTY.—The term ''disaster county'' means—

(i) a county included in the geographic area covered by a natural disaster declaration; and

(ii) each county contiguous to a county described in clause (i).

(B) NATURAL DISASTER DECLARATION.—The term ''natural disaster declaration'' means—

(i) a natural disaster declared by the Secretary between January 1, 2005 and February 28, 2007, under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a));

(ii) a major disaster or emergency designated by the President between January 1, 2005 and February 28, 2007, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(iii) a determination of a Farm Service Agency Administrator's Physical Loss Notice if such notice applies to a county included under (ii).

(b) LIVESTOCK INDEMNITY PAYMENTS.—

(1) AVAILABILITY OF ASSISTANCE.—There are hereby appropriated to the Secretary of Agriculture such sums as are necessary, to remain available until expended, to make livestock indemnity payments to producers on farms that have incurred livestock losses between January 1, 2005 and February 28, 2007, due to a disaster, as determined by the Secretary (including losses due to blizzards that started in 2006 and continued into January 2007) in a disaster county. To be eligible for assistance, applicants must meet all eligibility requirements established by the Secretary for the program.

(2) ELECTION OF LOSSES.—If a producer incurred eligible livestock losses in more than one of the 2005, 2006, or 2007 calendar years, the producer shall elect to receive payments under this subsection for losses incurred in only one of such calendar years. The producer may not receive payments under this subsection for more than one calendar year.

(3) PAYMENT RATES.—Indemnity payments to a producer on a farm under paragraph (1) shall be made at a rate of not less than 26 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

(4) LIVESTOCK DEFINED.—In this subsection, the term ''livestock'' means an animal that—

(A) is specified in clause (i) of section 1416.203(a)(2) of title 7, Code of Federal Regulations (72 Fed. Reg. 6445), or is designated by the Secretary as livestock for purposes of this subsection; and

(B) meets the requirements of clauses (iii) and (iv) of such section.

(5) DEFINITIONS.—In this subsection:

(A) DISASTER COUNTY.—The term ''disaster county'' means—

(i) a county included in the geographic area covered by a natural disaster declaration; and

(ii) each county contiguous to a county described in clause (i).

(B) NATURAL DISASTER DECLARATION.—The term ''natural disaster declaration'' means—

(i) a natural disaster declared by the Secretary between January 1, 2005 and February 28, 2007, under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a));

(ii) a major disaster or emergency designated by the President between January 1, 2005 and February 28, 2007, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(iii) a determination of a Farm Service Agency Administrator's Physical Loss Notice if such notice applies to a county included under (ii).

SEC. 9003. EMERGENCY CONSERVATION PROGRAM.

There is hereby appropriated to the Secretary of Agriculture $16,000,000, to remain available until expended, to provide assistance under the Emergency Conservation Program under title IV of the Agriculture Credit Act of 1978 (16 U.S.C. 2201 et seq.) for the cleanup and restoration of farm and agricultural production lands.

SEC. 9004. PAYMENT LIMITATIONS.

(a) REDUCTION IN PAYMENTS TO REFLECT PAYMENTS FOR SAME OR SIMILAR LOSSES.—The amount of any payment for which a producer is eligible under sections 9001 and 9002 shall be reduced by any amount received by the producer for the same loss or any similar loss under—

(1) the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2680);

(2) an agricultural disaster assistance provision contained in the announcement of the Secretary on January 26, 2006 or August 29, 2006; or

(3) the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 418).

(b) ADJUSTED GROSS INCOME LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) shall apply with respect to assistance provided under sections 9001, 9002, and 9003.

SEC. 9005. ADMINISTRATION.

(a) REGULATIONS.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement sections 9001 and 9002.

(b) PROCEDURE.—The promulgation of the implementing regulations and the administration of sections 9001 and 9002 shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary of Agriculture shall use the authority provided under section 808 of title 5, United States Code.

(d) USE OF COMMODITY CREDIT CORPORATION; LIMITATION.—In implementing sections 9001 and 9002, the Secretary of Agriculture may use the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out sections 9001 and 9002 unless funds have been specifically appropriated for such purpose.

SEC. 9006. MILK INCOME LOSS CONTRACT PROGRAM.

(a) Section 1502(c)(3) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)(3)) is amended—

(1) in subparagraph (A), by adding ''and'' at the end;

(2) in subparagraph (B), by striking ''August'' and all that follows through the end and inserting ''September 30, 2007, 34 percent.''; and

(3) by striking subparagraph (C).

(b) Section 10002 of this Act shall not apply to this section except with respect to fiscal years 2007 and 2008.

SEC. 9007. DAIRY ASSISTANCE.

There is hereby appropriated $16,000,000 to make payments to dairy producers for dairy production losses in disaster counties, as defined in section 9002 of this title, to remain available until expended.

SEC. 9008. NONINSURED CROP ASSISTANCE PROGRAM.

For states in which there is a shortage of claims adjustors, as determined by the Secretary, the Secretary shall permit the use of one claims adjustor certified by the Secretary in carrying out 7 CFR 1437.401.

SEC. 9009. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

There is hereby appropriated $16,000,000 to carry out section 2281 of the Food, Agriculture, Conservation and Trade Act of 1990 (42 U.S.C. 5177a), to remain available until expended.

SEC. 9010. CONSERVATION SECURITY PROGRAM.

Section 20115 of Public Law 110–5 is amended by striking ''section 726'' and inserting in lieu thereof ''section 726; section 741''.

SEC. 9011. ADMINISTRATIVE EXPENSES.

There is hereby appropriated $22,000,000 for the ''Farm Service Agency, Salaries and Expenses'', to remain available until September 30, 2008.

SEC. 9012. CONTRACT WAIVER.

In carrying out crop disaster and livestock assistance in this title, the Secretary shall require forage producers to have participated in a crop insurance pilot program or the Non-Insured Crop Disaster Assistance Program during the crop year for which compensation is received.

TITLE X—GENERAL PROVISIONS

SEC. 10001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 10002. Amounts in this Act (other than in titles VI and VIII) are designated as emergency requirements and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

Mr. REID. Mr. President, I move to concur in the House amendment.

Mr. President, more than 4 years ago, the Bush administration took this Nation to war in Iraq—took this Nation to war in Iraq without sufficient troops, without a plan to win the peace, and without truth regarding Saddam Hussein's nonexistent weapons of mass destruction or his nonexistent links to al-Qaida.

Nearly 51 months later—6 months longer than it took this Nation to defeat Germany and Japan in World War II—the violence in Iraq continues and the cost to our military and our Nation has been frightening. More than 3,400 American troops have made the ultimate sacrifice—death. Nine were killed yesterday and two more today in this escalating violence across Iraq in which we are losing our brave men and women. Guard and Reserve units all across America lack equipment to do their jobs at home and in Iraq. U.S. citizens have provided nearly half a trillion dollars to cover the cost of this intractable civil war. And because of this war, our Nation has been totally distracted in its effort to defeat those who attacked us on 9/11. Indeed, more than 5 years after 9/11, Osama bin Laden is still free, and al-Qaida remains an important force.

Throughout all this, our military has performed heroically. Our troops have done everything asked of them and even more. Our troops toppled a dictator and gave the Iraqis a chance to establish a new government and a new way of life. Unfortunately, the Bush administration did not provide them a strategy to match that sacrifice. Iraq is now in a state of civil war, with no end in sight, and our valiant troops are caught in the middle.

Instead of accepting this reality, President Bush has stubbornly refused to change course. Instead of listening to his military commanders who say there is no military solution in Iraq, he has plunged our forces further into sectarian fighting. Instead of accepting a bipartisan path in Iraq offered by Congress and even the Iraq Study Group, this President stubbornly clings to his failed ''my way or the highway'' approach to governing America.

MG John Batiste, who commanded the First Infantry Division in Iraq, says this about the President's failed Iraq policy:

> Here is the bottom line: Americans must come to grips with the fact that our military alone cannot establish a democracy. We cannot sustain the current operational tempo without seriously damaging the Army and Marine Corps. Our troops have been asked to carry the burden of an ill-conceived mission.

Earlier this year, former U.S. Secretary of State Henry Kissinger said: The problems in Iraq are more complex than Vietnam, and military victory is no longer possible. Henry Kissinger said—and I repeat—the problems in Iraq are more complex than Vietnam, and military victory is no longer possible.

GEN George Casey, former Commander of U.S. Forces in Iraq, and currently Chief of Staff of the Army, said:

> It has always been my view that a heavy and sustained military presence was not going to solve the problem in Iraq.

That was General Casey. Six months ago, the Iraq Study Group said the situation in Iraq was grave and deteriorating. The civil war in Iraq has only gotten more pronounced since then. Unfortunately, the President's escalation strategy has not produced the positive results we seek. Attacks on U.S. forces have increased, not decreased. Since the onset of this latest surge, more than three U.S. soldiers have been killed every day. Nearly 90 soldiers have been killed this month so far, and almost 400 since the escalation plan began. Sectarian killings have increased to presurge levels.

According to today's Washington Post newspaper, over 300 unidentified corpses, most dumped in streets and alleys and water sewer systems, showing signs of torture and execution, were found all across the capital of Iraq in the month of May. And the month of May is not over.

Four million Iraqis, including 1.6 million children, have fled their homes because of the violence, setting the stage for a massive humanitarian crisis.

Our military has been pushed to the breaking point. To make up for the shortages of combat-ready forces, tours of duty have now been extended from 12 to 15 months, with many soldiers now in their third and fourth tours.

Mr. President, I spoke just last week to one Nevada family whose son was killed in action last week. We all remember there were three hostages, prisoners of war. I called the father, and he said: I pray that my boy is one of the three. There were four that were unidentified. Well, his prayers were not answered. His son was the one incinerated in the humvee, and they had to wait until they took DNA to find out it was his son.

This soldier had survived four vehicle explosions during his four tours of duty. That is too much to ask of any soldier or his family. Perhaps, not surprisingly after all, this soldier expressed reservations about the war in Iraq, is what he told his best friend before he left for the fourth time. His grandfather said:

It is a waste of young lives. We should not be in the middle of a civil war.

Meanwhile, our capacity to respond to other challenges around the world has been greatly constrained. Terror attacks across the world are up, not down. U.S. influence and standing is down, not up. By focusing on Iraq and doing little or nothing in the rest of the Middle East, this critical region has been destabilized even further and stands even closer to a broader regional war.

The American people saw all this unfolding last November and they reached a conclusion that enough was enough. That is why they sent this President and Congress a clear and unmistakable challenge and a direct message: Find a responsible end to this war.

That is what congressional Democrats have done. From the very first day of this democratically controlled Congress, we have made it clear to the President that the days of blank checks and green lights for his failed policy are over. After 6 years of rubberstamping President Bush's failed policy, Congress has reasserted its rightful position in our constitutional form of Government.

Democrats have held more hearings on Iraq in 4 months than the Republican-controlled Congress held in 4 years. We have repeatedly forced our Republican colleagues in the Senate and in the House to debate and vote on where people stand with respect to the President's failed Iraq policy. With each step we have taken, the pressure on the President and his Republican allies to change course has grown.

The most important step we have taken occurred last month. In the face of heavy White House pressure and more misleading statements by administration officials, Congress was able to pass a bill that did what the American people asked us to do: No. 1, fully fund our troops and, No. 2, immediately change the direction of the war in Iraq.

In addition, the bill provides much needed funds to procure additional equipment for our Guard and Reserve and to provide health care services for active-duty troops and America's heroic veterans.

As the Senate Democratic leader, I am very proud of Senate Democrats. In less than 4 months of Democratic control, with virtual Democratic unanimity, Congress sent the President binding language that would truly compel him to do what the American people desire. Unfortunately, though, the President vetoed that important legislation, leaving him further isolated from the American people, military experts, and an increasing number of his own political party.

In the days since that veto, we have had negotiations with the administration about how to proceed. The President made it very clear as late as last night that he intended to veto any effort to implement timelines, transition the mission, or ensure the readiness of our troops before they are deployed. Furthermore, here in the Senate our minority colleagues made it clear they are determined to place procedural hurdles, most notably requiring 60 votes rather than a simple majority, in front of those who seek to significantly alter the President's Iraq policy. Democratic unanimity with a handful of Republicans will not be sufficient to do what we believe must be done. Until more Republicans develop the courage to step forward and insist that the President change course in Iraq, Republican intransigence has left us with no good options.

How to vote on this bill before us is a very difficult and personal decision for each Member of this Senate. There are many thoughtful members of my caucus who believe we should vote no, and continue to vote no until the President and his supporters come to their senses. There are equally thoughtful members who believe we must vote yes because this bill does take a step forward in holding the President and the Iraqis accountable and it does increase pressure on this administration and its supporters to change direction in Iraq.

Although this is a very close call for me, as I suspect it is for many Senators, I have decided to support this measure. But let me say, I know those who oppose this bill care as deeply about the safety of our troops as I do. They know I care as deeply about changing the course in Iraq as they do.

This bill before us clearly does not go as far as a bipartisan majority of Congress would like. But it goes a lot further than the President and his supporters were willing to go earlier this month. That is why we saw this headline in a recent edition of the Los Angeles Times. Here is what it said: ''Senate Tilting On Iraq Policies; Republicans Show Their Strongest Willingness Yet To Rein In Bush.''

Here is what the bill requires of the administration and Iraqis, the one before us tonight: It establishes 18 benchmarks on which to measure the Iraqi Government's performance; restricts the use of foreign aid to the Iraqi Government should they fail to make meaningful progress; requires the President to certify that the Iraqi Government deserves these funds even if they fail to perform as promised; requires the administration to testify before Congress and an independent assessment by the Government Accountability Office on the performance of the Iraqi Government; requires the President submit a report on the combat proficiency of Iraqi security forces; requires the President to redeploy our troops if the Iraqi Government concludes our presence is no longer desired; restricts use of Defense Department funding until Congress receives information about contractors in Iraq; and states official U.S. policy precludes permanent military bases in Iraq, no torture of detainees, and no designs on Iraqi oil.

When the President signs the bill, that will be the law. Some of this language is taken from an amendment offered by Senator JOHN WARNER last week. Senator WARNER offered his amendment as an alternative to the Feingold-Reid amendment that would have immediately transitioned the mission in Iraq and required a phased redeployment by April 2008. Naturally I said the Feingold-Reid language was far superior to the Warner language. However, today we don't have the option of choosing between Feingold-Reid and Warner. I wish we did. Although the Warner language is weak by comparison to Feingold-Reid, and I so stated on the Senate floor last week, I believe we can begin holding the administration accountable if we adopt the Warner language plus the other Iraq-related provisions contained in this bill, which I have outlined.

I know none of these measures comes close to the timelines and accountability provisions I supported in the vetoed bill. However, I also know these provisions will force the administration to do more than they have ever done before. I also know the stakes are too high and our obligation to the troops and the country is too great for us to stop working to force the President and his supporters to change course. The burden for securing and governing Iraq must now rest with the Iraqi people.

As General Abizaid said:

It is easy for Iraqis to reply upon us to do this work. I believe that more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future.

GEN Doug Lute, recently nominated by President Bush to be his war czar, said:

We believe at some point, in order to break this dependence on the coalition, you simply have to back off and let the Iraqis step forward.

As long as I am Democratic leader and this President persists in pursuing the worst foreign policy blunder in this Nation's history, the American people should know I am determined to fight for change in Iraq. The Senate Armed Services Committee reported the fiscal year 2008 Defense authorization bill earlier today. We will move to it in our next work period, which starts in about 10 days. This battle for responsible and effective Iraq policy will be joined in the Senate no later than when we take up that bill. Senate Democrats will not stop our efforts to change our course in this war until either enough Republicans join us to reject President Bush's failed policy or we get a new President.

In 1941, in an address at Harrow School, Winston Churchill said:

Never give in. Never give in. Never, never, never. . . .

My colleagues here in the Senate, particularly my Republican colleagues, should know this is precisely my attitude when it comes to bringing about a change in course in the intractable civil war in Iraq. Although I didn't get everything I sought in the bill before us, and that is an understatement, I will not give up until the supporters of the President's failed policy accept the realities on the ground in Iraq, until they accept that the President's plan is not working, that this war must come to an end, and that it is time for our troops to come home in a safe and responsible way.

Paraphrasing the words of Winston Churchill, when it comes to forcing the President to change course in Iraq, Senate Democrats will never give in, never give in, never, never, never.

I ask for the yeas and nays.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Utah (Mr. HATCH), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Utah (Mr. HATCH) and the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

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

The result was announced—yeas 80, nays 14, as follows:

The result was announced—yeas 80, nays 14, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—80

Akaka	Dorgan	Menendez
Alexander	Durbin	Mikulski
Allard	Ensign	Murkowski
Baucus	Feinstein	Murray
Bayh	Graham	Nelson (FL)
Bennett	Grassley	Nelson (NE)
Biden	Gregg	Pryor
Bingaman	Hagel	Reed
Bond	Harkin	Reid
Brown	Hutchison	Roberts
Bunning	Inhofe	Rockefeller
Byrd	Inouye	Salazar
Cantwell	Isakson	Sessions
Cardin	Klobuchar	Shelby
Carper	Kohl	Smith
Casey	Kyl	Snowe
Chambliss	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Collins	Levin	Stevens
Conrad	Lieberman	Sununu
Corker	Lincoln	Tester
Cornyn	Lott	Thune
Craig	Lugar	Vitter
Crapo	Martinez	Voinovich
DeMint	McCain	Warner
Dole	McCaskill	Webb
Domenici	McConnell	

NAYS—14

Boxer	Enzi	Obama
Burr	Feingold	Sanders
Clinton	Kennedy	Whitehouse
Coburn	Kerry	Wyden
Dodd	Leahy	

NOT VOTING—6

Brownback	Hatch	Schumer
Coleman	Johnson	Thomas

The motion was agreed to.

Mr. DURBIN. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE EXPLANATION

Mr. SCHUMER. Mr. President, I am entering this statement in the RECORD because I am attending my daughter's graduation baccalaureate service in New York. Had I been here I would have voted in favor of the supplemental appropriations bill because I believe we must fund the troops who are in harm's way. However, I believe just as strongly that we must change our mission in Iraq away from policing a civil war and toward a much more narrowly focused goal of counterterrorism, which requires a much smaller number of troops. That is what the Feingold-Reid amendment stood for and that is why I voted for it on May 16, 2007. Unfortunately, it did not have enough votes to pass. Our effort to force the President to change the mission in Iraq will continue almost immediately with the DOD authorization bill and will not end until we succeed.

MORNING BUSINESS

Mr. DURBIN. I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Illinois.

DARFUR

Mr. DURBIN. Mr. President, I come to the floor this evening to address the ongoing genocide in Darfur. I have been coming to the floor almost every week to try to make certain we don't forget what is happening in Sudan, even as we focus most of our energy on important issues such as the war in Iraq, immigration reform, and so many other things on our Senate agenda. But the crisis in Sudan is simply too great for us to ignore. It has now been over 2½ years since the President quite rightly called the situation in Sudan what it is, a genocide. It was September 9, 2004, when the President made that courageous statement, and we all know a statement like that has historic importance.

The United States, under the 1948 U.N. Convention on Genocide, is committed to providing effective penalties against the killers if it deems that genocide is taking place. We are compelled to act. Yet sadly, we have done precious little to change the situation to this point.

It is true that Congress, the administration, the private sector, and the nonprofit community have taken some steps to increase the pressure on the Sudanese Government to stop the killings and mass displacement of innocent people. That is at least a start. In Congress, Members have spoken out against the killings. They have introduced resolutions of condemnation, and they have proposed legislation in an effort to do something. I have introduced legislation that would support state governments which decide to encourage public funds to divest from Sudan-related investments. That bill has attracted strong bipartisan cosponsorship from over 25 Members of the Senate. Some of us have tried to make the right personal decisions to divest from Sudan-related investments in our own savings as a gesture of solidarity with the divestiture movement. But we have to do so much more.

As for the Bush administration, the Office of Foreign Assets Control within the Treasury Department, working with many agencies and departments,

has worked hard to tighten economic and political sanctions against the leaders and supporters of the Sudanese regime. President Bush spoke out at the Holocaust Museum a few weeks ago. He has vowed to keep pushing for change in Sudan. Yet the administration must do more.

In the private sector, I was pleasantly surprised to see that Fidelity recently decided to sell part of its stake in PetroChina, a company listed on to the New York Stock Exchange, the parent of which is a state-owned Chinese oil company with massive operations in Sudan. Fidelity sold 91 percent of its PetroChina holdings in the United States and even though that only amounts to 38 percent of its global PetroChina holdings, this is nonetheless a positive sign. The divestiture movement is under way. Other investment firms such as Calvert have gone a step further and promised to hold no shares of any firm that operates to the benefit of the Government of Sudan. Yet the private sector must do more.

Within the nonprofit community, organizations such as the Sudan Divestment Task Force and the Genocide Intervention Network continue to apply pressure to governments and to private firms to get them all to do more to stop the genocide. Yet they too must do more. All of us must work together to do more in Congress, in the private sector, among nonprofit organizations and, yes, individuals and families concerned about this terrible situation. To that end, I am working with my colleagues in the Senate and House and with the Bush administration, with private sector advisors, and with the advocacy community to craft a new bill that will apply even more economic pressure on the Sudanese regime and those who support it.

My bill, which I will introduce when we return, is the Sudanese Disclosure and Enforcement Act. It would do the following: First, it expresses the sense of the Congress that the international community should continue to bring pressure against the Government of Sudan in order to convince that regime that the world will not allow this crisis to continue unabated.

Second, it requires more detailed SEC disclosures by U.S.-listed companies that operate in the Sudanese petroleum sector, in order to provide more information to investors that are considering divestiture.

Third, it increases civil and criminal penalties for violating American economic sanctions in order to create a true deterrent.

Fourth, it requires the administration to report on the effectiveness of the current sanctions regime and recommend other steps Congress can take to help end the crisis.

Fifth, it authorizes greater resources for the Office of Foreign Assets Control within the Department of Treasury to strengthen its capabilities in tracking Sudanese economic activity and pursuing sanctions violators.

I will introduce this bill when we return. I urge my colleagues to seriously consider it, and I hope they will join me.

I have recently written to President Bush urging him to support the bill but also to take the next step. He promised 5 weeks ago to take action. His speech was at an auspicious location, the Holocaust Museum in Washington, DC, a museum which notes the terrible tragedy that befell 6 million people during World War II. The President said on that day:

> You who have survived evil know that the only way to defeat it is to look it in the face and not back down. It is evil we are now seeing in Sudan—and we're not going to back down.

He went on to say:

> No one who sees these pictures can doubt that genocide is the only word for what is happening in Darfur and that we have a moral obligation to stop it.

Those are the words of the President. They are words worth repeating. The President declared that the current negotiations between the U.N. Secretary General Ban Ki-moon and President Bashir of Sudan are ''the last chance'' for Sudan to do the following: Follow through on the deployment of U.N. support forces, allow the deployment of a full joint U.N.-African Union peacekeeping force, end support for the Janjaweed militia, reach out to rebel leaders, allow humanitarian aid to reach the people of Darfur, stop his pattern of destruction once and for all.

President Bush then declared that if Bashir does not follow these steps, in a short time the Bush administration will take the following steps, in the President's words: Tighten U.S. economic sanctions on Sudan, target sanctions against individuals responsible for the violence, and prepare a strong new United Nations Security Council resolution.

Five weeks later, a short time has passed, and now it is time to act. In these 5 weeks, President Bashir has ignored the world. In fact, a spokesperson for the Secretary General of the United Nations has called recently renewed bombing in Sudan indiscriminate and a violation of international law. While we wait, while we ponder, while we think, while we work, while we vacation, innocent people die, victims of a genocide. How will history judge us? Will it judge us for having acknowledged this genocide and responding, or will it judge us for having acknowledged this terrible tragedy and responded with nothing?

It is time to act. We must do more. This is simply too important and too historic to ignore any longer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I compliment my friend from Illinois. He might be interested to know I met with the Secretary General of the United Nations on Monday in his office. I indicated I wanted to know what he was prepared to propose. As you know, there are three phases to the process whereby the Sudanese have agreed to the implementation of ultimately 21,000 troops made up of the African Union as well as United Nations forces. He indicated he would have an answer as to what he thought might be able to be done probably by the end of Memorial Day. My point to him was similar to my friend from Illinois. If, in fact, the Sudanese Government refuses to allow, on the basis of their sovereignty, the placement of U.N. forces on the ground, that it violates their sovereignty.

I indicated I believed—and others believe as well—that the country forfeits its sovereignty when it participates and engages in genocide and that we, the United States, should push the Security Council to implement the placement of those troops on the ground regardless of what Khartoum says. Further, if they don't, it is my view the United States unilaterally should engage through a no-fly zone as well as the placement of 2,500 troops on the ground to take out the Janjaweed. That is not a political settlement, but the point I made to the Secretary General was, as we talk about the ultimate problem, the need for a political settlement, it is like talking about a patient who has cancer and on the way to the operating room falls off the gurney and slits his jugular vein and is bleeding to death. Everybody says: We have to take care of the cancer. But they are going to bleed to death.

I have been in those camps in Darfur, actually on the border of Darfur. I have visited them in Chad. One camp with 30,000 women and children in it, over 300,000 in that region, deteriorating rapidly. It is a human disaster. I hope if, in fact, the United Nations doesn't act, the Senate will be prepared to act to support pushing the President to have the United States lead.

The point I am making is, I compliment my friend for continuing to keep this in the consciousness of our colleagues and the public.

IRAQ

Mr. BIDEN. But, Mr. President, the reason I rise today is to speak because there was not time for me to speak on the supplemental we just voted for.

Earlier this month, Congress sent the President an emergency spending bill for Iraq. It provided the President with every single dollar our troops needed and the President requested, and then some.

It also provided the American people a plan to bring this war to a responsible end, including the language Senator LEVIN and I wrote, which required to start to bring American troops home within 120 days, have the bulk of our combat troops out of Iraq by March—it turned out to be April 1 of 2008, and to, most importantly, limit the mission of the smaller number that would remain to fighting al-Qaida and training Iraqi troops.

In vetoing that bill, the President denied our troops funding they needed and the American people the plan they want. When the President did that, I urged, like others, that we send the bill back to him again and again and again. But the hard reality is, we found out we did not have the 53 votes we had the first time, that we did not have even 50 votes, that we would not be able to send it back. And ultimately, even if we had the 50 votes, we probably did not have 60 votes to stop a filibuster. We clearly do not have 67 votes to overcome another veto. We do not have those votes either.

I do not like the bill we just voted on, the one I voted for. It denies the American people a plan for a responsible way out of Iraq. It would also start to cut off funds for the Iraqis if the benchmarks are not met. What a silly idea. That would be self-defeating. We are trying to build the Iraqi Army so we can get out of harm's way, and we are going to tell the Iraqis, who have no possibility of getting themselves together, if they do not, we are going to stop training them.

I would like nothing better than to have voted against this bill, but I think we have to deal with the reality. The reality is, first, for now, those of us who want to change course in Iraq do not have the 67 votes to override a Presidential veto. As long as the President refuses to budge, the only way we can force him to change his policy in Iraq is with 67 votes.

Well, we have 49 Democrats and one Independent on our side. We need to bring 17 Republicans along all the way to our thinking, to the way a strong majority of the American people are thinking. We are making progress, but we are not there yet. So it is nice to talk about taking a stand on this, but we do not have the votes, though. We do not have the votes yet to turn our rhetoric into reality. That is the reality.

Secondly, I believe as long as we have troops on the front lines, it is our shared responsibility to give them the equipment and protection they need. The President may be prepared to play a game of political chicken with the well-being of our troops, but I am not, and I will not.

For example, if we do not get the money this bill provides into the pipeline right now, we are not going to have a chance to build and field the mine-resistant vehicles that are being so dearly sought after by the Marine Corps and the rest of the services, and that I have been fighting for. If we build these mine-resistant vehicles, the facts show we can cut the deaths and casualties on the American side as a consequence of these bombings by two-thirds.

We just voted earlier on this bill—because we were going to drag out for 2 years the construction of these vehicles. In 2 years, another 2,000 people could die. They need to begin to be built now, and they all must be built by the end of this year.

Under anyone's plan for Iraq—even those who advocate pulling every single troop out of the country tomorrow—there is a reality: It would take months to get them out. In the meantime, our troops are riding around in humvees that are responsible for these roadside bombs: 70 percent—70 percent—70 percent—of the deaths and 70 percent of the casualties.

As long as there is a single soldier there, I believe we have an obligation, and speaking for myself, I will do everything to make sure he or she has the best protection this country can provide. That is my reality.

Third, I am prepared to cut funding to get our troops out of the sectarian civil war in Iraq and to start bringing most of them home, while limiting the mission of those who remain. That is why I voted for the Reid-Feingold amendment last week. But I am not prepared to vote for anything that cuts off 100 percent of the funding for all troops in Iraq because everyone in this room knows there is going to be a requirement—no matter what happens—to leave some troops in Iraq for a while.

So what are we going to do? Cut funding off for them to satisfy what is a very difficult—difficult—thing to explain to the vast majority of the American people who do not understand why we are not out of this war? We can and we must get most of our troops out by early next year. But we still need a much smaller number. That is my reality as well.

I know this supplemental bill is a bitter pill to swallow for so many Americans who believe, as I do, this war must end. I must tell you, in my present pursuit, it is not a smart vote for me to make because it requires explanation. But I do not believe people fully understand how it is that the people voted in the Democratic Party in November of last year, in large part to end this war, but we have not been able to do so yet.

Well, like it or not, we have a system that protects the rights of the minority and puts the burden on the majority in order to have its way. It also creates a balance of power between the President and the Congress. That is why it takes 60 votes in the Senate—not 51—to get something done if the minority is determined not to have it done. That is why it takes 67 votes in our Constitution to override a President's veto. That is a reality. Not my reality—that is a constitutional reality.

So where do those of us who are determined to end this war go from here? Well, day after day, vote after vote, we must, and we will, work to keep pressure on the Republicans to stop reflexively backing the President and start supporting a responsible path out of Iraq—make them vote against it again and again because, quite frankly, I do not expect to change the President's mind. But I believe we can change the mind of 17 Republicans.

Until that day comes—until that day comes—as long as this President is President, the carnage and chaos and stupidity in the conduct of this war is likely to continue. So I believe with every funding bill, we are going to have to come back at every juncture and require people to vote time and again against the will of American people in order to change the attitude of my colleagues on the Republican side. That is the reality. That is the reality that will bring this war to an end.

Like the most distinguished Member who serves in this body, the Senator from West Virginia, I was here during the Vietnam war, at the end. We all talk about how we cut off funds. We did not cut off funds until the vast majority of the troops were already out. We did not cut off funds until 1975. The reality was—the reality was—we did not do it. It is an incredibly blunt instrument.

So I would have felt better, I would have had less to explain, and it would have been easier, because I have been such a persistent critic, I think most of my colleagues will acknowledge, for the 4½ years of this war, to vote to cut off the funding. But as we head into the Memorial Day recess, I want to remind my colleagues it is clearly time for us to do our part as well to support our troops.

We in the Senate, and our colleagues in the House, and the military leadership, the President, and the American people have an overriding, overarching moral obligation to provide our forces, who are in the middle of a war, with the full weight of this Nation's productive capacity, and all that is humanly possible, as we send citizens to war, to protect them. We have not done that. This administration has not done that and has not asked for the money to do that. But we have to, and we must. We must speak to one specific situation which I fear, if I do not raise today and every day—as I have in the last 3 weeks—it will not come to pass, it may not get done. It goes back to why I felt I had to vote for this funding.

The issue is these mine-resistant vehicles, but it is bigger than that. The issue is giving the men and women on the front lines a dramatically better chance to survive. It is totally, completely within our power to do that. We have the technology to do that. We have the capacity to do that. We have the money to do that. We need only the will to do that.

We have proven technically that our technology can, in fact, meet this glaring deficiency that is killing so many of our troops. When I say proven, I mean it. Let me be specific.

At the Aberdeen Proving Center, those folks have been working 24 hours a day, 7 days a week, for the past 3 months to fully test every design and variation of the so-called MRAPs, mine-resistant ambush-protected vehicles, vehicles that are out there. By next week, I am told, they will have concrete test data that will back up the purchasing decision the military will have to make.

We already know these mine-resistant vehicles give four to five times more protection than uparmored HMMWVs. We already know the casualty and death rate will go down by two-thirds if we have these mine-resistant vehicles, which means we know we should be doing everything possible, as rapidly as possible, because every day we waste one more life is in jeopardy. We can save two-thirds of the lives being lost there—3,400 dead plus, and almost 24,000 severely wounded.

But why did these amazing test efforts only begin to happen this year? Why are we only now starting to build these mine-resistant vehicles? And why are we building them in such small quantities?

We learned this week the Marine commanders in Iraq in February of 2005—February of 2005—realized they needed these vehicles that have a V-shaped hull. They are designed specifically to defeat what everybody in America, unfortunately, has come to know about: IED, improvised explosive devices. They are the roadside bombs and mines that we know cause 70 percent of all the casualties and deaths.

Now, in February of 2005, the first characteristic these commanders asked for—and I am quoting from the statement they sent to the Pentagon called a Universal Needs Statement—they said: We need a vehicle to ''protect the crew from IED/mine threat through integrated V-shaped monocoque hull designed specifically to disperse explosive blasts and fragmentary effects.''

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. BIDEN. Mr. President, I ask unanimous consent that I may be able to proceed for 3 more minutes.

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

Mr. BIDEN. The bottom line, in simple English, for nonphysicists is, no matter how much you reinforce a flat-bottomed vehicle, when a bomb goes off under the vehicle, it either penetrates the vehicle or penetrates the vehicle, bounces back, and comes back up off the ground again.

With these V-shaped vehicles, what happens is, when the blast goes off—other than the very point of the V—it takes the blast and, instead of it bouncing back on the ground and bouncing back up, it shoots it off to the side, thereby increasing by two-thirds the likelihood of survival.

No one should give us any of the malarkey I have heard from some in the military and the administration about how any uparmored humvee might have satisfied the need. The bottom line is, they cannot do what these V-shaped vehicles can do.

Now, not only have these mine-resistant vehicles been fully tested at Aberdeen, but our allies have been using similar technologies for years. We are going to get down to the bottom of what happened in 2005. But for now, let me get right to the chase. We have an overwhelming moral obligation to build as many of these vehicles as rapidly as possible and get them to the field as soon as possible—even if we are pulling out every single troop in January. Between now and January, we have an obligation to save lives. It is within our capability and within our power to do so.

One more thing I would bring to the attention of my colleagues. I also learned today—and we will soon find out—I learned today they have also developed, out at the Aberdeen Proving Center, the capacity to be able to thwart the ability of these things called EFPs, explosively formed penetrators. That is going to cost a lot of money. I hope I do not hear from anyone on this floor or anyone in the Congress that, notwithstanding the fact we now have the technology, we are going to wait down the road because it costs too much money to do it now or it will take too much time, and we may have to leave—as one military man said to me: We don't want to build all these. We are eventually going to be coming home. We will have to leave them behind. That is a little like Franklin Roosevelt saying, when asked to build landing craft for the invasion of D–Day: We don't want to build too many of these, it costs too much money, because we are going to have to leave some behind.

I say to my colleagues and to the distinguished Senator from West Virginia, Secretary Gates ended his press conference today by saying there were competing interests for dollars. That may be true. But when it comes to the life of an American soldier we know—we know—we know for a fact we can protect, there is no other competing interest. There is no other competing interest. Competing interests may exist, but there is only one interest, and that is as this foolish war continues under this President, our sons and daughters are being killed, and we have the capacity right now to begin to build vehicles that will diminish by two-thirds the casualty rate. There are no other competing interests.

So I am going to continue to talk about this, I say to my colleagues, and I hope once we get the final call from the Pentagon, no one here on this floor will rise to tell me we can't afford to do this.

I thank my colleague from West Virginia for his extreme courtesy, as always.

I yield the floor.

The PRESIDING OFFICER. The President pro tempore is recognized.

MEMORIAL DAY

Mr. BYRD. Mr. President, I thank the Chair.

In Flanders fields the poppies blow
Between the crosses, row on row
That mark our place; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.

We are the Dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

John McCrae, who wrote ''In Flanders Fields,'' was a Canadian physician. He fought on the western front in 1914 before he was transferred to the medical corps and assigned to a hospital in France. He died of pneumonia while on active duty in 1918, and his volume of poetry was published in 1919.

This Monday, in veterans cemeteries around the Nation, flags will be placed, tenderly placed—tenderly placed—before gravestones that carefully and simply mark the thousands of enlisted men and officers, soldiers, sailors, airmen and marines who, like John McCrae, did not come home to ticker tape parades but, rather, to slow caissons trailed by weeping families, final gunfire salutes, and the haunting melodies of ''Taps'' played by a lone bugler. Some of those graves will be lush with sod, and the final dates will bring back great battles in the campaigns from the Pacific, Africa, or Europe. Other graves will still be raw Earth, with dates on the headstones that mark the ambushes and improvised explosive devices of modern urban insurgent warfare. But on this day, none—none—will be forgotten, and all will be honored for their sacrifice, whatever their rank, whatever their service, and whatever their last proud moment. The red of the poppies and the red stripes in the flags recall the red badge of their courage.

The current conflicts in Afghanistan and Iraq have also given rise to some new ways to remember and honor the fallen. On the Internet, each soldier lost in Iraq has his or her name, his or her picture, and the date and the place of their death listed on a number of Web sites, including those hosted by several newspapers. A traveling exhibit of 1,319 portraits lets ''America's Artists Honor America's Heroes'' through their own talents—through their own talents. When the exhibit is over, those portraits will be given to the soldier's family. In these ways, each of us can put a face to these statistics. We can see the faces, young and old, just as their families remember them.

The Senate this week has also remembered those who have fallen and those still in harm's way in Afghanistan and Iraq. The Appropriations Committee has finalized the emergency supplemental bill to fund the operations of the military and provide more protective gear and technology to our troops in the field. I hope that this time the President, our President, will sign the bill and speed those funds to the troops. Also this week, the Senate Armed Services Committee is marking up the fiscal year 2008 Defense authorization bill. This bill too will look after all of our Active-Duty, Guard and Reserve forces that face the prospect of

additional and longer tours in Iraq in the months ahead. Like the emergency supplemental bill put together by the Appropriations Committee, the Defense authorization bill will continue the work of ensuring that the wounded from these conflicts receive the best care and support as they recover from their injuries.

In 430 BC, after the first year of the Peloponnesian War, the Greek historian Thucydides recorded the funeral oration delivered by Pericles, the great Greek general. Thucydides records that Pericles did not speak of the battles but, rather, of the glories—the glories—of Athens and what a privilege it was—what a privilege it was—for each Athenian to live in such a perfect place. Pericles said that the sacrifice of those fallen in battle to keep the nation strong left them with the:

> Noblest of all tombs—the noblest of all tombs, I speak not of that in which their remains are laid, but of that in which their glory survives.

Pericles felt there could be no better place to live than Athens and no place more deserving of a soldier's sacrifice. Almost 2,500 years later, I feel confident that every soldier, sailor, airman, and marine who has fought and died in Afghanistan and Iraq probably felt the same way—yes—about the United States.

They were proud to be in uniform and ready to serve the Nation that they loved and held in such high regard. The Nation will ever mourn their loss and honor their sacrifice.

IRAQ

Mr. BIDEN. Mr. President, the President of the United States has recently stated that we are remaining in Iraq in order to defeat al-Qaida—a summary of a statement he made yesterday. Well, I wish to briefly state what I think the facts are.

Iraq has become a Bush-fulfilling prophecy. Al-Qaida was not there before the war, and it is there now. It is a problem, but it is not the primary problem. In my view, the President of the United States is inadvertently handing al-Qaida a propaganda victory here by vastly exaggerating its role in Iraq.

The sectarian war—the war between Sunnis and Shias, Sunnis and Shias killing each other—is the core problem, and our troops are caught in the middle of that war. New statistics from Iraq make it absolutely clear that sectarian violence is getting worse and now exceeds the levels immediately prior to the surging of American forces over a month ago.

The focus of the President of the United States on al-Qaida and Iraq, ironically, supports exactly what I have been arguing for. We need to dramatically limit the mission of U.S. troops in Iraq, getting them out of the middle of this sectarian civil war and refocusing their mission, which should be battling al-Qaida from occupying territory in Anbar Province and training Iraqi troops. That would require far fewer troops and allow us to begin to remove American troops immediately and get the vast majority of our combat troops out of Iraq early next year, consistent with the Biden-Levin provision that was in the bill the President vetoed.

Our troops cannot end the sectarian war. Mr. President, 500,000 American troops will not end the sectarian war. What is required is a political solution, even as we continue to take on al-Qaida, which is a growing but not the primary problem in Iraq.

The President continues to bank on a farfetched hope. His hope is well-intended, but it is farfetched that the Iraqis will rally behind a strong democratic central government in Baghdad. But there is no trust within the Government in Baghdad. There is no trust of the Government in Baghdad by the Iraqi people. And there is no capacity by that Government in Baghdad to deliver either services or security.

Instead, the President should throw his full weight—the full weight of his office—behind the solution based upon federalism in Iraq, allowing the Iraqis to have control over the fabric of their daily lives, helping them bring into reality the Iraqi Constitution, where article 1 says: We are a decentralized federal system. We should not impose this. We do not need to. It is already in the Iraqi Constitution.

The President should call for a U.N. summit to get the world's major powers and Iraq's neighbors to push for a political agreement. It is not an answer to put up a straw man and say we remain there because of al-Qaida. What is an answer is to call for the permanent five of the United Nations to call for a regional conference; make Iraq the world's problem. I met with the Security Council permanent four, with us being the fifth, in New York on Monday. It is like pushing an open door. They are ready to respond to the President's request to do that. This is doable. This is necessary. The President should begin to focus on the facts, not the fiction of al-Qaida being our rationale for being there.

I will end where I began. Al-Qaida's presence in Iraq has become a Bush-fulfilling prophecy. They were not there before. They are there now. But they are not the primary problem. It is the vicious cycle of sectarian violence. It must end.

MEMORIAL DAY TRIBUTE

Mr. MCCONNELL. Mr. President, nearly 6 years after the worst terrorist attacks in American history, we have yet to be hit again on our soil. No one would have thought this possible immediately after the 9/11 attacks. But it is true because America is on offense in the war on terror.

Memorial Day is a time to reflect on the brave men and women of the Armed Forces who have made that achievement possible, and to honor their sacrifice. Since 2001, over 3,800 Americans have died fighting in Iraq or Afghanistan. Over 60 were from Kentucky.

Our country must honor those who died in the line of duty as well as their families. The debt we owe them can never be repaid. I have had the honor of meeting many of the families of these servicemembers, and I have told them their loved ones did not die in vain.

Many who fought in the war on terror live to tell their stories, and I recently heard one I had like to share involving soldiers from Fort Campbell, KY. Four soldiers of the 1st Battalion, 506th Infantry Regiment, 101st Airborne Division lived up to the warrior ethos of never leaving a fallen or wounded comrade behind.

The city of Ramadi, Iraq, has seen some of the worst battles between coalition forces and the terrorists. One night in March 2006, SGT Jeremy Wilzcek, SGT Michael Row, PFC Jose Alvarez and PFC Gregory Pushkin, among others, made their way through the city's narrow alleys back to base.

Suddenly Sergeant Row saw two figures run into a house. Immediately suspicious, he stopped the team in its tracks just as machine-gun and small-arms fire and grenades erupted on the street in front of them. The soldiers took cover and returned fire.

Private First Class Alvarez noticed a fellow soldier had been hit and was lying in the middle of the storm of bullets. Without thinking twice, he ran into the line of fire and threw himself over his comrade. But he was too late. The soldier was dead.

Private First Class Alvarez kept firing until he had unloaded his weapon at the enemy, and then stood up and began to carry the soldier's body to a safe area. Sergeant Row provided cover fire, while Sergeant Wilzcek and Private First Class Pushkin ran into the firefight to help Private First Class Alvarez carry their colleague.

The three soldiers were nearing cover when two rocket-propelled grenades exploded yards away from them, knocking all three down and slicing Private First Class Alvarez's knee with shrapnel. But the three continued, finally reaching a safe area out of the path of bullets.

Sergeant Wilzcek and Private First Class Pushkin then ran back into the enemy's kill zone several times, rescuing more trapped soldiers. Sergeant Row continued to lay down cover fire, even though the same explosion that injured Private First Class Alvarez's knee had buried shrapnel deep in his elbow. Finally, every soldier made it to a safe area.

They were out of immediate danger. But gunfire all around them made clear the terrorists were still out to kill. Sergeant Wilzcek, Sergeant Row and Private First Class Pushkin made their way to the roof of a building, and with the advantage of the high ground, successfully killed, captured or drove off

the terrorists, enabling the squad to return to base safely.

This February, now-Staff Sergeant Wilzcek and now-Specialists Alvarez and Pushkin were awarded the Silver Star, the third-highest award given for valor in the face of the enemy. Sergeant Row was awarded the Bronze Star for Valor.

Their acts of heroism rank them among the finest America has to offer. But what I find most amazing is that they are everyday people who could be your neighbor, coworker or relative. And we have thousands more brave Americans in uniform all willing to do the same.

So this Memorial Day, remember the courage of our servicemen and women, performing extraordinary feats just like the men of Fort Campbell. Remember the sacrifice of those who don't make it back home. As long as America has fighters of such spirit, we can never be defeated on the battlefield.

Mr. AKAKA. Mr. President, we are approaching Memorial Day, a time to honor those servicemembers who gave their very lives—what Abraham Lincoln described as ''the last full measure of devotion.'' When Lincoln spoke those words, he was dedicating a modest ''soldiers cemetery'' in a Pennsylvania town called Gettysburg. Today Gettysburg and the address Lincoln gave there hold a special place in our national memory. In fewer than 300 words, President Lincoln delivered one of the most famous speeches in the history of this great Republic.

In that speech, Lincoln said what was known: that it is good and right to dedicate a place to honor the brave servicemembers who rest beneath it. But more importantly, he put into words what was felt: that the best way to honor the dead is to remember their sacrifices, and dedicate our lives to the Nation for which they gave their lives.

What we now call Memorial Day was begun in the aftermath of that war, with two dozen cities and towns across the United States laying claim to being the birthplace of what was then called Decoration Day. Generations later, America paused in the aftermath of World War I, a massive conflict that inspired the poem, ''In Flanders Field,'' about the lives the war took and the bond between the living and the dead. That poem roused the convictions of an American teacher named Moina Michael, who clung to the image of the red poppies in Flanders Field, which grew above the graves of World War I servicemembers. Miss Michael vowed to ''keep the faith'' with those who had died and to wear a red poppy as a sign of that pledge. She recorded her commitment in a poem she called ''We Shall Keep the Faith,'' which reads, in part:

We Cherish, too, the poppy red,
That grows on fields where valor led;
It seems to signal to the skies
That blood of heroes never dies

Miss Michael spent the rest of her life raising money for veterans and survivors in need, by selling red poppies to honor the men and women who gave their lives in the service of our Nation. Through the sale of poppies made by disabled veterans, she raised approximately 200 million dollars for veterans and their survivors.

Today our great Nation steps further into the fifth year of our current conflict in Iraq, and our sixth year in Afghanistan. As we ponder how best to honor those who have died in these conflicts and in all prior wars, we can look to our history to find words and actions to guide us. Just as Lincoln's Gettysburg Address turned sentiment into prose, Miss Michael turned it into poetry, and then into action. For ourselves, we can look at the sacrifices of those who have served and then look within ourselves to honor them with our lives.

For myself, I pledge my continued best effort to make certain that those who serve receive the thanks and the benefits and services they earned by their service and for those who gave their all, that their survivors are likewise given all they need.

TRIBUTE TO SENATOR TED STEVENS

Ms. SNOWE. Mr. President, I rise today to honor one of the true stalwarts of this institution an indefatigable legislator, a tireless advocate for his home State of Alaska, a public servant with a lifetime of contribution, and a treasured leader of this venerable Chamber, Senator TED STEVENS who, this past April 13, 2007, became the longest-serving Republican member of the U.S. Senate. Our good friend and colleague has received countless, well-deserved accolades for a tremendous milestone indeed.

It is fitting that we pay tribute to an esteemed lawmaker whose ongoing legacy and longstanding record of accomplishment over a remarkable span of nearly 39 years of service in the U.S. Senate stand as a testament to the courage, vigor, and sense of duty he feels toward this country and the issues and policies shaping it. TED is a force of nature, steadfast and resolute, in this time-honored body and in our nation's capital. His constituents wouldn't have him any other way, and we wouldn't either.

His legacy of achievement on behalf of Alaskans is as large as the State they call home, and began even before he entered politics when he first moved to Washington, DC, to join the Eisenhower administration. While working for the Secretary of the Interior, he was not only present at Alaska's creation as a State in 1959, but was also instrumental in helping advocate for statehood. As a U.S. Senator, he was essential in championing the development of the Alaskan pipeline which was critical to his state and to the energy future of the country. He successfully advanced Alaska's infrastructure and transportation capabilities, especially vital to the state that is one-fifth the size of the entire lower 48. Alaska rightfully commemorated Senator STEVEN's indelible impact in these areas with the dedication of the TED STEVENS Anchorage International Airport in 2000. With a far-reaching litany of accomplishments too numerous to mention, it comes as little surprise that the Alaska State Legislature—where he served as House majority leader in only his second term in the mid-1960s would name him at the millennium, the Alaskan of the Century.

The people of my State of Maine are especially grateful to Senator STEVENS for his landmark legislation that bears his name—the Magnuson-Stevens Fishery Conservation and Management Act our Nation's indispensable fisheries act, which was reauthorized this past January and signed into law. First as the chair, and now the ranking member on the Senate Committee on Commerce, Science, and Transportation subcommittee handling fisheries issues, I had the pleasure of working with full committee chairman and now ranking member STEVENS throughout the process to help bring this bill to fruition. From the 300 year-old fishing villages in downeast Maine to remote Aleutian Island outposts, Senator STEVENS has always been bound by a commitment to sustain both fish and fishermen.

Through many Congresses, as both a chairman and ranking member, Senator STEVENS has spearheaded and done much to shepherd improvements in the largely uncharted world of telecommunications policy that have been historic and consequential, and which will reverberate for generations. On a personal note, I want to express my debt of enormous thanks to Senator STEVENS for his pivotal support in his Universal Service Fund Reform bill of the E-rate program which provides discounted telecommunications services to schools and libraries. Senator STEVENS has been a bulwark catalyst on this initiative, and, as we recently commemorated the 10th anniversary since its inception, I couldn't help but recall with gratitude his crucial role in the wiring schools in my State and across the country.

It must also be noted that in an era of increasing partisanship, Senator STEVENS shares an unassailable bond with the senior Senator from Hawaii, a Democrat, Daniel Inouye a friendship, profoundly steeped in their mutual, heroic tours of duty in World War II, which continues to this day as a model example of collegiality, bipartisanship, and comity that transcends politics.

This decorated Army Air Forces pilot in the storied ''Flying Tigers,'' whose immense devotion to this land and its people extends across six decades, is not one to move to the side or step away when he is fighting for what he believes in or on behalf of his State or in defense of his country. That speaks volumes in explaining Senator STEVENS' well-known trademark as he prepares to debate on the Senate floor and

he dons his infamous tie emblazoned with the Marvel comic book character, The Incredible Hulk!

With hallmark humor, strength, and aplomb, how could he approach his robust role any differently—a man whose larger-than-life tenure in the public arena reflects the enormity of his stunning and beloved Alaska, a State with a name that means literally ''the object towards which the action of the sea is directed.'' For more than half century, the action of the sea of public policy has always found its way to this great American and still does because he welcomes it, thrives on it, and seizes upon it in the name of The Last Frontier State and to the benefit of our Nation.

OPEN GOVERNMENT ACT

Mr. LEAHY. Mr. President, I am deeply disappointed that the Senate may not consider the Openness Promotes Effectiveness in our National Government Act,'' the OPEN Government Act, S. 849, before it adjourns for the Memorial Day recess. The Judiciary Committee favorably reported this bipartisan bill. We have filed a committee report on this important legislation. Regrettably, an anonymous Republican hold is stalling this important Freedom of Information Act, FOIA, legislation, needlessly delaying long-overdue reforms to strengthen FOIA and to protect the public's right to know.

It is both unfortunate and ironic that this bipartisan bill, which promotes sunshine and openness in our government, is being hindered by a secret and anonymous hold. This is a good government bill that Democrats and Republicans alike, can and should work together to enact. I hope that the Senator placing the secret hold on this bill will come forward, so that we can resolve any legitimate concerns, and the full Senate can promptly act on this legislation.

The OPEN Government Act is cosponsored by 10 Senators from both sides of the aisle. This bill is also endorsed by more than 100 business, public interest, and news organizations from across the political and ideological spectrum, including, the American Library Association, Conservation Congress, the Liberty Coalition, OpenTheGovernment.org, the Sunshine in Government Initiative, the Republican Liberty Caucus and Public Citizen.

I thank all of the cosponsors of this bill and commend Senator CORNYN as our lead Republican sponsor. I also thank the many open government organizations that are working tirelessly to encourage the Congress to enact this bill this year. This measure is cleared for passage on the Democratic side. It should be passed without further delay.

The OPEN Government Act promotes and enhances public disclosure of government information under FOIA, by helping Americans to obtain timely responses to their FOIA requests and improving transparency in the Federal Government's FOIA process. During the recent hearing that the Judiciary Committee held on this legislation, we learned that, although FOIA remains an indispensable tool in shedding light on bad policies and government abuses, this open government law is being hampered by excessive delays and lax FOIA compliance. Today, Americans who seek information under FOIA remain less likely to obtain it than during any other time in FOIA's 40-year history. This bill would help to reverse this trend and to restore the public's trust in their government.

Senator CORNYN and I both know that open government is not a Democratic issue or a Republican issue. It is an American issue. It is in this spirit that I urge the removal of the anonymous hold placed on this bill. I also urge all Members of the Senate to join me in supporting this important open government legislation.

We have received numerous letters of support from such organizations as the American Library Association, the National Press Club, Pubic Citizen, Sunshine in Government Initiative and OpenTheGovernment.org. I ask unanimous consent that a letter in support sent to the majority and Republican leaders of the Senate and endorsed by more than 100 organizations from across the political spectrum be printed in the RECORD.

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

MAY 17, 2007.

Hon. HARRY REID,
Hart Senate Office Building, Washington, DC.
Hon. MITCH MCCONNELL
Russell Senate Office Building, Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: We write on behalf of the undersigned group of 100 business, public interest, and historical groups and associations to endorse the OPEN Government Act of 2007 (S. 849), as introduced by Senator Patrick Leahy and Senator John Cornyn.

The Freedom of Information Act (FOIA) is the public's most significant tool for ensuring integrity and accountability from the federal government. Unfortunately, FOIA's promise of ensuring an open and accountable government has been seriously undermined by the excessive processing delays that FOIA requesters face across the government. The OPEN Government Act would: Close loopholes in FOIA; Help the public get timely responses to FOIA requests; and Improve agency accountability and require better management of FOIA programs.

The public's confidence in the executive branch has reached a dramatic low point. The OPEN Government Act of 2007 would demonstrate bipartisan congressional leadership to restore public faith in government and to advance the ideals of openness that our democracy embodies. The Senate Judiciary Committee has reported favorably upon the bill without any amendments. We urge you to support this legislation and help it move quickly to the Senate floor for a vote.

Sincerely,

Alliance for Justice
America Association of Law Libraries
American Association of Small Property Owners
American Booksellers Foundation for Free Expression
American Civil Liberties Union (ACLU)
American Families United
American Library Association
Animal Welfare Institute
ASPCA
Assassination Archives and Research Center
Association of American Publishers
Bill of Rights Defense Committee
Biodiversity Conservation Alliance
Blancett Ranches, Aztec, NM
Californians Aware
Californians for Western Wilderness
Center for Democracy and Technology
Center for Energy Research
Center for National Security Studies
Citizen Action New Mexico
Citizens for Responsibility and Ethics in Washington (CREW)
Common Cause
Community Recovery Services
Conservation Congress
Doctors for Open Government
DownsizeDC.org, Inc.
The E-Accountability Foundation/Parentadvocates.org
Electronic Frontier Foundation
Environmental Defense Institute
Environmental Integrity Project
Ethics in Government Group
Fernald Residents for Environmental Safety & Health, Inc.
Florida First Amendment Foundation
Forest Guardians
Friends Committee on National Legislation
Friends of Animals
Friends of the Wild Swan
Georgia ForestWatch
Georgians for Open Government
Government Accountability Project
Great Basin Mine Watch
Gun Owners of America
HALT, Inc
The Health Integrity Project
HEAL Utah
The Humane Society of the United States
Idaho Sporting Congress, Inc.
Indiana Coalition for Open Government
The James Madison Project
Law Librarian Association of Greater New York
Law Librarians Association of Wisconsin
League of Women Voters of the U.S.
Liberty Coalition
Los Alamos Study Group
Maine Association of Broadcasters
Mine Safety and Health News
The Multiracial Activist
National Coalition Against Censorship
National Freedom ofInformation Coalition
National Security Archive
National Taxpayers Union
National Treasury Employees Union
National WhistIeblower Center
Natural Resources Defense Council
The New Grady Coalition
No FEAR Coalition
Northern California Association of Law Libraries
Northwest Environmental Advocates
Nuclear Watch New Mexico
Okanogan Highlands Bottling Company
OMB Watch
Open Society Policy Center
OpenTheGovernment.org
Oregon Natural Desert Association
Oregon Peace Works
Owner-Operator Independent Drivers Association, Inc.
People For the American Way
Project On Government Oversight
Public Citizen
ReadtheBill.org Education Fund
Republican Liberty Caucus
Reynolds, Motl & Sherwood, PLLP

The Rutherford Institute
Sagebrush Sea Campaign
Semmelweis Society International
Snake River Alliance
Society of American Archivists
Society of Professional Journalists
Southern California Association of Law Libraries
Southwest Research and Information Center
The Student Health Integrity Project
Tax Analysts
Tri-Valley CAREs (Communities Against a Radioactive Environment)
Union of Concerned Scientists
VA Whistleblowers Coalition
Western Environmental Law Center
Western Lands Project Western Resource Advocates
The Wilderness Society
Wild Wilderness
Wilderness Workshop.

THE BUDGET

Mr. DODD. Mr. President, last week the Senate and House of Representatives voted to adopt a budget resolution for the upcoming fiscal year. I was proud to support this budget, which, in my view, represents an important first step towards returning our nation to a healthy and strong fiscal and economic course. Like the budget of any family or business, the federal budget provides a framework for responsibly meeting our nation's most important priorities while ensuring that we are living within our means. This year's budget restores much-needed fiscal discipline while better targeting our resources towards the investments that will best promote economic growth, national security, and broad-based opportunity.

First, the budget resolution reinstates pay-as-you-go rules, which require that any new spending or tax cuts be paid for with spending cuts or new sources of revenue—rather than simply adding the cost to the national debt for our children and grandchildren to repay with interest. These rules played a major role in helping us to achieve Federal budget surpluses in the late 1990s. The resolution also puts a stop to procedural abuses that had been used by the previous leadership in the Congress, notably the use of budget reconciliation protections—designed for legislation that reduces the deficit—to ram through passage of budget-busting tax bills. These procedural improvements, combined with reasonable and responsible spending limits and revenue targets, provide for much-improved—and much-needed fiscal discipline on both the spending and revenue sides of the ledger.

In the 1990s, we saw how responsible budget policies and economic growth reinforced each other in a cycle that lifted Americans' standard of living across the board. Under the current administration, by contrast, Americans have seen the opposite effect, as irresponsible and poorly targeted fiscal policies have squandered the previous decade's fiscal gains while economic growth has accrued more and more narrowly to a smaller segment of the population. The Federal budget has declined from a surplus of $236 billion in 2000 to a deficit of $248 billion last year, while the national debt has grown from $5.6 trillion to $8.8 trillion. Over the same period, real median household income in our country has fallen by nearly $1,300.

Within the context of fiscal responsibility, the budget adopted last week puts in place a framework for restoring the investments necessary for broad-based economic growth and a return to budget surpluses. Rather than leaving middle-class families behind, it focuses on strengthening the middle class—the backbone of our economy.

This begins with promoting an agenda of innovation and entrepreneurship. The President's budget this year—for the second consecutive year—proposed the largest cut to education in the history of the Department of Education, along with cuts to research and development and technology transfer. It would be hard to find a worse idea than to cut the investments that allow our children to fulfill their maximum potential and drive our nation's economic growth now and in the future. This budget rejects the president's cuts, providing an additional $6.3 billion for education from preschool to graduate school. As I have said numerous times before, we can be confident that the investment we make here will be returned to us many times over.

This year's budget also directs more resources towards improving heath care quality and coverage, and reducing cost—an issue that affects every American family and businesses' bottom line. The resolution includes a deficit-neutral reserve fund to help cover uninsured children and funds for health information technology and comparative effectiveness to help reduce skyrocketing costs.

Just as importantly, with our military being stretched to its limits, the budget includes full funding for restoring force readiness and adequately equipping our military personnel serving in harm's way. It also includes $3.6 billion above the Bush administration's budget to address the needs of veterans when they return home, because the brave Americans who have served our country deserve much better than the conditions that were revealed in the recent Walter Reed Army Medical Center scandal.

The priorities laid out in the budget adopted last week contrast sharply with the agendas of recent years. Where the Bush administration and previous leadership in the Congress sacrificed all else at the altar of high-income tax cuts, this year's budget will keep taxes low while restoring the importance of education, health care, clean and renewable energy, and the needs of our military. This change is a welcome development that puts our Nation on a better, stronger, more prosperous, and more secure course for the future.

AGING REPORT

Mr. SMITH. Mr. President, it is my pleasure to present to the Senate report No. 110–71, titled ''Economic Developments in Aging,'' as compiled by the Senate Special Committee on Aging for the 109th Congress. The Special Committee on Aging is required to report to the Senate at least once a Congress on findings from the work done by the committee. This report contains valuable insight uncovered by the committee over the past 10 years on the subject of the economics of retirement.

The Aging Committee has a long and distinguished history of investigating and debating issues of importance to America's aging population. Along with robust deliberations on retirement security, the committee also has initiated discussions on ways to strengthen Medicare and Medicaid, and to expose companies that prey upon seniors using fraudulent marketing scams. I was proud to serve as chairman of this committee in the 109th Congress, when we began the process of compiling this report, and am pleased to continue my service as ranking member of the committee in the 110th Congress.

The Aging Committee is tasked with a significant challenge to ensure that we, as a nation, are prepared for the significant demographic shift with the aging of our population. In a few short years, a vast wave of Americans will begin to retire. In fact, between 2010 and 2030, the number of people age 65 and older is projected to increase by 76 percent. This change will impact a wide range of social and economic issues, such as labor shortages, loss of experienced workers many of whom have skills that simply are not replaceable—and put a significant strain on the senior entitlement programs of Social Security, Medicare and Medicaid.

To keep pace with the growing aging population, it is critical that Congress address these issues in a thoughtful manner that preserves benefits for those in need. The report compiles relevant high-level summaries of committee hearings related to retirement security that demonstrate the ongoing debate within Congress regarding the best approach to address these important issues.

I look forward to continuing a healthy debate on ways to best prepare for the challenges that await us with our aging nation. I hope this report provides valuable insight as we continue these discussions throughout this Congress.

I thank all the members of the Senate Special Committee on Aging from the past 10 years for their participation in these vital discussions. I especially want to thank the committee's current chairman, Senator HERB KOHL, as well as the committee's past chairmen for their dedication to ensuring a positive future for America's seniors.

DEATH PENALTY

Mr. KYL. Mr. President, I ask unanimous consent that an article entitled ''Remembering Victims Key to Death Penalty, Executing Justice: Arizona's Moral Dilemma,'' by Steve Twist, be printed in the RECORD.

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

REMEMBERING VICTIMS KEY TO DEATH PENALTY—EXECUTING JUSTICE: ARIZONA'S MORAL DILEMMA

(By Steve Twist, May 20, 2007)

Opponents of the death penalty rarely want to talk about the crimes of those sentenced to death. One commentator has observed that this is ''a bit like playing Hamlet without the ghost, reviewing the merits of capital punishment without revealing just what a capital crime is really like and how the victims have been brutalized.''

In the week ahead, the public will be riveted with news of Robert Comer: his life, his struggles and his legal battles borne by others to the very end. But what of his victims?

Let us hope, in the end, the law will speak for them. And let us hope that those who excuse or minimize his crimes will listen, if only for even a brief moment or so, to what Judge Alex Kozinsky has rightly called ''the tortured voices of the victims crying out for justice.'' It is in those voices that we understand the morality of the death penalty, even when they are raised in opposition, as they sometimes, albeit rarely, are.

There are 112 murderers on Arizona's death row. Robert Comer is one of them, having been sentenced to death almost 20 years ago, April 11, 1988.

The Department of Corrections reports, ''(O)n Feb. 23, 1987, Comer and his girlfriend . . . were at a campground near Apache Lake. They invited Larry Pritchard, who was at the campsite next to theirs, to have dinner and drinks with them. Around 9 p.m., Comer shot Pritchard in the head, killing him. He . . . then stole Pritchard's belongings. Around 11 p.m., Comer and (Juneva) Willis went to a campsite occupied by Richard Brough and Tracy Andrews. Comer stole their property, hogtied Brough to a car fender and then raped Andrews in front of Brough. Comer and Willis then left the area, taking Andrews with them but leaving Brough behind. Andrews escaped the next morning and ran for 23 hours before finding help.'' .

Donald Beaty is another. ''On the evening of May 9, 1984, Christy Ann Fornoff, a 13-year-old news carrier, was collecting from her customers at the Rockpoint Apartments in Tempe. Beaty, who was the apartment custodian, abducted Christy and sexually assaulted and suffocated her in his apartment. Beaty kept the body in his apartment until the morning of May 11, 1984, when he placed it behind the apartment complex's trash dumpster.''

Richard Bible is another. ''On June 6, 1988, around 10:30 a.m., 9-year-old Jennifer Wilson was riding her bike on a Forest Service road in Flagstaff. Bible drove by in a truck, forced her off her bike and abducted her. He took Jennifer to a hill near his home where he sexually assaulted her. He then killed her hitting her in the face and head with a blunt instrument. Bible concealed the body and left the area. He was arrested later that day. Jennifer's body was not found until June 25, 1988.''

Shawn Grell is yet another. ''On Dec. 2, 1999, Grell took his 2-year-old daughter, Kristen, to a remote area in Apache Junction, doused her with gasoline and set her on fire. After Kristen was engulfed in flames, she managed to walk around and stomp her feet for up to 60 seconds before collapsing in the dirt. Kristen (died suffering) third- and fourth-degree burns over 98 percent of her body.''

And there are so many more. Repeating them is hard. Thinking about the victims and their loved ones, left to grieve, is heartbreaking. But think about them we must if we are to truly understand the context of the death penalty debate.

Those who agitate to abolish the death penalty for these killers say the killers don't deserve to die because no crime justifies death.

These arguments continue to find disfavor with large portions of the public. Gallup consistently reports support for the death penalty by wide margins (67 percent in favor, 28 percent opposed: 2006) when the question is asked in a straightforward manner. When the question is asked whether death or life imprisonment is the ''better'' penalty, 48 percent choose life and 47 percent death. Yet, when the facts of a case are cited, support for the death penalty grows dramatically. Even among those who said they opposed the death penalty, more than half of those supported the execution of Oklahoma City bomber Timothy McVeigh.

Another issue the abolitionists like to avoid is deterrence, which is of two kinds, specific and general. Specific deterrence is the measure of the penalty's effectiveness in deterring the sentenced murderer from ever killing again.

General deterrence is the effect of the penalty on deterring others from committing murder. Most recently, Professor Paul Rubin of Emory University and his colleagues have reported the results of the most extensive econometric study of death penalty deterrence and concluded that every execution saves on average 18 lives because of the murders that are deterred. Rubin's results have been replicated by others.

This is such an ''inconvenient truth'' for the abolitionists that they prefer to ignore it. Professing to revere life so dearly as to oppose even the taking of depraved life, they nonetheless seem to care little that their advocacy would result, if successful, in the slaughter of more innocents.

This week, when the news is filled with Robert Comer, let us pause to remember Larry Pritchard, Richard Brough and Tracy Andrews. And let us remember also Christy Anne Fornoff, Jennifer Wilson and, dear God, let us remember little Kristen Grell and all the other victims.

In those memories, let us offer prayers for their families and a steady, steel-eyed resolve that we will value their innocent lives so dearly that we are willing to exact the ultimate punishment for their murders, in order that we might preserve justice and protect others from becoming victims. In the wake of these decades-long delays to justice, let us finally resolve to demand of our courts that they become more respectful of the victims' constitutional rights to a ''prompt and final conclusion of the case.''

HONORING OUR ARMED FORCES

LANCE CORPORAL CHRISTOPHER S. ADLESPERGER

Mr. DOMENICI. Mr. President, each year, our Nation observes a holiday to honor the brave men and women who have given their lives in service to this country. New Mexicans have a strong tradition of serving in the Armed Forces, and sadly a great many have given their lives in defense of our Nation. Americans from every state and all generations have served bravely and on Memorial Day we remember their sacrifice.

It is with particular poignancy that this Memorial Day, we reflect on the sacrifice so many New Mexicans have made while serving in Operation Iraqi Freedom and Operation Enduring Freedom. I hope New Mexicans will think of these individuals and their families and on this Memorial Day I would like to share one of their stories, that of Marine Corps LCpl Christopher S. Adlesperger of Albuquerque.

In late 2004, Lance Corporal Adlesperger, and his unit were deployed in Fallujah and involved in some of the fiercest fighting of the war. On one particular mission, Adlesperger and his squad were ordered to storm an insurgent-occupied building. While moving forward Adlesperger's squad began to receive heavy insurgent fire and several members of his squad were wounded and the rest were pinned down. Adlesperger took action and secured a path for the injured marines to be evacuated. Despite the fact that he was also wounded, Adlesperger continued the assault on the building. Adlesperger is credited with eliminating several insurgents and playing a pivotal role in the successful assault.

Tragically, 1 month later, 20-year-old Christopher Adlesperger, was fatally shot while on patrol in the Anbar province west of Bahgdad.

This brave young soldier was one of the first New Mexicans to give his life in the Iraq war and on April 13, 2007, Adlesperger was posthumously awarded the Navy Cross for valor.

Today, as we honor all the brave men and women who have fought and given their lives to defend this Nation throughout its history, I hope New Mexicans will also pray for the safe return of those still serving in Iraq and Afghanistan.

SAFETY OF AVANDIA

Mr. GRASSLEY. Mr. President, over the last few days there have been countless articles about the popular diabetes drug Avandia. For me, some of the most important questions that need to be answered here are what did FDA know, when did it know it, and what did it do with the information.

Since The New England Journal of Medicine first reported on a new study by Cleveland Clinic Cardiologist Dr. Steven Nissen, my investigative staff has continued to gather information about both FDA and the drugmaker.

We are hearing a lot about what's called the ''RECORD'' study, which was requested by the Europeans. There was talk at the FDA, before this week's stories started appearing, that the agency wanted to wait for that study to be completed before it made a decision about whether or not to say anything about Avandia and the possible increased risk in heart attacks. Believe it or not, FDA officials have confirmed for my investigators this week that the

''RECORD'' study is not expected to be completed for 2 more years—until the summer of 2009. That's a long time from now when you have millions of American's taking this drug.

Second, there is something I would like to clarify. We have been reading this week that the FDA was not in a position to tell the American people about its concerns with Avandia because it needed ''conclusive'' information. That doesn't make sense to me. The preliminary findings of the FDA's ongoing ''meta-analysis'' of the Avandia clinical trials have been consistent with Dr. Nissen's findings of an increased heart attack risk, as well as the drug maker's findings. It goes like this: the drugmaker sees a 31-percent increased risk of a heart attack; the FDA sees a 40-percent increased risk for heart attacks; and Dr. Nissen sees a 43-percent increased risk for heart attacks. Those numbers seem like a high enough threshold to me for the FDA to warn the American people of the possibility of a problem.

Third, several months ago, the Division of Drug Risk Evaluation, which sits within the Office of Surveillance and Epidemiology, recommended a ''boxed'' warning for Avandia. Why? Because it was believed that Avandia increased the risk of heart attacks. To date, FDA has not acted on upon this recommendation.

In a statement I released on Tuesday, I also pointed out that about a year ago some FDA scientists recommended a black box warning for congestive heart failure. There is still no black box warning for congestive heart failure, and I understand that happened because the office that put Avandia on the market in the first place wanted to look into it further. America is still waiting for a decision.

It was also reported to me that the incidence of heart attacks with Avandia could be about 60,000 to 100,000 from 1999 to 2006. That is a lot. Just doing the math and using conservative numbers, that means about 20 or more unnecessary heart attacks a day.

At a minimum, I think that the office responsible for post marketing safety needs to have the ability to warn Americans when it thinks it needs to do so. If not, we have what we have here today, delays in telling the American people about a possible serious safety problem. It is not right, and I am going to keep working to change things once and for all. The FDA legislation passed by the Senate two weeks ago dropped the ball on this important reform. The Avandia case sets it up for the House of Representatives to give real clout to the FDA office that monitors and assesses drugs after they are on the market and taken by millions of people. If the Office of New Drugs continues to call all the shots, like it does today, then it is more status quo and less public safety from the FDA. Both the evidence and the experts underscore the need for real reform here.

One opportunity to improve upon postmarketing drug safety stems from the Access to Medicare Data Act that I filed today with Senator BAUCUS. This bill is based on S. 3897, the Medicare Data Access and Research Act, which Senator BAUCUS and I introduced in the 109th Congress. The purpose of the bill is to provide federal health agencies and outside researchers more sources of data for examining adverse events so that serious safety questions are identified promptly and timely action can be taken to protect American consumers.

SENATE SPOUSES

Mr. WARNER. Mr. President, Tuesday, May 22 was a memorable day in the life of the U.S. Senate. In keeping with longstanding tradition, each year, Senate spouses gather to give a luncheon in honor of the First Lady of the United States of America.

Last year, Landra Reid served as Chairman and Jeanne Warner served as co-chairman. The theme was a unique one, entitled, ''100 Dresses.'' This year, Jeanne Warner became Chairman, Grace Nelson became co-chairman and Landra Reid, together with over 20 Senate spouses, organized another highly successful and enjoyable luncheon. This year's event, entitled ''Heartfelt Safari,'' focused on the President and Mrs. Bush's initiative to help alleviate the plight of malaria in Africa. The number of deaths this year from malaria could be as high as two million, largely among children in Africa. Part of the proceeds from the luncheon will be donated to a well-respected not-for-profit charity—Malaria No More—that works to alleviate this tragic suffering.

In the evening, our two Senate leaders presided over a dinner honoring the Senate spouses. Senator REID opened with a moving framework of remarks, humorously recounting how the esteemed author, Ralph Waldo Emerson, once spoke for over 2 hours at a Harvard University event in the 1830s. He quickly assured the audience he would not seek to match Emerson, and he then proceeded to give a very warm introduction of an honored guest, Placido Domingo. The renowned singer regaled the audience with anecdotes about his career and about America's growing interest in opera.

Senator MCCONNELL concluded the evening, reciting the vital role performed by Senate spouses through the years. His remarks were warmly received by so many colleagues that I am privileged to offer for the RECORD, on behalf of all Senators, his thoughts, and I ask unanimous consent they be printed in the RECORD.

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

SENATE LEADERS HONORING SPOUSES—REMARKS AS PREPARED FOR LEADER MCCONNELL

A few weeks after marrying Grace Cavert in 1972, Bill Nelso:n and his new bride hit the campaign trail for the first time. Neither of them could have imagined that 35 years later, Bill would be known throughout the halls of power in Washington as the husband of Grace Nelson.

Grace is a real sign of contradiction in this town. She believes in bringing people together, across party lines, and she's backed that belief up with deeds. As head of the Spouses of the Senate, she's been a model of how to practice bipartisanship and how to make it work. In retrospect, we probably should have consulted with her on the immigration bill.

I happen to know firsthand that Grace and all the other wives are a warm, welcoming group. Because my wife, who happens to be a pretty busy woman in her own right, is a regular at their Tuesday lunches. Elaine appreciates the friendships she's formed there, and she counts on the advice she can get from all of you on matters of vital concern, like where to find a decent electrician.

Jeanne Warner, thanks for organizing the First Lady's lunch today and for securing this beautiful garden for tonight's event. To the performers: Joyce Bennett, Barbara Levin, and, of course, our special guest, Placido Domingo, thanks. Thank you for sharing your talented young artists with us tonight.

No less a historian than our own Robert Byrd has called the Senate a place of ''resounding deeds.'' But any time one of us writes a memoir, it's always the quiet deeds of a devoted spouse that the senators themselves seem to marvel at the most.

Senator Byrd himself can boast more milestones than any other senator in U.S. history. But he'll tell you his proudest achievement, his most resounding deed, was that he married a coal-miner's daughter named Erma and that they stayed together longer than any Senate couple in history.

One of Senator Reid's predecessors, Mike Mansfield, was a high-school dropout when his wife Maureen convinced him to go back to school—and then sold her own life insurance policy to pay for it. More than 70 years later, after one of the most distinguished political careers in U.S. history, Mansfield was invited back to the Capitol to receive one last honor. He could have recalled a thousand legislative deals. But when it came his turn to speak, he praised Maureen instead.

Here's what he said: ''The real credit for whatever standing I have achieved in life should be given to my wife Maureen. She was and is my inspiration. She gave of herself to make something of me. She made the sacrifices and really deserved the credits, but I was the one who was honored. She has always been the better half of our lives together and without her coaching, her understanding, and her love, I would not be with you tonight. What we did, we did together. In short, I am what I am because of her.''

Barry Goldwater was another one who knew where to place the credit. He'd proposed to his future wife Peggy many times before they found themselves in a phone booth on a cold New Year's Eve night in Muncie, Indiana, in 1933. Peggy wanted to call her mother to wish her a Happy New Year, and while they were standing there, Barry said he was running out of quarters and patience. He asked her to marry him one more time, she said yes, and nearly half a century later, Barry Goldwater wrote this postscript to a long and storied career:

''There are many moments of triumph in a man's lifetime which he remembers. I have been to the mountaintop of victory—my first election to the Senate, and my reelection, that night in Chicago, in 1960, when the governor of Arizona put my name in nomination for the office of the President of the United States; and another night in San Francisco when the delegates to the Republican Convention made me their nominee. But above all these I rate that night in Muncie.''

Ronald Reagan once said there was only one person in the world that could make him lonely just by leaving the room. And we learned earlier this week that Nancy still marvels at her husband's devotion. She shouldn't. Those of us who are fortunate to share this life of highs and lows, of forced smiles and cancelled plans, of bland buffets and late night calls, know we couldn't achieve much at all, much less resounding deeds, without the person sitting next to us.

ACCOUNTABILITY IN HIGHER EDUCATION

Mr. ALEXANDER. Mr. President, our country does not have just some of the best colleges and universities in the world. It has almost all of them. Our higher education system is our secret weapon in America's competition in the world marketplace. It is the cornerstone of the brainpower advantage that last year permitted our country to produce thirty percent of the world's wealth, measured by gross domestic product— for just 5 percent of the world's people.

Education Secretary Margaret Spellings, to her credit, established a commission 2 years ago to examine all aspects of higher education to make certain that we do all we can to preserve excellence in this secret weapon and access to it. Among other things, the commission called for more accountability in higher education.

The commission got the part about accountability right. We in Congress have a duty to make certain that the billions we allocate to higher education are spent wisely.

Unfortunately, the commission headed in the wrong direction when it proposed how to achieve accountability. In its report, and in the negotiated rulemaking process, the Department of Education proposed a complex system of accountability to tell colleges how to accept transfer students, how to measure what students are learning, and how colleges should accredit themselves.

I believe excellence in American higher education comes from institutional autonomy, markets, competition, choice for students, federalism and limited Federal regulation.

The Department is proposing to restrict autonomy, choice, and competition.

Such changes are so fundamental that only Congress should consider them. For that reason, if necessary, I will offer an amendment to the Higher Education Act to prohibit the Department from issuing any final regulations on these issues until Congress acts. Congress needs to legislate first. Then the Department can regulate.

Instead of pursuing this increased Federal regulation, I have suggested to the Secretary a different course.

First, convene leaders in higher education—especially those who are leading the way with improved methods of accountability and assessment and let them know in clear terms that if colleges and universities do not accept more responsibility for assessment and accountability, the Federal Government will do it for them.

Second, establish an award for accountability in higher education like the Baldrige Award for quality in American business. The Baldrige Award, granted by the Department of Commerce, encourages a focus on quality in American business. It has been enormously successful, causing hundreds of businesses to change their procedures to compete for the prize. I believe the same kind of award—or awards for different kinds of higher education institutions—would produce the same sort of result for accountability in higher education.

Finally, make research and development grants to states, institutions, accreditors and assessment researchers to develop new and better appropriate measures of accountability.

This combination of jawboning, creating a Baldrige-type prized for accountability and research and development for better assessment techniques will in, my judgment, do a better and more comprehensive job of encouraging accountability in higher education than anything Federal regulation can do.

If I am wrong, then we in Congress and the U.S. Department of Education can step in and take more aggressive steps.

Are there some things wrong with the American higher education system? Of course.

And in my testimony in Nashville last year before the Secretary's Commission on the Future of Higher Education I detailed some of them.

One is the failure of colleges of education to prepare school leaders to raise our k–12 system to the level of our higher education system.

Two is the growing political one-sidedness that has infected many campuses. Too often true diversity of thought is discouraged in the same of a preferred brand of diversity.

Third, is the rising cost of tuition and large amount of students debt although costs are lower than most Americans realize and the reason for the increase is primarily the State failure to fund higher education because of all the money that is being soaked up by rising medicaid costs.

Fourth, there is no doubt that colleges and universities are not as efficient as they should be. Campuses are too vacant in the summer. Faculty teaching loads are too light. And semesters are too short to justify the large expenditures.

Fifth, no one in Washington takes a coordinated look at the tens of billions of dollars spent for higher education. Secretary Spellings is the first to do this, and I applaud her for it, although I had hoped the result would have been less regulation, not more.

Finally, deregulation. There is too much Washington DC, regulation.

Instead of debating how many more regulations we need, if we really are serious about excellence and opportunity, we should be debating which regulations we can get rid of.

The question is whether you believe that excellence in higher education comes from institutional autonomy, markets, competition, choice for students, federalism and limited Federal regulation or whether you don't.

I believe it does. In fact, I have spent most of my public career arguing that we should borrow these principles from higher education where we have excellence and try them in k–12 where we too often don't.

There is plenty of evidence that America's secret weapon is our system of colleges and universities. More Americans go to college than in any country. Most of the best universities of the world are in our country, attracting 500,000 of the brightest students from outside America—many of whom stay to create more good jobs for Americans.

Just a few short weeks ago, after two years of work, the Senate passed the America Competes Act. It authorizes investing $62 billion over 4 years to help our country keep its brainpower advantage so we can keep jobs from going to India and China.

In China, India, in Europe and Latin America countries seeking to improve the incomes of their citizens are seeking to emulate our college and universities because they know that better schools and colleges mean better jobs. The former Brazilian President, Fernando Henrique Cardoso, recently told a group of Senators that the strongest memory of the United States he would take back to his country is the American University. ''The uniqueness, strength and autonomy of the American university,'' Dr. Cardoso said, ''There is nothing like it in the world.'' ''Autonomy'' is the key word in Dr. Cardoso's response.

Deregulating higher education and preserving the autonomy of its institutions—not more Washington, DC, regulation—is the key to preserving the quality of this secret weapon in our effort to keep our high standard of living.

The United States system of higher education is a remarkable system of 6,000 autonomous institutions. Some are public, like the University of Tennessee of which I was once President. Some are private like Vanderbilt and New York University, from which I graduated. Some are Catholic. Some are Jewish. Some are non profit. Some are for profit. Some, like UCLA, are research universities.

Some are trade schools like the Nashville Auto Diesel College which graduate 1300 of the best auto mechanics in the world each year. Some are 2-year community colleges or technical institutes.

Some, like the University of Texas, have 100,000 students. Some, like Valley College in West Virginia have 34 students.

Some like Harvard, have 20,000 applicants for 1,700 freshman places. Some,

like University of Phoenix, accept every student who applies. Some teach sports management and some teach classics.

The largest university is online. In some colleges, most students graduate in four years. In others, most never actually graduate because they are there to learn skills on their way to a new job.

The average tuition private school is $22,218, for a public four year college the average is $5,836, for a public 2-year community college the average is $2,272.

More than half the students who attend these 6,000 institutions have a federal grant or a loan to help them to pay for college.

That means that this year taxpayers will spend $13 billion giving 5.2 million students Federal Pell grants providing up to $4,310 each—which pays the entire cost of attending many 2 year schools and almost three-fourths the cost of a public four year school.

Many States and private institutions and individuals provide generous additional scholarships and loans.

Mr. President, 56,000 Tennessee students each year receive up to $3,800 if they attend a 4-year institution or $1,900 if they attend a year institution.

Georgia's HOPE scholarship and grant programs benefit over 200,000 Georgia students a year, giving them grant and scholarship aid to attend a college or university.

In addition, 14 million students will borrow 66 billion more dollars this year by taking out federal guaranteed loans to help pay for college.

I once asked David Gardner when he was president of the University of California why his institution was one of the world's finest. Without a moment's hesitation he said, ''First, autonomy. Fundamentally the state of California gives us the money, then our board decides how to spend it. This authority has permitted us to set high standards.'' And then he said, ''We have a large amount of federal and state dollars that follow students to the educational institution of their choice.''

So, autonomy, excellence choice—Federal dollars following students to the schools of their choice. That is the California formula for excellence. It is the American formula for excellence since the GI bill for Veterans was enacted in 1944, and veterans were given the opportunity to attend the college of their choice.

Congress could have given the dollars to institutions. Instead, it created this marketplace and fueled it even further with the addition of Pell grants and loans—all following students to the institution of their choice.

Who, then, is the regulator of this marketplace?

Well, first, the marketplace itself. Students armed with scholarship dollars may choose or reject courses and colleges. Colleges must compete to attract faculty. Most Federal grants are awarded competitively after review by peers. Such competition and choice has permitted both excellence and a breadth responding quickly to a changing world that a more highly regulated system never would have. For example, the fastest growing institutions are 2-year colleges and for-profit institutions—the institutions in the closest touch with the rapidly changing global workplace.

The second regulator is the Federal Government. This stack of regulations I have here represent the 7,000—yes, 7,000 regulations—that each one of the 6,000 colleges and universities who accept federal aid must deal with in order to accept students with Federal grants or loans.

The president of Stanford has estimated it costs 7 cents of every tuition dollar just to deal with federal regulations and loans. Universities have compliance officers and divisions to keep track of regulations from almost every Cabinet agency in Washington.

Then there are the State regulators. The Governor is chairman of the board of all Tennessee public universities. Of course, the State legislature has its say when it passes budget funding public universities. The Tennessee Higher Education Commission reviews budgets, duplicitous programs and standards—and it also has some rules for private universities.

Fundamentally the autonomous college or university regulates itself. As president of the University of Tennessee system of institutions, I had overall responsibility for admissions and standards of quality for faculty and students established by the board of trustees to which I reported. A chancellor supervised each campus. The faculty senate on each campus played a major role.

Then there is also the self-accreditation system—an elaborate, time consuming review of programs in each department for the purpose of determining whether that department held true to its mission and its level of quality.

With these multiple layers of regulation, higher education needs less, not more regulation from Washington, DC. In fact, I believe the greatest threat to excellence of higher education is overregulation, not underfunding.

Not long ago, the president of the North Carolina higher education system—Erskine Bowles—visited me along with several of his presidents of public and private institutions. That system has for years been one of the Nation's best. Their message was, ''Of course accountability is important. We believe in it. But we are the ones to do it and we are doing it.''

The best way for Congress to assure the quality of higher education is to determine that State regulators and accrediting agencies are doing their jobs.

RETIREMENT OF BARBARA L. MILES

Mr. DODD. Mr. President, Barbara Miles, a specialist in financial institutions retired from the Government and Finance Division of the Congressional Research Service, CRS, at the Library of Congress on May 3, 2007. Including 32 years at CRS and her six years in the executive branch as an economist and econometrician at the Bureau of Economic Analysis in the Department of Commerce, Ms. Miles devoted 38 years of service to the American people. CRS and the Congress lost an exceptionally able and dedicated public servant with her departure.

A native of California, Ms. Miles earned a bachelor's degree in economics from Occidental College in Los Angeles and a master of economics degree from the University of Washington at Seattle. She began her CRS service in July 1975, as an economist. She was successively promoted throughout her career, attaining the position of Specialist in Housing in 1979, and that of Specialist in Financial Institutions in 1995.

Ms. Miles' research was in the general area of housing. She is an expert in a range of housing-related policy issues such as the housing industry and finance, housing supply and prices, housing demand, mortgage interest rates and affordability, and federal policies toward home ownership. Ms. Miles provided close support to numerous members of Congress and their staff, in the form of analysis, confidential memos, and reports during the savings and loan crisis of the late 1980s. She worked closely with Congress as it drafted the Financial Institutions Reform Recovery and Enforcement Act of 1989 that established the Resolution Trust Corporation, which liquidated the assets of insolvent savings and loans, and reimbursed depositors and other creditors.

As her career developed, Ms. Miles also devoted her talents to the study of and analysis of public policy concerning government sponsored enterprises, or GSEs, which are stockholder-owned companies whose Congressional charters call on them to support the secondary mortgage market, especially lower income groups and geographic areas not well served by lenders. She provided ever more insightful and detailed reports on the costs, benefits, and risks of various GSEs, advising Congress on the impact of the GSEs on different sectors of the housing market in particular, as well as on the nation's economy in general. Through regular and ever expanding contacts, she helped to familiarize members and staff with the role of Congress in policy options and oversight of the GSEs. She provided regular analyses of options for legislation and oversight. Her work included in-person briefings, telephone briefings, lectures, seminars, reports, confidential and general distribution memoranda, and CRS reports for Congress. She testified before Congress on

many occasions. All of her work in the area of GSE-related oversight and legislation by Congress demonstrated an extremely detailed understanding of the complex, significant policy issues surrounding these institutions and their operations. Her insights and perspective were plain, and understandable; the clarity and rigor of her analyses won praise from members and commendations at CRS.

In 2000, Ms. Miles assumed the position of Section Head of the Banking, Securities, Insurance, and Macroeconomics Section within the CRS Government and Finance Division. For the next five years she supervised eight to ten economists, ranging from experienced veterans to newly-appointed staff hired from the private sector, other government agencies, and from distinguished graduate programs. She was generous with her time and offered constructive advice working with staff through multiple revisions to produce the most useful products for members and staff. She challenged veteran staff to think and write in new ways to better serve Congress.

She emphasized the need for economists to write clearly and to connect the micro economic foundations of financial markets to macro economic policy to best assist Congress in its duties of scrutiny, oversight, and legislation. Ms. Miles' own broad expertise and depth of experience in her section's wide-ranging policy responsibilities provided her with unique tools during her period as a section manager in CRS. She conducted knowledgeable oversight of section written materials and was regarded by her staff and management as a skilled reviewer whose insistence on the highest standards was matched by her ability as a mentor and educator. She constantly worked with her staff to improve the precision and clarity of their writing and to produce accurate, balanced and insightful analysis of the issues of the day in a timely manner. Ms. Miles led her section to new levels of intellectual excellence and dedicated service to Congress, while gaining the unquestioned respect and genuine affection of her staff.

Ms. Miles was an invaluable resource in many ways that did not always attract notice. Throughout the course of her career, other analysts frequently consulted with her for her subject matter and economic expertise. She tirelessly peer-reviewed papers. Ms. Miles managed a long-running CRS cooperative ''Capstone'' project, initiated with students and faculty of the University of Texas, that examined corporate governance policy issues and questions for Congress. She initiated and nurtured a popular ''Brown Bag Luncheon'' series of lecture-discussions on policy issues. She selected topics and used her wide contacts to arrange for speakers for a program that has covered a very broad range of issues, and continues to draw standing-room-only audiences. Ms. Miles was honored by her colleagues when they elected her president of the Congressional Research Employee Association.

CRS management recognized Ms. Miles for achieving and exceeding the organizational goals established for her section, leading her staff to new levels of excellence that could not have been attained without her steady and inspired guidance. Her mastery of technical skills, her understanding of and commitment to the mission and goals of the Congressional Research Service, coupled with her ability to communicate these to her staff, helped lead her section to significantly improved organizational performance.

After stepping down as section head in 2005, Ms. Miles continued to mentor new staff. In stepping down, she planned to spend more time analyzing and writing about government-sponsored enterprises, housing issues, and financial services. She also took on the role of division reviewer to ensure that all products met the highest CRS standards.

Ms. Miles won numerous awards and praise from members during her 32 years at CRS. In 1995, a Senator praised one of her products for ''explaining that the debate between the direct lending and the guaranteed loan program is fundamentally a debate over political philosophy and not a debate over economics. . . . It is important to keep in mind that these economists at the Congressional Research Service are not individuals who work for the Republican Party, nor are they individuals who have some hidden agenda, who have some connection to the banks or the guaranty agencies. They are simply economists who work for the Congressional Research Service and provide us with objective, nonpartisan analyses of the programs that Congress develops.'' In 1998, two Senators and a Representative praised her work on the Higher Education Amendments of 1998.

She wrote numerous concise and complete reports for CRS. She also contributed to the Joint Economic Committee's Demographic Change and the Economy of the Nineties with ''Demography and Housing in the 1990s,'' which turned out to be a classic work on housing.

Ms. Miles also testified before Congressional committees numerous times on housing and mortgage issues. The members of the House Committee on Financial Services and the House Committee on the Budget were the most frequent beneficiaries of her insights and wisdom.

In 1993, she received a CRS special achievement award for ''extraordinary contributions to debate over the student loan program including the Omnibus Budget Reconciliation Act of 1993.'' In 2000, 2001, 2002, and 2004 she received incentive awards for sustained high performance. In 2001 and 2002 she received honorary superior service awards. Upon her retirement, Ms. Miles received a meritorious service award.

Ms. Miles was active in professional associations, conferences and meetings. She participated in conferences sponsored by the Chicago Federal Home Loan Bank, the Chicago Federal Reserve, the American Economics Association, the American Real Estate and Urban Economics Association, and Women in Housing and Finance. In her private life, Ms. Miles remains an avid bicycle rider who has raced competitively. One of her goals after retirement is to ride a ''century'' or 100 miles. She is also an active member of the Episcopal Church, in which she served with distinction on the Diocesan Council Episcopal of the Episcopal Diocese of Washington.

For the 32 years of her career at CRS—and her six years of previous federal service—Ms. Miles won the respect, admiration, and thanks of her colleagues. Her steadfast dedication to service to Congress and the nation and her commitment to the highest standards of unbiased and timely response to Congressional requests for information have made a positive and lasting contribution.

On behalf of the members of the Senate Committee on Banking, Housing, and Urban Affairs, Senator SHELBY and I express our deep appreciation to Ms. Miles for her many years of dedicated public service and wish her well as she goes on to other endeavors.

ADDITIONAL STATEMENTS

HONORING KATHLEEN MCNAMARA

● Mr. AKAKA. Mr. President, I believe deeply that the well-being of our society depends on the contributions of committed individuals. With that belief in mind, today I pay tribute to an individual who has given much to many, most especially to veterans in my home State of Hawaii, Dr. Kathleen McNamara.

Dr. McNamara is a psychologist who has spent 18 years working full time for veterans, with most of that time spent in Hawaii. Her full career spans longer than that, and includes impressive service across a range of issues in psychology. Recently, the American Psychological Association presented Dr. McNamara with a Presidential Citation in recognition of the more than 30 years she has dedicated to the American people, including veterans. Dr. McNamara has served on many of the APA's volunteer boards, including their board of directors.

I have interacted with Dr. McNamara both in her role as psychologist and in her work with the veterans' community. I have found her to be thorough and of strong conviction.

I recall a witness who was testifying at a January 2006 hearing of the Committee on Veterans' Affairs. This witness was speaking on behalf of veterans from the Hawaiian island of Molokai, where it can take over 3 months to get an appointment with a visiting VA psychologist. This witness told the committee about Dr. McNamara, who routinely travels to Molokai from a neighboring island. He called Dr. McNamara

the ''Mother Theresa for the veterans,'' and noted that Molokai needed more psychologists, because the demand to see Dr. McNamara was just so great.

I humbly offer Dr. McNamara my gratitude for what she has done for veterans, for Hawaii, and for our Nation.●

TRIBUTE TO TERESA KIRKEENG-KINCAID

● Mr. BOND. Mr. President, today I pay tribute to Teresa Kirkeeng-Kincaid, a remarkable civil servant who dedicated her entire career to making her community, the Upper Mississippi River Region and our Nation a better place. Teresa passed away last week at the young age of 48, after a courageous battle against cancer. Her legacy, however, will continue long into the future. Teresa dedicated her entire professional life to working for the Federal Government. Teresa joined the U.S. Army Corps of Engineers as a civil engineer with the Rock Island District in 1981, and continued with the Corps for 26 years. In that time, she served in many roles, including assistant chief of the planning, program and project management division.

During her two and a half decades of service, Teresa earned a reputation on the Upper Mississippi Region and across the Nation as a person of great dedication and integrity. She played a leadership role in important projects including formulating navigation, flood damage, and ecosystem restoration projects throughout the entire Upper Mississippi River basin. She was the ''go to person'' throughout the Corps of Engineers on numerous planning issues. The team she led reestablished the Corps' Planning Associates program to train future planners for the Corps, a legacy that will last for many decades.

I had the occasion to meet Teresa several times, and know the very high regard in which she was held by her coworkers, her countless friends, and her loving family. She will be missed.●

RECOGNIZING MONROE CITY, MISSOURI

● Mr. BOND. Mr. President, it is with great pleasure that I congratulate Monroe City, MO, on the 150th Anniversary of its founding.

Monroe City has had a long and proud history. The city was founded on July 4, 1857, by E.B. Talcott and John Duff at a picnic where town lots were sold. In 1869 Monroe City became an incorporated town, owing its existence to the Hannibal and St. Joseph Railroad and the Wabash Railroad. Due to the drive of the community's many entrepreneurs Monroe City enjoyed continued economic, agricultural, and structural growth.

In the early 1870s an educational system was created with both public and parochial schools. In 1918, a Carnegie Library was built that is still owned and supported by the city of Monroe City.

Throughout its 150-year history, Monroe City has continued to flourish and has striven to maintain its concern for, and involvement in, the lives of its citizens. Members of this community have often assumed leadership positions in the community through participation in fire, police, and administration departments, as well as with their work with a variety of civic and church groups.

I am pleased to join with the State of Missouri in congratulating Monroe City on this important milestone and wishing them continued growth and success for the next 150 years.●

RETIREMENT OF LIEUTENANT GENERAL DONALD WETEKAM

● Mr. CHAMBLISS. Mr President, today I pay tribute to a great military leader, officer, and good friend, LTG Donald Wetekam. After 34 years of distinguished and honorable service, General Wetekam, the Deputy Chief of Staff of the Air Force for Installations and Logistics, will retire from the U.S. Air Force.

General Wetekam began his active duty service in 1973 after graduating from the U.S. Air Force Academy. As a career logistics officer, he commanded three maintenance squadrons, a logistics group and a logistics center, and has served staff tours at both the major command and air staff levels.

General Wetekam's noteworthy service and responsibilities have been widely recognized. He received the Distinguished Service Medal, the Meritorious Service Medal with four oak leaf clusters, the Legion of Merit with an oak leaf cluster, and the Air Force Commendation Medal with an oak leaf cluster.

Prior to serving as the Deputy Chief of Staff for Installations and Logistics, General Wetekam served as Commander of the Warner Robins Air Logistics Center, at Robins Air Force Base, GA. He also served both as Director of Maintenance and Logistics and Deputy Director of Combat Weapon Systems at Headquarters Air Combat Command, Langley Air Force Base, VA; and as Director of Logistics, Headquarters Pacific Air Forces, Hickam Air Force Base, HI. Prior to that he served as Vice Commander and Director, Aircraft Management Directorate at the Oklahoma City Air Logistics Center, Tinker Air Force Base, OK; and commanded the 49th Logistics Group at Holloman Air Force Base, NM.

General Wetekam has been a visionary leader, and among his most significant accomplishments, championed initiatives including Repair Enterprise 21, establishing a single enterprise-wide maintenance repair network. He was a driving force behind the Global Logistics Support Center moving from a base centric supply process to a centrally responsive approach to improving supply chain management. During General Wetekam's tenure, the Air Force saw the implementation of Centralized Asset Management, culminating in a $14 billion savings and the elimination of complex and redundant financial processes. General Wetekam worked extensively to increase the number of Security Forces available for deployment and through this effort provided much needed support to our warfighters. He was successful in reducing career field operations tempo, and forged a ground breaking path for both privatized housing and joint basing.

General Wetekam's leadership was instrumental to air and space forces engaged across a breadth of support activities in Operation Iraqi Freedom and Operation Enduring Freedom. As the prime architect of Lean implementation, his guidance enabled the Air Force to increase efficiency in a resource constrained, high operations tempo environment. His efforts provided the foundation for Air Force Smart Operations 21 and the ability to fund the recapitalization of an aging fleet and build the Air Force of tomorrow while fighting today's war.

The Nation will miss General Wetekam's commitment to duty, ceaseless drive for improvement, and unwavering support to the U.S. Air Force. I will miss having him in the U.S. Air Force, although I know he will continue to serve his Nation wherever he goes. I know I speak on behalf of a grateful Nation in saying thank you to General Wetekam for his years of service and sacrifice. I hope my colleagues will join me in wishing him well in all his future endeavors and hope that those who follow in his footsteps will continue his legacy of unprecedented support to our great Nation. Good luck and Godspeed.●

TRIBUTE TO JONESBORO HIGH SCHOOL

● Mr. CHAMBLISS. Mr. President, today I congratulate the Jonesboro High School Mock Trial team of Clayton County, GA, for winning the 2007 National High School Mock Trial Championships in Dallas, TX. The championship consisted of 44 teams representing 40 States, South Korea, and the North Mariana Islands.

The mock trial program is an excellent experience for students, allowing them to further their understanding of court procedure and the legal system; to improve proficiency in basic skills such as listening, speaking, reading and reasoning; to promote better communication and cooperation between the educational and legal community; to provide a competitive event in an academic atmosphere; and to promote cooperation among young people of various abilities and interests.

Jonesboro's long journey to the national championships began by practicing 3 days a week under the tutelage of prominent judges and lawyers in Clayton County. The team qualified for the National High School Mock Trial Championships by winning their fifth

Georgia State Championship, and their fourth in the last 6 years, defeating a very talented Grady High School team from Atlanta. After winning the State championship, the team turned its focus to the national championship, where the students presented their case in front of legal professionals in a courtroom environment.

En route to the final round, Jonesboro defeated the State championship teams from Hawaii, Idaho, Colorado, and Illinois. In the finals, they played the defense side against Kalamazoo Central High School from Kalamazoo, MI, in a civil case based on the tragic events in Texas City, TX, in 1947. The team vigorously debated who was at fault for an accident that resulted in the sinking of several ships, along with injuries and fatalities. Jonesboro did not back down from the runners-up of the 2006 competition, and they defeated Kalamazoo to bring the national title back to the Peach State for the third time since 1995, and tying Georgia with Iowa for the most national titles in the Nation.

I would like to congratulate Kayla Delgado, Lindsay Hargis, Mathew Mitchell, Sandra Hagans, Kyle Skinner, Lindley Curtis, Laura Parkhouse, Braedon Orr, Brian Cunningham, Jayda Hazell, Tabias Kelly, Jurod James, Joe Strickland, and team captain Brittne Walden for their hard work and accomplishments. I would also like to extend my gratitude to the parents and supporters of the team for reaching out to these students and providing them with the leadership and guidance to reach their goal of a championship. The team's successes would not have been possible without the guidance of their teacher coaches, Anna and Andrew Cox, their attorney coaches, the Honorable John Carbo, the Honorable Deborah Benefield, and Tasha Mosely, and their student coach from Mercer Law School, Katie Powers.

They have all made the State of Georgia proud.

RECOGNIZING GALESBURG, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 23 to 24, the residents of Galesburg will gather to celebrate their community's history and founding.

Galesburg is a community in Traill County, near the Elm River. Founded in 1882, Galesburg, like many small towns in North Dakota, began when the railroad stretched across the State. The residents share a rich Scandinavian background and celebrate their heritage with an annual lutefisk and meatball supper. Galesburg is noted as being home to the world's largest standing structure, the KXJB-TV mast. Many individuals travel to Galesburg in the fall to take advantage of the excellent deer hunting available in that region.

The residents of Galesburg are proud of their bean plant, local softball team, and community-owned café. A yearly church bazaar and live auction brings the community together as the residents make homemade gifts and treats to auction. The residents are enthusiastic about their upcoming celebration and have made a Veterans Memorial for all individuals from Galesburg that have served the United States. An exciting weekend is planned that begins with a parade that will led by a resident of Galesburg who is 106 years old.

Mr. President, I ask the Senate to join me in congratulating Galesburg, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Galesburg and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Galesburg that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Galesburg has a proud past and a bright future.●

RECOGNIZING WASHBURN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased today to honor a community in North Dakota that is celebrating its 125th anniversary. On June 14 to 17, the residents of Washburn, ND, will celebrate their community's history and founding.

Washburn is a small town in the central part of North Dakota with a population of 1,389. Despite its small size, Washburn holds an important place in North Dakota's history. The Lewis & Clark Expedition spent the winter at Fort Mandan, near where the town would eventually be located. Washburn was founded in 1882 along the Missouri River and named for Cadwallader Colden Washburn, a Civil War general, Congressman, and Governor of Wisconsin. ''King'' John Satterlund was one of the town's first leaders. Washburn was incorporated as a city in 1902 when the Soo Line Railroad came to town.

Over the last 125 years, Washburn has remained a strong community. The energy industry provides the driving force in the local economy. Washburn's residents are very proud of their community and enjoy the beautiful Missouri River scenery and quiet rural lifestyle. They continue to support the school, churches, and many other small businesses in town.

Mr. President, I ask the Senate to join me in congratulating Washburn, ND, and its residents on their first 125 years and in wishing them well into the future. It is clear that Washburn has a proud past and a bright future. By honoring Washburn and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Washburn that have helped to shape this country into what it is today, which is why it is deserving of our recognition.●

RECOGNIZING DAVENPORT, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 8 to 10, the residents of Davenport will gather to celebrate their community's history and founding.

Davenport, a railroad town located in Cass County just 20 miles southwest of Fargo, is a community of about 261 people. The city was founded in 1882 and platted by G.F. Channing and Henry D. Cooke, Jr. The post office was established April 6, 1882, and Davenport was organized into a city in 1895. Channing named the town for Mary Buckland Davenport, a friend from Massachusetts and the second wife of William Claflin, who was the Governor of Massachusetts from 1869 to 1872.

Davenport has plenty to offer its residents and visitors. Young couples and families are drawn to Davenport as it offers an escape from the big city, more affordable housing, and an opportunity to raise children in a more rural setting. Businesses in Davenport include a bar and restaurant, a beauty shop, and additional home-based businesses. The town also has a park called Tuskind Park, named after the Davenport family that used to own the grocery store.

The 125th celebration in the town where Mayor Jason Lotzer notes, ''everybody knows everybody,'' will include a ''Wagon Train,'' karaoke, a parade, a silent auction, all school reunion, and a variety of activities in Tuskind Park.

Mr. President, I ask the Senate to join me in congratulating Davenport, ND, and its residents on their first 125

years and in wishing them well in the future. By honoring Davenport and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Davenport that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Davenport has a proud past and a bright future.●

RECOGNIZING PISEK, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 23, the residents of Pisek will gather to celebrate their community's history and founding.

Pisek, a railroad town located in Walsh County, was established in 1882 by Frank P. Rumreich and other Czech and Moravian settlers. Pisek was chosen as the name because some its the settlers had come from Pisek, Czechoslovakia, and also because the community was built near a sand ridge. Pisek means ''sand'' in Czech.

Pisek is home to 96 residents and several small businesses. The local J-Mart draws customers throughout the area because it is known for having the best Christmas candy selection in the region. Pisek's church, the St. John Nepomucene Catholic Church, was blessed on the feast of St. John Nepomucene on May 16, 1887, and today it continues to be vital part of the community. The community's celebration will include a church service, a parade, a traditional Bohemian pork and dumpling meal, and various afternoon activities. An evening street dance will close the celebration.

Mr. President, I ask the Senate to join me in congratulating Pisek, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Pisek and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Pisek that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.●

RECOGNIZING LAMOURE, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 22 to 24, the residents of LaMoure will gather to celebrate their community's history and founding.

LaMoure is a small town in southeast North Dakota with a population of roughly 1,000 residents. LaMoure was named in honor of Judson LaMoure, a legislator in the Dakota Territory government. It is the only known community named ''LaMoure'' in the United States.

LaMoure has a variety to offer, from its beautiful lake and parks to tours of the Toy Farmer Museum and Hutterian Brethren Colonies. Also in LaMoure, you can tour the County Courthouse, which is on the National Register of Historical Places. The LaMoure County Memorial Park, a short drive from LaMoure, is home to the LaMoure County Summer Musical Theater, which showcases local talent in a series of live performances throughout the summer.

For those who call LaMoure home, it is a comfortable place to live, work, and play. The people of LaMoure are enthusiastic about their community and the quality of life it offers. The community has a wonderful celebration weekend planned that includes parades, dances, picnics, games, and much more.

Mr. President, I ask the Senate to join me in congratulating LaMoure, ND, and its residents on their first 125 years and in wishing them well into the future. By honoring LaMoure and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as LaMoure that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

LaMoure has a proud past and a bright future.●

WISCONSIN JAZZ AND HERITAGE FESTIVAL

● Mr. KOHL. Mr. President, today I honor the late Milwaukee jazz legend, Tony King.

Mr. Tony King was an inspiration and mentor to all of his students during his tenure as teacher and director of the jazz program at the Wisconsin Conservatory of Music in downtown Milwaukee. As an accomplished pianist, he not only applied his talent to share beautiful music with the world, but also dedicated himself to help foster the talent of young musicians. Mr. King recognized the potential and skill of his students and guided them with respect, care, and humility.

Mr. King's life and legacy will be celebrated this Memorial Day weekend in Milwaukee at the Second Annual Wisconsin Jazz and Heritage Festival at Jamie's Club Theatre. Mr. King's historic contributions to the jazz community in Wisconsin are reflected in the lives and accomplishments of his former students who will return to Milwaukee and perform in his honor. Many teachers hope they have an impact on their students' lives and the community in which they taught. Mr. King's impact will be remembered this weekend in Milwaukee with sounds of happiness, laughter, and the music that he loved so much.●

TRIBUTE TO WILLIAM E. COLSON

● Mr. SMITH. Mr. President, today I pay tribute to William E. Colson, a great Oregonian, who devoted his entire life to building and operating quality senior housing. Beginning in 1971 in Salem, OR, Bill Colson and his father Hugh built and operated independent living communities for seniors. The company they founded, Holiday Retirement Corp., earned a reputation for providing middle-income seniors access to outstanding housing and services. By steadily constructing and selectively acquiring senior housing properties, Holiday Retirement Corp. grew to become the largest owner and manager of senior housing in the world.

Bill Colson and his partners, including his wife Bonnie, son Bart, and Dan Baty, Norm Brendan, Patrick Kennedy, Thilo Best, Mark Burnham, the Hasso family, Bruce Thorn, and their loyal employees and investors collectively built and managed over 80,000 senior living units in the United States, Canada, France and United Kingdom.

Bill Colson has been recognized as a founding father of seniors housing by the American Seniors Housing Association, an organization he helped create in 1991. With his passing at age 66, Bill Colson leaves his wife, two sons, Brad and Bart, and three grandchildren, all of whom he adored. He was beloved by his family and by the thousands of employees and residents he served so well over the years. I ask my colleagues to join me in recognizing Bill Colson and celebrating his lifetime of achievements building and operating outstanding housing for seniors across North America and Europe. He will be remembered by those whose lives he touched as a devoted family man, successful businessman, generous philanthropist, genuine friend and a great American.●

TRIBUTE TO JOAN McKINNEY

● Ms. LANDRIEU. Mr. President, I would like to take a moment to pay tribute to Joan McKinney—journalist, advocate for the free press and accomplished shag dancer—who turned 60 this week, for her outstanding contributions to the State of Louisiana and to our country.

Joan McKinney, originally of Greenville, SC, came to Washington in 1971 to work on the press staff of former Senator Fritz Hollings. As her career advanced, she chose to return to journalism, and she worked for papers in both Louisiana and South Carolina before coming back to work here at the Capitol, covering Washington for the Baton Rouge Advocate, a position she held from 1979 to 2003. I came to know and respect Joan in my many hallway meetings with her since I came to the Senate in 1997.

In her tenure as the advocate's congressional correspondent, Joan beat the Capitol's marble floors and came to be well respected by the Louisiana delegation. The Members from my State knew there was nothing, nothing that could get by her. She was so skilled at asking the right questions that she was able to draw from our elected officials

some truly famous zingers—such as when former Senator Breaux in 1981, while still a House Member, told her why he was voting for a particular plan President Reagan was putting forth. He said his vote could not be bought, but it was up for rent.

Joan's work as a reporter stayed true to the best tenets of journalism. She served the people of Louisiana for a quarter of a century by informing them about the personalities and policies of their elected representatives in Washington.

Through her work, Joan became an expert on the intricacies of the Senate and the Supreme Court. She has taken this knowledge with her into her current role as a member of the Senate Daily Press Gallery staff. Her Senate acumen on the institution and its procedure is of great value to the reporters roaming the gallery, cubs and veterans alike, who rely on her for deep insight about the Chamber they cover.

Joan, who has won reporting awards from the South Carolina and Louisiana press associations, is a longtime member of the 112-year-old, elite Gridiron Club of newspaper writers. She was one of the first women to become a member. Her storied career as a journalist, which earned her the respect of fellow members of the press and politicians alike, should be an example to all aspiring women journalists. And for those lucky enough to gain a spot in the valued turf of the Senate Daily Press Gallery, I know Joan will offer them a helping hand. The smart one will take it, and draw on the knowledge, experience and good heart, which has distinguished Joan among all who know her and the many more who have benefited from her years of believing in and serving the best ideals of our democracy.●

TRIBUTE TO JOEL COGEN

● Mr. LIEBERMAN. Mr. President, those of us who hold elected office are accustomed to getting the recognition and praise that comes with a career in public service. However, I think all of us would also recognize that there are many equally dedicated public servants who work behind the scenes and are just as deserving of the public's gratitude and recognition. I rise today to honor one such public servant.

In June, Joel Cogen, the executive director and general counsel of the Connecticut Conference of Municipalities, will retire after 41 years at CCM. Mr. Cogen's retirement marks the end of a highly distinguished career in public service, one in which he became a fixture in Connecticut politics.

Mr. Cogen has been with CCM since its inception in 1966 and has been its executive director since 1968. With Mr. Cogen at the helm, CCM, an organization dedicated to both advocating for the interests of Connecticut municipal governments and promoting efficiency and responsiveness within municipal government, has grown in both size and influence to the point where it is now the dominant voice for Connecticut's cities and towns. In addition to its advocacy work, CCM has also provided its member municipalities with numerous services, including management assistance, individualized inquiry service, assistance in municipal labor relations, technical assistance and training, policy development, research and analysis, publications, information programs, and service programs such as workers' compensation. These services, provided under Mr. Cogen's leadership, have helped to greatly increase the level of service the people of Connecticut receive from their local officials.

In addition, Mr. Cogen also serves as corporate executive officer of CCM's Connecticut Interlocal Risk Management Agency. This agency allows CCM's member towns to pool their resources to purchase services, such as workers' compensation insurance, that many towns might otherwise find too expensive.

Before his tenure at CCM, Mr. Cogen held numerous other public service positions. He worked for 9 years at the New Haven Redevelopment Agency, while at the same time working as an assistant for then-mayor Richard C. Lee. Before that, he worked for the Ansonia Redevelopment Agency, the New York State Mediation Board, and the U.S. Wage Stabilization Board. He also brought his skills to the U.S. Army, where, as an officer for 2 years, he handled various management assignments.

Given all of these accomplishments, I cannot help but think of Mr. Cogen's retirement in bittersweet terms. While I am certainly happy for him and wish him all the best, I cannot help but think about what a loss it will be for Connecticut when he steps down. I am sure, however, that his dedication to the State will live on in all who know him and worked with him and that we will be left in good hands.

Thank you, Joel Cogen. Connecticut is a better place because of you and all you have done.●

TRIBUTE TO JAMES BURTON BLAIR

● Mr. PRYOR. Mr. President, today I honor a man who has given so much of himself to public service, the State of Arkansas and the legal community.

In 1957, James Burton (Jim) Blair was admitted to practice law in Arkansas. A successful attorney, he was the only general counsel that Tyson Foods had in the 20th century as the company grew from a regional poultry company to the second largest food producer in the Fortune 500.

Jim Blair has shared his success with contributions to his lifelong hometown of Fayetteville, The University of Arkansas, and the State that we both call home. He has contributed to the education of others by establishing funds and chairs at the University of Arkansas. He gave the largest private gift ever given to a public library in Arkansas; the new Fayetteville Public Library is named The Blair Library in memory of Jim's late wife Diane Divers Blair, his grandmother Bessie Motley Blair and his aunt Dr. Mary Grace Blair. A patron of the arts, Jim established a sculpture room at the Walton Arts Center, donated the Anita Huffington sculpture ''Spring'' to the University of Arkansas and also donated the Huffington sculpture ''Earth'' to the Arkansas Arts Center in Little Rock.

Jim Blair also has a passion for politics and public service. He was a delegate to the Democratic National Conventions of 1968, 1972, and 1980. He served as campaign manager of Senator William J. Fulbright's 1974 reelection campaign, was vice president of the Clinton for President Committee 1992 and is listed in ''Who's Who in American Politics.''

Jim served for 10 years on the University of Arkansas Board of Trustees, including 2 years as chairman. He also served for 9 years on the Arkansas Board of Higher Education, with 1 year as chairman. These days Jim continues his public service by serving on the Fayetteville Educational Foundation Board, the Fayetteville Public Library Board, the Tyson Family Foundation Board, the Arkansas Tennis Association Board and the Northwest Arkansas Community Foundation.

Mr. President, I ask that my colleagues join me in congratulating James Burton (Jim) Blair on his 50th anniversary in the legal profession and many philanthropic contributions to Arkansas.●

TRIBUTE TO FRANK BUCKLES

● Mr. ROCKEFELLER. Mr. President, today I honor the life of Frank Woodruff Buckles, a devoted American, who served this country in World War I. Mr. Buckles, born in 1901 in Harrison County, MO, is still going strong today in West Virginia. At the age of 106, he resides in Charles Town, where he manages his 330-acre farm.

Mr. Buckles was only 16 years old when his country entered World War I. After unsuccessful attempts to join the Marines and the Navy, Mr. Buckles contacted the Army. He claimed that birth certificates had not been issued in Missouri at the time of his birth and started his training at Fort Riley, KS, where many soldiers were ill with influenza. With an irrepressible desire to serve his country, Mr. Buckles joined the Army Ambulance Service and went overseas, first to England and France. Later, Mr. Buckles became an escort for German prisoners of war.

Upon his return from Europe, Mr. Buckles held various jobs. He accepted a position with White Star Line Steamship Company, which took him to Toronto, Canada. In 1921, he put his business education to use at Bankers Trust Company in New York City.

Mr. Buckles eventually realized that he cared most for the steamship industry. While he was employed by Grace Line, he traveled along the western coast of South America. In 1940, the American President Lines had a task for him in Manila—Mr. Buckles found himself trapped in the Philippines when the Japanese invaded in December of the following year. He spent 3½ years in Japanese prison camps, until on February 23, 1945, a subsection of the 11th Airborne Division freed Mr. Buckles and 2,147 other prisoners in a daring raid on the Los Banes prison camp.

After his liberation from Los Banes, Mr. Buckles returned to the United States. He married Audrey Mayo, a young lady, whom he had known before the war and in 1954, they settled down on the Gap View Farm in West Virginia.

On this same farm, Mr. Buckles has remained mentally sharp and physically active. Up to the age of 105, he drove cars and tractors on his farm. Nowadays, he reads from his vast book collection and enjoys the company of his daughter, Susannah Flanagan, who came to live with him after his wife passed away in 1999.

Today, Mr. Buckles is one of three living World War I veterans in the United States, and his dedication and courage have not been overlooked in our Nation's Capital. In 1999, Mr. Buckles was presented with the French Legion of Honor at the French Embassy in Washington, DC. On May 28, 2007, Mr. Buckles will represent his fellow World War I veterans as a Grand Marshall at the National Memorial Day Parade.

We must cherish our last links to World War I. In the same vein, we owe Mr. Buckles and all the men and women, who have served our country, a great debt of gratitude.

I ask the Senate to join me today in commending Frank Buckles, an American whose service to our country deserves recognition.●

RECOGNIZING CASTLEWOOD, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Castlewood, SD. The town of Castlewood will celebrate the 125th anniversary of its founding this year.

Located in Hamlin County, Castlewood was founded in 1882 when the Chicago and Northwestern railroad placed a turntable near the location of the present day town. According to the town's folklore, the first train that passed through had an engineer named Castle and a conductor named Wood, hence the town was named ''Castlewood.'' Since its beginning, Castlewood has been a successful and thriving community and I am confident that it will continue to serve as an example of South Dakota values and traditions for the next 125 years.

I would like to offer my congratulations to the citizens of Castlewood on this milestone anniversary and wish them continued prosperity in the years to come.●

RECOGNIZING ESTELLINE, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Estelline, SD. The town of Estelline will celebrate the 125th anniversaty of its founding this year.

Located in Hamlin County, Estelline was founded in 1882. The community's folklore explains that the town was named after the daughter of one of its early resident's; however, they just do not know which one. It was either the daughter of a prominent landowner, D.J. Spalding, or of Judge Granville Bennett. This story is just another example of the rich history that can be found in South Dakota's rural communities. Over the past 125 years, Estelline has been a successful and thriving community and I am confident that it will continue to serve as an example of South Dakota values and traditions for the next 125 years.

It gives me great pleasure to rise with the citizens of Estelline in celebrating their 125th anniversary and wish them continued success in the years to come.●

RECOGNIZING ONAKA, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Onaka, SD. The town of Onaka will celebrate the 100th anniversary of its founding this year.

Located in Faulk County, Onaka was founded in 1907. Onaka has been a successful and thriving community for the past 100 years and I am confident that it will continue to serve as an example of South Dakota values and traditions for many years to come.

I would like to offer my congratulations to the citizens of Onaka on this milestone anniversary and wish them continued prosperity in the years to come.●

RECOGNIZING PHILIP, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Philip, SD. The town of Philip will celebrate the 100th anniversary of its founding this year.

Located in Haakon County, Philip was founded in 1907 with the arrival of the Chicago and Northwestern Railroad. It was named after James ''Scotty'' Philip, a local rancher who was known for his efforts to preserve the buffalo population from extinction. Philip has been a successful and thriving community for the past 100 years and I am confident that it will continue to serve as an example of South Dakota values and traditions for the next 100 years.

I would like to offer my congratulations to the citizens of Philip on this milestone anniversary and wish them continued prosperity in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 67. An act to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes.

H.R. 612. An act to amend title 38, United States Code, to extend the period of eligibility for health care for combat service in the Persian Gulf War or future hostilities from two years to five years after discharge or release.

H.R. 1100. An act to revise the boundary of the Carl Sandburg Home National Historic Site in the State of North Carolina, and for other purposes.

H.R. 1252. An act to protect consumers from price-gouging of gasoline and other fuels, and for other purposes.

H.R. 1427. An act to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes.

H.R. 1470. An act to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers.

H.R. 1660. An act to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the southern Colorado region.

H.R. 2199. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide certain improvements in the treatment of individuals with traumatic brain injuries, and for other purposes.

H.R. 2239. An act to amend title 38, United States Code, to expand eligibility for vocational rehabilitation benefits administered by the Secretary of Veterans Affairs.

H.R. 2429. An act to amend title XVIII of the Social Security Act to provide an exception to the 60-day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces.

The message also announced that pursuant to 46 U.S.C. 51312(b), and the order of the House of January 4, 2007, the Speaker appoints the following

Members of the House of Representatives to the Board of Visitors to the United States Merchant Marine Academy: Mrs. MCCARTHY of New York and Mr. KING of New York.

At 2:58 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 158. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional adjournment of the Senate.

ENROLLED BILL SIGNED

At 5:27 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 988. An act to designate the facility of the United States Postal Service located at 5757 Tilton Avenue in Riverside, California, as the ''Lieutenant Todd Jason Bryant Post Office'':

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 7:14 p.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2206) making emergency supplemental appropriations and additional supplemental appropriations for agricultural and other emergency assistance for the fiscal year ending September 30,2007, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 67. An act to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 612. An act to amend title 38, United States Code, to extend the period of eligibility for health care for combat service in the Persian Gulf War or future hostilities from two years to five years after discharge or release; to the Committee on Veterans' Affairs.

H.R. 1100. An act to revise the boundary of the Carl Sandburg Home National Historic Site in the State of North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1252. An act to protect consumers from price-gouging of gasoline and other fuels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1427. An act to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1470. An act to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers; to the Committee on Veterans' Affairs.

H.R. 1660. An act to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the southern Colorado region; to the Committee on Veterans' Affairs.

H.R. 2199. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to provide certain improvements in the treatment of individuals with traumatic brain injuries, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2239. An act to amend title 38, United States Code, to expand eligibility for vocational rehabilitation benefits administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

H.R. 2429. An act to amend title XVIII of the Social Security Act to provide an exception to the 60-day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces; to the Committee on Finance.

MEASURES READ THE FIRST TIME

The following joint resolution was read the first time:

S.J. Res. 14. Joint resolution expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2046. A communication from the Assistant Legal Adviser, Office of Treaty Affairs, Department of State, transmitting a letter stating that an exchange of notes stamped ''for your information'' enclosed in Treaty Doc. 109–20, the Protocol Amending the Convention Between the United States of America and the Federal Republic of Germany for the Avoidance of the Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes, corrects that Protocol, and requesting that the Senate give its advice and consent to the Protocol as corrected by that exchange of notes; to the Committee on Foreign Relations.

EC–2047. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense services related to the Rolling Airframe Missile MK 31 Guided Missile Weapon System in the amount of $50,000,000 or more to Korea; to the Committee on Foreign Relations.

EC–2048. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Mint Crop Insurance Provisions'' (RIN0563–AC03) received on May 23, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2049. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio; Control of Gasoline Volatility'' (FRL No. 8318–3) received on May 23, 2007; to the Committee on Environment and Public Works.

EC–2050. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Georgia; Enhanced Inspection and Maintenance Plan'' (FRL No. 8318–1) received on May 23, 2007; to the Committee on Environment and Public Works.

EC–2051. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Florida; Prevention of Significant Deterioration Requirements for Power Plants Subject to the Florida Power Plant Siting Act'' (FRL No. 8317–8) received on May 23, 2007; to the Committee on Environment and Public Works.

EC–2052. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Kansas'' (FRL No. 8318–6) received on May 23, 2007; to the Committee on Environment and Public Works.

EC–2053. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL No. 8318–8) received on May 23, 2007; to the Committee on Environment and Public Works.

EC–2054. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District'' (FRL No. 8315–9) received on May 23, 2007; to the Committee on Environment and Public Works.

EC–2055. A communication from the Chief, Trade and Commercial Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Dominican Republic — Central America — United States Free Trade Agreement'' (RIN1505–AB64) received on May 23, 2007; to the Committee on Finance.

EC–2056. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a recommendation to continue the waiver of application of Subsections (a) and (b) of Section 402 of the Act to Belarus for one year; to the Committee on Finance.

EC–2057. A communication from the Administrator, Office of Foreign Labor Certification, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Labor Certification for the Permanent Employment of Aliens in the United States; Reducing the Incentives and Opportunities for Fraud and Abuse and Enhancing Program Integrity'' (RIN1205–AB42) received on May 23, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–2058. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission's annual report for calendar year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–2059. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Inspector General's Semiannual Report for the period from October 1, 2006 through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2060. A communication from the Director, National Legislation Commission, American Legion, transmitting, pursuant to law, a report relative to the financial condition of the Legion as of December 31, 2006; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–97. A resolution adopted by the City Commission of Sunny Isles Beach, Florida, requesting fair treatment for Haitian asylum seekers who recently arrived ashore in Hallandale Beach, Florida; to the Committee on the Judiciary.

POM–98. A concurrent resolution adopted by the House of Representatives of the State of Arizona urging Congress to take immediate action to allow the Arizona Game and Fish Commission to recover the Kofa National Wildlife Refuge desert bighorn sheep population; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT MEMORIAL 2008

Whereas, the Kofa National Wildlife Refuge was created primarily in response to concerns for historic declines in desert bighorn populations throughout the west, and the refuge is critical to the health of desert bighorn sheep; and

Whereas, the Kofa National Wildlife Refuge desert bighorn sheep population has declined from 812 sheep in 2000 to 390 sheep in 2006, as documented through extrapolation of data from surveys conducted by the Arizona Game and Fish Commission and the Kofa National Wildlife Refuge; and

Whereas, the Kofa National Wildlife Refuge is the primary source of desert bighorn sheep, mexicana subspecies, throughout the southwestern portion of the United States; and

Whereas, the Kofa National Wildlife Refuge has served as the primary resource for repatriation of desert bighorn sheep to mountain ranges in Arizona, Texas, New Mexico and Colorado and has repatriated at least 513 desert bighorn sheep in 25 of the past 49 years since transplanting began: and

Whereas, the decline in the Kofa National Wildlife Refuge sheep herd coincides with periods of drought and a known increase in the resident population of mountain lions on the Kofa National Wildlife Refuge; and

Whereas, the current population of Kofa desert bighorn sheep is inadequate to support continuing repatriation; and

Whereas, failure to take immediate action will likely result in further decline and threaten the viability of the Kofa herd,; and

Whereas, the Arizona Game and Fish Commission has a trust responsibility under title 17, Arizona Revised Statutes, to manage all wildlife in Arizona; and

Whereas, although the United States Fish and Wildlife Service is mandated to manage the natural resources of the Kofa National Wildlife Refuge, the National Wildlife Refuge System Improvement Act of 1997 which provides that the Secretary of the Interior shall ensure effective coordination, interaction and cooperation with the fish and wildlife agency of the states in which the units of the system are located; and

Whereas, the Arizona Game and Fish Commission and Department are recognized for their body of expertise relative to managing both desert bighorn sheep and mountain lions, and immediate management action is needed to secure the health and viability of the Kofa desert bighorn sheep population.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the United States Congress take immediate action to reaffirm the Arizona Game and Fish Department's position as the leading agency in the management of nonmigratory and nonendangered state wildlife.

2. That the Arizona Game and Fish Commission employ, without any unnecessary delays, burdens or obstacles, all management tools and measures necessary to recover the Kofa National Wildlife Refuge desert bighorn sheep population, including the management of predators, water developments, human intervention and the potential for disease epizootics.

3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, each Member of Congress from the State of Arizona and the Director of the Arizona Game and Fish Department.

POM–99. A concurrent resolution adopted by the Senate of the State of Arizona urging Congress to repeal federal tax withholding on certain payments made by government agencies; to the Committee on Finance.

SENATE CONCURRENT MEMORIAL 1001

Whereas, section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 imposes on certain governmental agencies the duty to withhold and remit income taxes on certain payments for providers of services or property; and

Whereas, many providers of covered transactions may be in marginal businesses with little or no federal income tax liability, thereby forcing an interest-free loan to the federal government by the businesses that can least afford them; and

Whereas, section 511 places an undue burden on governmental agencies, creating yet another unfunded mandate to state and local governments; and

Whereas, the Internal Revenue Service is barely able to cope with the current level of tracking of withholding payments, much less handle the exponential increase in such payments that section 511 creates; and

Whereas, this withholding scheme will inevitably lead to endless disputes between governmental agencies and their service providers over billing and account balances.

Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

1. That the Congress of the United States repeal section 511 of the Tax Increase Prevention and Reconciliation Act of 2005, codified as section 3402(t) of the Internal Revenue Code.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–100. A concurrent resolution adopted by the House of Representatives of the State of Louisiana urging Congress to take such actions as are necessary to support the goals and ideals of a National Day of Remembrance for Murder Victims; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 61

Whereas, the death of a child is a devastating experience, and the murder of a child is exceptionally difficult; and

Whereas, Parents of Murdered Children, Inc., (POMC) helps families of murder victims cope with grief through a variety of support services, including counseling, crisis intervention, professional referrals, and assistance in dealing with the criminal justice system; and

Whereas, POMC was formed in 1978 by Robert and Charlotte Hullinger after the tragic murder of their daughter, Lisa, on September 25 of that year; and

Whereas, POMC has grown from only five parents at the first meeting of the organization in Cincinnati, Ohio, in 1978 to over 100,000 members in more than 300 chapters worldwide; and

Whereas, POMC membership is open to anyone who has suffered the murder of a loved one and to professionals who are in frequent contact with survivors of murder victims; and

Whereas, POMC provides comfort and vital, ogoing assistance to countless loved ones of murder victims; and

Whereas, POMC helps guide families of murder victims through the process of pursuing justice in the criminal justice system, which can be an overwhelming experience for grieving loved ones; and

Whereas, POMC has designated September 25 of each year as a National Day of Remembrance for Murder Victims; and

Whereas, the designation of a National Day of Remembrance for Murder Victims provides an opportunity for the people of the United States to honor the memories of murder victims: therefore, be it

Resolved that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to support the goals and ideals of a National Day of Remembrance for Murder Victims and to recognize the significant benefits that Parents of Murdered Children, Inc., provides to the loved ones of murder victims, be it further

Resolved that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 924. A bill to strengthen the United States Coast Guard's Integrated Deepwater Program (Rept. No. 110-72).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 368. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes (Rept. No. 110-73).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled ''Allocations to Subcommittee of Budget Totals'' (Rept. No. 110-74).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 740. A bill to amend title 18, United States Code, to prevent caller ID spoofing, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 76. A concurrent resolution honoring the 50th Anniversary of the International Geophysical Year (IGY) and its past contributions to space research, and looking forward to future accomplishments.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 110. A resolution expressing the sense of the Senate regarding the 30th Anniversary of ASEAN-United States dialogue and relationship.

S. Res. 211. A resolution expressing the profound concerns of the Senate regarding the transgression against freedom of thought and expression that is being carried out in Venezuela, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 1327. A bill to create and extend certain temporary district court judgeships.

By Mr. BIDEN, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 25. A concurrent resolution condemning the recent violent actions of the Government of Zimbabwe against peaceful opposition party activists and members of civil society.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. INOUYE for the Committee on Commerce, Science, and Transportation.

*Charles Darwin Snelling, of Pennsylvania, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term expiring May 30, 2012.

By Mr. BIDEN for the Committee on Foreign Relations.

*Mark P. Lagon, of Virginia, to be Director of the Office to Monitor and Combat Trafficking, with the rank of Ambassador at Large.

*James K. Glassman, of Connecticut, to be Chairman of the Broadcasting Board of Governors.

*James K. Glassman, of Connecticut, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2007.

*Phillip Carter, III, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

Nominee Phillip Carter, III.

Post Conakry, Guinea.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses: Justin M. Carter, none; Andrew N. Carter, none.

4. Parents: Hortencia Carter, none.

5. Grandparents: N/A.

6. Brothers and spouses: David and Nicole Carter, none.

7. Sisters and spouses: Melissa A. Carter, none.

*R. Niels Marquardt, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Madagascar, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Comoros.

Nominee: R. Niels Marquardt.

Post: U.S. Ambassador to Madagascar and the Comoros.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: $25.00, 2003, Mike Clancy.

2. Spouse: Judith, none.

3. Children: Kaia Lucinda Marquardt, none; Kelsey Scoles,none; Torrin Allina, none; Yannika Nielsen, none.

4. Parents: Helen Marquardt, none; Robert Marquardt, (deceased).

5. Grandparents: Charles & Inga Nielsen, Frank & Gurina Marquardt, all deceased.

6. Brothers and spouses: no brothers.

7. Sisters and spouses: Jack and Inga Canfield, $200, 2006, Louise Capps; $500, 2006, Peace Alliance; Gene and Lucinda Scalco, none.

*Janet E. Garvey, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

Nominee: Janet E. Garvey.

Post: Yaounde, Cameroon.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: none.

2. Spouse: n/a.

3. Children and spouses: n/a.

4. Parents: Thomas F., deceased; Anne B., deceased.

5. Grandparents: Paternal: Thomas Garvey, deceased; Helen Garvey, deceased; Maternal: Paul Cifrino, deceased; Mary Cifrino, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses: Anne F. Oliveira and George R. Oliveira, none; Kathleen A. Garvey and Douglas G. Walton; none.

*Cameron R. Hume, of New York, a Career Member ofthe Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

Nominee: Cameron R. Hume.

Post: Indonesia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses: None.

4. Parents: none.

5. Grandparents: none.

6. Brothers and spouses: Duncan B. Hume, $200 per annum, 1994–1996, local republican candidate, Ridgefield, CT.

7. Sisters and spouses: none.

*James R. Keith, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

Nominee: James Keith.

Post: Kuala Lumpur.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses: Jason R. Keith, none; John J. Keith, none; Scott C. Keith, none; Emily A. Keith, none; Andrew J. Keith, none; Elizabeth M. Keith, none.

4. Parents: Robert M. Keith, none; Lillian F. Keith, none.

5. Grandparents: Lula Moran, deceased; Aubrey Moran, deceased.

6. Brothers and spouses: n/a.

7. Sisters and spouses: Ms. Sherry L. Keith, none.

*Miriam K. Hughes, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federated States of Micronesia.

Nominee: Miriam K. Hughes.

Post: Micronesia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:.

1. Self: none.

2. Spouse: not applicable.

3. Children and spouses: Jordana Hughes Tynan, none; Matthew Tynan, none.

4. Parents: Dr. and Mrs. Robert Kahal, none.

5. Grandparents: deceased.

6. Brothers and spouses: Matthew and Candace Kahal, none; Lawrence and Marie Kahal, none.

7. Sisters and spouses: none.

*Ravic Rolf Huso, of Hawaii, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Lao People's Democratic Republic.

Nominee: Ravic Rolf Huso.

Post: U.S. Embassy Vientiane Laos.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: none.

2. Spouse: Barbara Ann Huso, none.

3. Children and spouses: Natalie M. Huso, none.

4. Parents: Michela Maria Huso, none; Rolf Jerome Huso, none.

5. Grandparents: deceased.

6. Brothers and spouses: n/a.

7. Sisters and spouses: Manuela Huso and Richard Brainerd, 2006—$25.00, 12/08/06, Sierra Club; $35.00, 10/12/06, American Civil Liberties Union; $40.00, 09/07/06, Oregon Natural Resources Council; $30.00, 06/16/06, Oregon Students Political Interest Group; $35.00, 03/24/06, National Abortion Rights Action League; $50.00, 03/10/06, Move On Org Political Action; $40.00, 03/08/06, Sierra Club; 2005—$100.00, 12/29/05, Alan Zelenka for City Council; $30.00, 06/21/05, Oregon Students Political Interest Group; $15.00, 05/19/05, Planned Parenthood Action Fund; $35.00, 04/18/05, Oregon Natural Resources Council; $35.00, 02/01/05, National Abortion Rights Action League; 2004—25.00, 06/25/04, Human Rights Campaign; $40.00, 04/09/04, Sierra Club; $47.00, 03/16/04, Sierra Club; 2003—$50.00, 11/15/03, 1000 Friends of Oregon; $35.00; 7/31/03, Oregon Natural Resources Council; $39.00, 01/23/03, Sierra Club; Total: $706.00; Renata Beck and Joseph Beck, none.

*Hans G. Klemm, of Michigan, a Career Member of the Senior Foreign Service, Class

of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Timor-Leste.

Nominee: Hans George Klemm.

Post: U.S. Embassy Dili, East Timor.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, Donee:

1. Self: none.

2. Spouse: none.

3. Children and spouses: N/A.

4. Parents: Hans J. and Inge K. Klemm, $25, 2006, Presidential Coalition (Republican); $50, 2006, Ronald Reagan Library Foundation; $25, 2005, Ronald Reagan Library Foundation; $25, 2004, Michigan Republicans; $25, 2004, Ronald Reagan Library Foundation; $25, 2004, Michigan Republican Party; $40, 2003, Ronald Reagan Library Foundation; $20, 2003, American Conservative Union.

5. Grandparents: deceased.

6. Brothers and spouses: Steven and Eileen Klemm, none.

7. Sisters and spouses: Sally Klemm, none; Lori Runco, (sister), none; John Runco (spouse), $4.84, 2005, Conyers for U.S. Congress; $4.62, 2004, Levin for U.S. Congress; $47.69, 2003, Stabenow for U.S. Senate.

Mr. BIDEN. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Foreign Service nomination of Ross Marvin Hicks.

Foreign Service nominations beginning with Patricia A. Miller and ending with Dean L. Smith, which nominations were received by the Senate and appeared in the Congressional Record on March 7, 2007. (minus 1 nominee: Mitchell G. Mabrey)

Foreign Service nominations beginning with Edward W. Birgells and ending with Andrea J. Yates, which nominations were received by the Senate and appeared in the Congressional Record on March 22, 2007.

By Mr. LEAHY for the Committee on the Judiciary.

Liam O'Grady, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Paul Lewis Maloney, of Michigan, to be United States District Judge for the Western District of Michigan.

Janet T. Neff, of Michigan, to be United States District Judge for the Western District of Michigan.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SUNUNU (for himself and Mr. JOHNSON):

S. 40. A bill to authorize the issuance of Federal charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the Federal regulation and supervision of national insurers and national agencies, to provide for policyholder protections in the event of an insolvency or the impairment of a national insurer, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WHITEHOUSE:

S. 1471. A bill to provide for the voluntary development by States of qualifying best practices for health care and to encourage such voluntary development by amending titles XVIII and XIX of the Social Security Act to provide differential rates of payment favoring treatment provided consistent with qualifying best practices under the Medicare and Medicaid programs, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1472. A bill to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 1473. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply Enhancement Project; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 1474. A bill to authorize the Secretary of the Interior to plan, design and construct facilities to provide water for irrigation, municipal, domestic, and other uses from the Bunker Hill Groundwater Basin, Santa Ana River, California, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1475. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, and Mr. INOUYE):

S. 1476. A bill to authorize the Secretary of the Interior to conduct special resources study of the Tule Lake Segregation Center in Modoc County, California, to determine suitability and feasibility of establishing a unit of the National Park System; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 1477. A bill to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself, Mr. WARNER, Mr. BINGAMAN, Mr. HARKIN, Mrs. BOXER, Mr. KERRY, Mr. LIEBERMAN, Mr. MENENDEZ, Mrs. CLINTON, Mr. DODD, Mr. SCHUMER, Mr. AKAKA, Mrs. FEINSTEIN, Mr. CARDIN, Mr. BROWN, Mr. WEBB, Mr. DURBIN, Mr. OBAMA, and Mr. LAUTENBERG):

S. 1478. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Mr. LEAHY):

S. 1479. A bill to improve the oversight and regulation of tissue banks and the tissue donation process, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 1480. A bill to amend title 38, United States Code, to provide for the payment of a monthly stipend to the surviving parents (known as ''Gold Star parents'') of members of the Armed Forces who die during a period of war; to the Committee on Veterans' Affairs.

By Mr. BAUCUS (for himself and Mr. ENZI):

S. 1481. A bill to restore fairness and reliability to the medical justice system and promote patient safety by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1482. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1483. A bill to create a new incentive fund that will encourage States to adopt the 21st Century Skills Framework; to the Committee on Finance.

By Mr. ROBERTS (for himself, Mr. REED, Mr. SALAZAR, and Mr. VOINOVICH):

S. 1484. A bill to amend part B of title XVIII of the Social Security Act to restore the Medicare treatment of ownership of oxygen equipment to that in effect before enactment of the Deficit Reduction Act of 2005; to the Committee on Finance.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mrs. MURRAY, Mr. FEINGOLD, Mr. CONRAD, Mr. CRAIG, and Ms. KLOBUCHAR):

S. 1485. A bill to impose tariff-rate quotas on certain casein and milk protein concentrates; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. GRASSLEY):

S. 1486. A bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN (for herself, Mr. DODD, Mr. SANDERS, Mr. INOUYE, Mr. OBAMA, Mr. BROWN, Mr. LEAHY, Mr. MENENDEZ, Mr. KENNEDY, and Mrs. CLINTON):

S. 1487. A bill to amend the Help America Vote Act of 2002 to require an individual, durable, voter-verified paper record under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. COLEMAN (for himself and Ms. LANDRIEU):

S. 1488. A bill to amend the definition of independent student for purposes of the need analysis in the Higher Education Act of 1965 to include older adopted students; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1489. A bill to provide for an additional place of holding court in the western district of Washington; to the Committee on the Judiciary.

By Mr. CARPER (for himself and Mr. VOINOVICH):

S. 1490. A bill to provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. KLOBUCHAR (for herself, Mr. OBAMA, Mr. BOND, Mr. VOINOVICH, Ms. STABENOW, Mr. DURBIN, Mrs. MCCASKILL, Mrs. CLINTON, Mr. KERRY, Mr. BROWN, Mr. NELSON of Nebraska, and Mr. DORGAN):

S. 1491. A bill to amend the Agricultural Risk Protection Act of 2000 to direct the Secretary of Agriculture to provide grants for the installation of E–85 fuel infrastructure, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself, Mr. DORGAN, Mr. PRYOR, Ms. CANTWELL, Ms. KLOBUCHAR, and Mr. KERRY):

S. 1492. A bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 1493. A bill to promote innovation and basic research in advanced information and communications technologies that will enhance or facilitate the availability and affordability of advanced communications services to all Americans; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. DORGAN, Mr. INOUYE, Mr. BAUCUS, Ms. COLLINS, Mrs. LINCOLN, Mr. HATCH, Mr. BINGAMAN, Ms. STABENOW, Mr. SCHUMER, and Mr. DURBIN):

S. 1494. A bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE (for himself and Mr. WYDEN):

S. 1495. A bill to amend the Internal Revenue Code of 1986 to modify the application of the tonnage tax on vessels operating in the dual United States domestic and foreign trades, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. CHAMBLISS, Mr. GRASSLEY, Ms. LANDRIEU, Mr. NELSON of Florida, Mr. ISAKSON, Mr. CRAIG, Mr. CASEY, Mr. DORGAN, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. BROWN, Mr. HARKIN, Mr. KERRY, Mr. ALLARD, Ms. COLLINS, Mr. BYRD, Mr. THUNE, Mrs. BOXER, Mr. TESTER, Mr. FEINGOLD, Mr. SANDERS, Ms. SNOWE, Mr. COCHRAN, Mr. NELSON of Nebraska, Mr. ROBERTS, Mr. SALAZAR, Mr. CRAPO, Ms. STABENOW, and Mr. CONRAD):

S. 1496. A bill to amend the Food Security Act of 1985 to include pollinators in certain conservation programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CARDIN:

S. 1497. A bill to promote the energy independence of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself, Mr. VITTER, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. MENENDEZ):

S. 1498. A bill to amend the Lacey Act Amendments of 1981 to prohibit the import, export, transportation, sale, receipt, acquisition, or purchase in interstate or foreign commerce of any live animal of any prohibited wildlife species, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1499. A bill to amend the Clean Air Act to reduce air pollution from marine vessels; to the Committee on Environment and Public Works.

By Mrs. CLINTON (for herself, Mr. FEINGOLD, and Mr. LUGAR):

S. 1500. A bill to support democracy and human rights in Zimbabwe, and for other purposes; to the Committee on Foreign Relations.

By Mr. BAYH:

S. 1501. A bill to amend the Internal Revenue Code of 1986 to consolidate the current education tax incentives into one credit against income tax for higher education expenses, and for other purposes; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. LEAHY, Mr. THUNE, Mr. SALAZAR, Mr. ENZI, Mr. DORGAN, Mr. NELSON of Nebraska, Mr. BAUCUS, Mr. STEVENS, Mr. KERRY, and Mrs. CLINTON):

S. 1502. A bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INHOFE (for himself and Mr. THUNE):

S. 1503. A bill to improve domestic fuels security; to the Committee on Environment and Public Works.

By Ms. SNOWE:

S. 1504. A bill to revalue the LIFO inventories of major integrated oil companies; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. BURR, and Mr. COBURN):

S. 1505. A bill to amend the Public Health Service Act to provide for the approval of biosimilars, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. 1506. A bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1507. A bill to amend title XVIII of the Social Security Act to provide for drug and health care claims data release; to the Committee on Finance.

By Mr. DORGAN:

S. 1508. A bill to amend the Internal Revenue Code of 1986 to extend and expand various tax incentives for production of renewable energy and clean energy sources, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU (for herself, Mr. KERRY, Mr. NELSON of Florida, and Mr. MARTINEZ):

S. 1509. A bill to improve United States hurricane forecasting, monitoring, and warning capabilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NELSON of Florida:

S. 1510. A bill to require the Consumer Product Safety Commission to promulgate consumer product safety rules concerning the safety and labeling of portable generators; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Ms. MURKOWSKI, and Ms. SNOWE):

S. 1511. A bill to promote the development and use of marine and hydrokinetic renewable energy technologies, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 1512. A bill to amend part E of title IV of the Social Security Act to expand Federal eligibility for children in foster care who have attained age 18; to the Committee on Finance.

By Mr. OBAMA:

S. 1513. A bill to amend the Higher Education Act of 1965 to authorize grant programs to enhance the access of low-income African-American students to higher education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. SMITH, and Mr. REED):

S. 1514. A bill to revise and extend provisions under the Garrett Lee Smith Memorial Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN (for himself and Mr. SPECTER):

S. 1515. A bill to establish a domestic violence volunteer attorney network to represent domestic violence victims; to the Committee on the Judiciary.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1516. A bill to provide environmental assistance to non-Federal interests in the State of Colorado; to the Committee on Environment and Public Works.

By Mr. ALLARD:

S. 1517. A bill to amend title 10, United States Code, to provide for the distribution of a share of certain mineral revenues to the State of Colorado, and for other purposes; to the Committee on Armed Services.

By Mr. REED (for himself, Mr. ALLARD, Ms. MIKULSKI, Mr. BOND, Mr. DURBIN, Ms. COLLINS, Mr. SCHUMER, Mr. AKAKA, Mrs. CLINTON, Mr. WHITEHOUSE, Mr. LEVIN, Mr. BROWN, and Mrs. BOXER):

S. 1518. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CARDIN (for himself and Mr. SPECTER):

S. 1519. A bill to amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1520. A bill to prohibit price gouging relating to gasoline and diesel fuels in areas affected by major disasters; to the Committee on Commerce, Science, and Transportation.

By Mr. FEINGOLD (for himself and Mr. SPECTER):

S. 1521. A bill to provide information, resources, recommendations, and funding to help State and local law enforcement enact crime prevention and intervention strategies supported by rigorous evidence; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. SMITH, Mr. CRAIG, Mrs. MURRAY, Ms. CANTWELL, Mr. BAUCUS, Mr. CRAPO, and Mr. TESTER):

S. 1522. A bill to amend the Bonneville Power Administration portions of the Fisheries Restoration and Irrigation Mitigation Act of 2000 to authorize appropriations for fiscal years 2008 through 2014, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mr. ALEXANDER):

S. 1523. A bill to amend the Clean Air Act to reduce emissions of carbon dioxide from

the Capitol power plant; to the Committee on Environment and Public Works.

By Mr. BROWN (for himself, Ms. STABENOW, and Mr. VOINOVICH):

S. 1524. A bill to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to Gary Lee McKiddy, of Miamisburg, Ohio, for acts of valor while a helicopter crew chief and door gunner with the 1st Cavalry Division during the Vietnam War; to the Committee on Armed Services.

By Mr. SMITH (for himself, Mrs. LINCOLN, Ms. CANTWELL, and Ms. SNOWE):

S. 1525. A bill to amend the Internal Revenue Code of 1986 to modify the energy efficient appliance credit for appliances produced after 2007; to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. CARPER, Ms. MURKOWSKI, and Ms. LANDRIEU):

S. 1526. A bill to direct the Secretary of Energy to develop standards for general service lamps that will operate more efficiently and assist in reducing costs to consumers, business concerns, government entities, and other users, to require that general service lamps and related products manufactured or sold in interstate commerce after 2013 meet those standards, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. CARPER, Ms. MURKOWSKI, and Ms. LANDRIEU):

S. 1527. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for renovation and construction of manufacturing facilities for incandescent lamps; to the Committee on Finance.

By Mr. CORNYN:

S. 1528. A bill to amend chapter 87 of title 18, United States Code, to end the terrorizing effects of the sale of murderabilia on crime victims and their families; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 1529. A bill to amend the Food Stamp Act of 1977 to end benefit erosion, support working families with child care expenses, encourage retirement and education savings, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SCHUMER (for himself, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. BIDEN, Mr. DURBIN, Mr. WHITEHOUSE, Mr. DODD, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BROWN, Mr. BYRD, Mr. CASEY, Mrs. CLINTON, Mr. CONRAD, Mr. DORGAN, Mr. HARKIN, Mr. INOUYE, Mr. KERRY, Ms. KLOBUCHAR, Mr. LEVIN, Mr. MENENDEZ, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. REID, Mr. SANDERS, Ms. STABENOW, and Mr. WEBB):

S.J. Res. 14. A joint resolution expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. BIDEN, Mr. LIEBERMAN, Mr. SMITH, Mrs. CLINTON, Mr. DODD, Mr. BINGAMAN, and Mr. COLEMAN):

S. Res. 214. A resolution calling upon the Government of the Islamic Republic of Iran to immediately release Dr. Haleh Esfandiari; considered and agreed to.

By Mr. ALLARD (for himself, Mr. MCCAIN, Mr. CASEY, Mr. COCHRAN, Mr. ENZI, Mr. STEVENS, Mr. GRAHAM, Mr. CHAMBLISS, Mr. CRAIG, and Mr. INHOFE):

S. Res. 215. A resolution designating September 25, 2007, as ''National First Responder Appreciation Day''; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. STEVENS):

S. Res. 216. A resolution recognizing the 100th Anniversary of the founding of the American Association for Cancer Research and declaring the month of May National Cancer Research Month; to the Committee on the Judiciary.

By Mr. VITTER (for himself, Mr. SHELBY, Mr. LOTT, Mr. MARTINEZ, Mr. NELSON of Florida, Ms. LANDRIEU, and Mr. DEMINT):

S. Res. 217. A resolution designating the week beginning May 20, 2007, as ''National Hurricane Preparedness Week''; considered and agreed to.

By Mrs. FEINSTEIN:

S. Res. 218. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

By Mr. CHAMBLISS (for himself, Mr. PRYOR, and Mr. ISAKSON):

S. Res. 219. A resolution recognizing the year 2007 as the official 50th anniversary celebration of the beginnings of marinas, power production, recreation, and boating on Lake Sidney Lanier, Georgia; considered and agreed to.

ADDITIONAL COSPONSORS

S. 37

At the request of Mr. DOMENICI, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 37, a bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes.

S. 48

At the request of Mr. ENSIGN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 48, a bill to return meaning to the Fifth Amendment by limiting the power of eminent domain.

S. 185

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 185, a bill to restore habeas corpus for those detained by the United States.

S. 274

At the request of Mr. AKAKA, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 274, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 329

At the request of Mr. CRAPO, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 329, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 357

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 357, a bill to improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, and for other purposes.

S. 399

At the request of Mr. BUNNING, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from New York (Mr. SCHUMER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 399, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the Medicaid program.

S. 430

At the request of Mr. BOND, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 430, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 450

At the request of Mr. ENSIGN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 450, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 467

At the request of Mr. DODD, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 467, a bill to amend the Public Health Service Act to expand the clinical trials drug data bank.

S. 506

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 506, a bill to improve efficiency in the Federal Government through the use of high-performance green buildings, and for other purposes.

S. 569

At the request of Mr. LUGAR, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 569, a bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes.

S. 582

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 582, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 597

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 597, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 609

At the request of Mr. ROCKEFELLER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 609, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 634

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 634, a bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.

S. 672

At the request of Mr. SALAZAR, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 672, a bill to amend the Internal Revenue Code of 1986 to provide tax-exempt financing for qualified renewable energy facilities, and for other purposes.

S. 764

At the request of Mrs. CLINTON, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 764, a bill to amend title XIX and XXI of the Social Security Act to permit States the option of coverage of legal immigrants under the Medicaid Program and the State children's health insurance program (SCHIP).

S. 804

At the request of Mrs. CLINTON, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 804, a bill to amend the Help America Vote Act of 2002 to improve the administration of elections for Federal office, and for other purposes.

S. 823

At the request of Mr. OBAMA, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 823, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV/AIDS and other diseases, and for other purposes.

S. 829

At the request of Ms. MIKULSKI, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 829, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 860

At the request of Mr. SMITH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 860, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 871

At the request of Mr. LIEBERMAN, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 871, a bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes.

S. 879

At the request of Mr. KOHL, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 879, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 881

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 881, supra.

S. 901

At the request of Mr. KENNEDY, the names of the Senator from Michigan (Ms. STABENOW), the Senator from North Dakota (Mr. DORGAN), the Senator from Indiana (Mr. LUGAR) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 901, 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. 929

At the request of Mr. MARTINEZ, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 929, a bill to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes.

S. 961

At the request of Mr. NELSON of Nebraska, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 961, a bill to amend title 46, United States Code, to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II, and for other purposes.

S. 970

At the request of Mr. SMITH, the names of the Senator from Michigan (Ms. STABENOW), the Senator from California (Mrs. BOXER) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 970, a bill to impose sanctions on Iran and on other countries for assisting Iran in developing a nuclear program, and for other purposes.

S. 1042

At the request of Mr. ENZI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1042, a bill to amend the Public Health Service Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 1064

At the request of Mrs. CLINTON, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1064, a bill to provide for the improvement of the physical evaluation processes applicable to members of the Armed Forces, and for other purposes.

S. 1107

At the request of Mr. SMITH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1107, a bill to amend title XVIII of the Social Security Act to reduce cost-sharing under part D of such title for certain non-institutionalized full-benefit dual eligible individuals.

S. 1172

At the request of Mr. DURBIN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1172, a bill to reduce hunger in the United States.

S. 1226

At the request of Mr. BAYH, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1226, a bill to amend title XIX of the Social Security Act to establish programs to improve the quality, performance, and delivery of pediatric care.

S. 1263

At the request of Ms. CANTWELL, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1263, a bill to protect the welfare of consumers by prohibiting price gouging with respect to gasoline and petroleum distillates during natural disasters and abnormal market disruptions, and for other purposes.

S. 1334

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1334, a bill to amend section 2306 of title 38, United States Code, to make permanent authority to furnish government headstones and markers for graves of veterans at private cemeteries, and for other purposes.

S. 1337

At the request of Mr. KERRY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1337, a bill to amend title XXI of the Social Security Act to provide for equal coverage of mental health services under the State Children's Health Insurance Program.

S. 1373

At the request of Mr. PRYOR, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1373, a bill to provide grants and loan guarantees for the development and construction of science parks to promote the clustering of innovation through high technology activities.

S. 1379

At the request of Mrs. FEINSTEIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1379, a bill to amend chapter 35 of title 28, United States Code, to strike the exception to the residency requirements for United States attorneys.

S. 1382

At the request of Mr. REID, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1382, a bill to amend the Public Health Service Act to provide the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1398

At the request of Mr. REID, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1398, a bill to expand the research and prevention activities of the National Institute of Diabetes and Digestive and Kidney Diseases, and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 1418

At the request of Mr. DODD, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Maine (Ms. SNOWE) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1418, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 1430

At the request of Mr. OBAMA, the names of the Senator from California (Mrs. BOXER), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1439

At the request of Mr. ROBERTS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1439, a bill to reauthorize the broadband loan and loan guarantee program under title VI of the Rural Electrification Act of 1936.

S. 1448

At the request of Mr. REED, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1448, a bill to extend the same Federal benefits to law enforcement officers serving private institutions of higher education and rail carriers that apply to law enforcement officers serving units of State and local government.

S. 1457

At the request of Mr. HARKIN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KERRY), the Senator from North Dakota (Mr. DORGAN) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 1457, a bill to provide for the protection of mail delivery on certain postal routes, and for other purposes.

S. 1466

At the request of Mr. DODD, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1466, a bill to amend the Internal Revenue Code of 1986 to exclude property tax rebates and other benefits provided to volunteer firefighters, search and rescue personnel, and emergency medical responders from income and employment taxes and wage withholding.

S.J. RES. 10

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S.J. Res. 10, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

S. CON. RES. 25

At the request of Mr. OBAMA, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution condemning the recent violent actions of the Government of Zimbabwe against peaceful opposition party activists and members of civil society.

S. RES. 82

At the request of Mr. HAGEL, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 82, a resolution designating August 16, 2007 as ''National Airborne Day''.

S. RES. 211

At the request of Mr. LUGAR, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Nebraska (Mr. HAGEL), the Senator from Minnesota (Mr. COLEMAN), the Senator from Illinois (Mr. OBAMA), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Florida (Mr. NELSON), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. ISAKSON), the Senator from Florida (Mr. MARTINEZ), the Senator from New York (Mrs. CLINTON) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 211, a resolution expressing the profound concerns of the Senate regarding the transgression against freedom of thought and expression that is being carried out in Venezuela, and for other purposes.

AMENDMENT NO. 1157

At the request of Mr. VITTER, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. COBURN) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of amendment No. 1157 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1158

At the request of Mr. COLEMAN, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Alabama (Mr. SESSIONS), the Senator from Colorado (Mr. ALLARD) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 1158 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1159

At the request of Mr. COLEMAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 1159 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1167

At the request of Ms. CANTWELL, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 1167 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1170

At the request of Mr. MCCONNELL, the names of the Senator from Texas (Mr. CORNYN) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of amendment No. 1170 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1179

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of amendment No. 1179 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1181

At the request of Mr. DORGAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1181 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

At the request of Mr. CORKER, his name was added as a cosponsor of amendment No. 1181 proposed to S. 1348, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SUNUNU (for himself and Mr. JOHNSON):

S. 40. A bill to authorize the issuance of Federal charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the Federal regulation and supervision of national insurers and national agencies, to provide for policyholder protections in the event of an insolvency or the impairment of a national insurer, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SUNUNU. Mr. President, I rise today to reintroduce legislation that will bring our Nation's insurance regulatory system into the 21st century by providing uniformity, predictability, and greater efficiency to the way insurance is regulated in this country.

The National Insurance Act of 2007, which builds upon legislation Senator JOHNSON and I first introduced last year, provides for an optional Federal charter that would offer insurers the choice of being regulated under a new Commissioner of National Insurance or under the continued jurisdiction of the States.

I am pleased that Senator JOHNSON once again joins me as an original cosponsor of this bill. Since we introduced the initial National Insurance Act just over a year ago, momentum has been building for the reforms called for under our legislation and the question has become not whether an optional Federal charter should be implemented, but when.

In an increasingly global financial services industry, numerous studies have called for changes to the manner in which insurance is regulated in the United States as one of the ways to make our financial services sector more competitive in the worldwide economy.

The bipartisan Bloomberg-Schumer report on financial services industry competitiveness, for example, states, ''One priority, in the context of enhancing competitiveness for the entire financial services sector and improving responsiveness and customer service, should be an optional federal charter for insurance, based on market principles for serving customers.''

Furthermore, the Blue Ribbon Commission on Mega-Catastrophes states, ''It (an optional federal charter for insurance) would lead to . . . consistent regulation of insurer safety and soundness, and the elimination of duplicative regulation and supervision . . .In addition, an OFC should promote greater competition that would benefit policyholders.''

In addition to the study recommendations, a number of other indicators suggest that the time is right for reform. The coalition in support of the bill continues to grow and the general acceptance of the concept of reform we have proposed is also growing.

The arguments against the bill are increasingly seen for what they are: parochial in nature, rather than forward-looking and in the best interests of consumers, our financial services sector, and the strength of our overall economy.

In 1999, Congress passed the Gramm-Leach-Bliley Act—broad legislation that modernized the rules that regulate banks and securities firms and provided a foundation for the financial services industry to become more integrated, market-oriented, technologically advanced, and global in nature. Since then, consumers have benefited from improved industry competition and innovation, greater choice of financial products, and more efficient delivery of services.

The insurance industry, however, has not enjoyed the same dynamic marketplace within the global economy. Long subject to a patchwork of State regulations, the sector's menu of available services is not as robust as it could be. An inefficient regulatory system spread across more than 50 different jurisdictions imposes direct and indirect costs on insurers in the form of higher compliance fees associated with non-uniform regulations and delayed market entry for new products from onerous approval barriers.

With advances in technology, insurance is increasingly a global product that cries out for a more consistent and efficient regulatory environment that allows new products to be brought to market in a much quicker fashion than the current system often allows. Under the State regulatory regime new product launches are consistently delayed up to 2 years while they await the approval of an individual State regulator.

A more uniform regulatory environment, mirroring the highly successful dual banking system, should substantially improve the climate in several critical ways for those who buy, sell and underwrite insurance, while also providing superior consumer protection.

As the Bloomberg-Schumer report puts it, our bill would allow best-in-breed regulations to ''rise to the top'' and become national standards. A division of consumer protection, as created by the regulator, would oversee strict regulations and guard against unfair and deceptive practices by insurers and agents for the advertising, sale and administration of products. A division of insurance fraud, also created under the bill, would make insurance fraud a Federal crime.

While taking these cautionary steps to protect consumers, the bill does not, however, permit the Federal regulator to set rates or price controls for insurance. Instead, the National Insurance Act appropriately relies on competitive pricing within the marketplace.

Finally, the Office of National Insurance would be able to fill a vacuum and provide true national regulatory expertise and guidance on a number of issues Congress is legislating on that affect policyholders, the health of the insurance industry, and the overall economy.

The only real substantive change to this year's bill in comparison with the one introduced last year is that our updated legislation includes language that would add surplus lines of insurance as a type of insurance that a person with a Federal producer's license would be authorized to sell under the Federal charter program.

Other technical and clarifying changes were made, but by and large this is last year's bill, with its spirit and purpose intact.

Former New York Insurance Commissioner, George Miller, who founded the National Association of Insurance Commissioners, NAIC made the following statement in 1871: ''The Commissioners are now fully prepared to go before their various legislative committees with recommendations for a system of insurance law which shall be the same in all States, not reciprocal but identical, not retaliatory, but uniform.

It's now been over 135 years since that statement was made, and unfortunately we are not much closer to Mr. Miller's goal.

In the months ahead, however, we look forward to making substantial progress on this legislation as we build on the momentum to modernize this country's insurance regulatory system and do what the State system has failed to do for over 135 years.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1472. A bill to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, today I am pleased to introduce the North Bay Water Reuse Program Act of 2007, together with my colleague Senator BOXER. This legislation authorizes Federal participation in a regional water reuse project that is the first of its kind in Northern California, and model for the West.

The program will allow urban water agencies to take treated wastewater now discharged into the sensitive bay-delta ecosystem and put it to productive use on water-short agricultural lands and environmentally valuable wetlands. It is an innovative ''win–win'' solution that will protect the environment as well as meet the future water needs of urban and agricultural

water users in the North Bay region of California.

Agricultural producers in the North Bay region are facing, and will continue to encounter, major water shortages. At the same time, as regulations continue to restrict and/or eliminate wastewater discharge, many communities in the North Bay region will face challenges as they try to determine the best way to discharge their treated wastewater.

The North Bay Water Reuse Program will address both problems and enhance the ecosystem of the San Francisco Bay. Specifically, the program will distribute reclaimed water through a conveyance system and deliver it to agricultural growers, promising a permanent and dedicated supply of about 30,000 acre-feet of water per year.

The use of reclaimed water for irrigation will reduce the demand on both surface and groundwater supplies, and thus improve instream flows for riparian habitat and fisheries recovery. Furthermore, in the off-season when irrigation demand is diminished, the reclaimed water will be used to increase surface water flows for the restoration of wetlands, creating habitat for migratory waterfowl and other wetland species.

Most notably, this program grew from a collaboration of the three major stakeholders in the region that vie for the same water. It is significant that the program is supported by the local governments in three counties, Napa, Sonoma and Marin Counties; agricultural organizations, such as the Napa and Sonoma County Farm Bureaus, the Carneros Quality Alliance, the Winegrape Growers of Napa County, the Napa Vintners Association, the North Bay Agriculture Alliance; and environmental organizations, such as The Bay Institute.

Thus, the North Bay Water Reuse Program brings stakeholders that are usually at odds with one another to the table to find a solution that is beneficial to all.

Finally, I would like to note the energy benefits of this project. The Sonoma Valley treatment plant, installing solar panels that will generate 40 percent of its energy needs. Another partner in the program, Las Gallinas Valley Sanitary District, generates 90 percent of its operating energy using solar panels.

The North Bay Water Reuse Program will allow vineyard managers to cease or significantly reduce their use of gas and electric powered pumps that currently deliver irrigation water. The program proponents expect to see a net reduction of overall energy use for regional irrigation operations, as well as a net reduction in the emissions of carbon dioxide from irrigation operations.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1472

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''North Bay Water Reuse Program Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in—

(A) Marin County;

(B) Napa County;

(C) Solano County; or

(D) Sonoma County.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the State of California.

(4) WATER RECLAMATION AND REUSE PROJECT.—The term ''water reclamation and reuse project'' means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to—

(A) water quality improvement;

(B) wastewater treatment;

(C) water reclamation and reuse;

(D) groundwater recharge and protection;

(E) surface water augmentation; or

(F) other related improvements.

SEC. 3. NORTH BAY WATER REUSE PROGRAM.

(a) IN GENERAL.—The Secretary, acting through a cooperative agreement with the State or a subdivision of a State, may offer to enter into cooperative agreements with eligible entities for the planning, design, and construction of water reclamation and reuse projects.

(b) COORDINATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary and the eligible entity shall, to the maximum extent practicable, use the design work and environmental evaluations initiated by—

(1) non-Federal entities; and

(2) the Corps of Engineers in the San Pablo Bay Watershed of the State.

(c) COOPERATIVE AGREEMENT.—

(1) REQUIREMENTS.—A cooperative agreement entered into under paragraph (1) shall, at a minimum, specify the responsibilities of the Secretary and the eligible entity with respect to—

(A) ensuring that the cost-share requirements established by subsection (e) are met;

(B) completing—

(i) a needs assessment for the water reclamation and reuse project; and

(ii) the planning and final design of the water reclamation and reuse project;

(C) any environmental compliance activity required for the water reclamation and reuse project;

(D) the construction of facilities for the water reclamation and reuse project; and

(E) administrating any contract relating to the construction of the water reclamation and reuse project.

(2) PHASED PROJECT.—

(A) IN GENERAL.—A cooperative agreement described in paragraph (1) shall require that any water reclamation and reuse project carried out under this section shall consist of 2 phases.

(B) FIRST PHASE.—During the first phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the main treatment and main conveyance system of the water reclamation and reuse project.

(C) SECOND PHASE.—During the second phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the sub-regional distribution systems of the water reclamation and reuse project.

(d) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide financial and technical assistance to an eligible entity to assist in planning, designing, conducting related preconstruction activities for, and constructing a water reclamation and reuse project.

(2) USE.—Any financial assistance provided under paragraph (1) shall be obligated and expended only in accordance with a cooperative agreement entered into under this section.

(e) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—The Federal share of the total cost of any activity or construction carried out using amounts made available under this section shall be not more than 25 percent of the total cost of a water reclamation and reuse project.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the water reclamation and reuse project, including—

(A) reasonable costs incurred by the eligible entity relating to the planning, design, and construction of the water reclamation and reuse project; and

(B) the fair-market value of land that is—

(i) used for planning, design, and construction of the water reclamation and reuse project facilities; and

(ii) owned by an eligible entity.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(1) IN GENERAL.—The eligible entity shall be responsible for the annual operation, maintenance, and replacement costs associated with the water reclamation and reuse project.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—The eligible entity, in consultation with the Secretary, shall develop an operation, maintenance, and replacement plan for the water reclamation and reuse project.

(g) EFFECT.—Nothing in this Act—

(1) affects or preempts—

(A) State water law; or

(B) an interstate compact relating to the allocation of water; or

(2) confers on any non-Federal entity the ability to exercise any Federal right to—

(A) the water of a stream; or

(B) any groundwater resource.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal share of the total cost of the first phase of water reclamation and reuse projects carried out under this Act, an amount not to exceed 25 percent of the total cost of those reclamation and reuse projects or $25,000,000, whichever is less, to remain available until expended.

By Mrs. FEINSTEIN:

S. 1473. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply Enhancement Project; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, today I am introducing the Madera Water Supply Enhancement Act. This legislation authorizes the Bureau of Reclamation, Bureau, to participate in the design and construction of the Madera Water Supply Enhancement Project, project, that is essential to

improving the water supply in the Madera Irrigation District, MID, in Madera County, CA, and in California's Central Valley.

Representative GEORGE RADANOVICH has introduced companion legislation to this bill in the House, and I look forward to working with him to get this bill enacted.

Agriculture is a multibillion enterprise in California, which produces a significant portion of the Nation's food supply. To secure this food supply, water is essential. When constructed, the project will have the capacity to store up to 250,000 acre-feet of water and move up to 55,000 acre feet in or out of storage each year.

With increasing demands on limited water supply, the project will enable water users to store excess wet year water supply and this stored water can then be used during dry years to meet demand. To ensure the viability of the groundwater table and address overdraft problems, 10 percent of the water placed in storage would be left in the ground to replenish the aquifer over time.

This Project is also a useful complement to efforts to restore the San Joaquin River. Restoring water to the San Joaquin River may reduce the water supply available to agriculture in the San Joaquin Valley by up to 165,000 acre feet per year.

It is very important to me to do what I can to help make up this water deficit. The Madera Water Bank is one project that can help, and I will be looking at it and other projects closely to prioritize limited Federal appropriations to address this important need.

MID, the local agency that will build, own and manage the project has already made a major financial commitment to making the water bank a reality. MID has spent $37.5 million to purchase the nearly 14,000 acre Madera Ranch, which will be the site of the water bank, and millions more on studies. This land is ideal for storing water in the aquifer. Over 11,000 acres of the ranch also constitute valuable habitat for numerous species and contain large sections of the region's native grasslands that will be preserved.

The Energy and Natural Resources Committee held a hearing on the predecessor legislation, H.R. 3897, which passed the House of Representatives in the 109th Congress. As a result of that hearing, two changes were made to the legislation.

First, the total cost of the project is capped at $90 million. Under the legislation, the maximum Federal contribution will be $22.5 million or 25 percent of the total cost of the project, whichever is less. This change provides certainty and limits the Federal Government's financial exposure in supporting this project.

The second change to last year's legislation is the decision to declare the project ''feasible'' without further study. The reason for this approach relates to the project's unusual history.

The feasibility of constructing a water bank on the Madera Ranch property has been under consideration for over a decade. In 1996 the Bureau began studying this possibility, and in 1998 the Bureau finalized plans to fund a water bank on the property. After conducting extensive studies regarding the feasibility of building a water bank on the property, the Bureau was prepared to pay over $40 million for the property and $60–$70 million to construct the water bank. This total amount, in excess of $100 million, is significantly more than the cost of MID's water bank almost 10 years later. Although the Bureau eventually withdrew from the project because of local concerns regarding sizing, water quality, and nonlocal ownership issues, no one has ever disputed the suitability of the site for a water bank.

After the Bureau's involvement ended, Azurix, an Enron subsidiary, attempted to build a water bank but was unable to complete the project because of many of the same concerns raised during the Bureau's efforts. However, many more studies were done during this phase for the reformulated project. MID has also conducted further studies. To date, over $8 million has been spent on studies related to the Project, exclusive of the Bureau's own extensive studies of the project.

The legislation identifies 18 specific studies done over the past decade on this project, many by the Bureau itself and others by private parties and MID, all with the Bureau's full knowledge and involvement. In many cases, the same engineering consulting firms used by the Bureau were retained to conduct these further studies. There is simply nothing left to study, and we should proceed immediately to the construction phase of this project.

The Bureau has been a long-term supporter of California agriculture, and working in partnership with the State, local governments, water users and others has helped provide irrigation water for over 10 million farmland acres.

The MID water bank is consistent with the Bureau's historical mission of supporting such locally controlled and initiated water projects. Swift enactment of this legislation is necessary to bring over 10 years of study to a conclusion and make the water bank a reality for Madera County, the surrounding region, the Central Valley and the entire State of California.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1473

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Madera Water Supply Enhancement Act''.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term ''District'' means the Madera Irrigation District, Madera, California.

(2) The term ''Project'' means the Madera Water Supply Enhancement Project, a groundwater bank on the 13,646 acre Madera Ranch in Madera, California, owned, operated, maintained, and managed by the District that will plan, design, and construct recharge, recovery, and delivery systems able to store up to 250,000 acre-feet of water and recover up to 55,000 acre-feet of water per year.

(3) The term ''Secretary'' means the Secretary of the United States Department of the Interior.

(4) The term ''total cost'' means all reasonable costs, such as the planning, design, permitting, financing, and construction of the Project and the fair market value of lands used or acquired by the District for the Project. The total cost of the Project shall not exceed $90,000,000.

SEC. 3. NO FURTHER STUDIES OR REPORTS.

(a) FINDINGS.—Congress finds that the Bureau of Reclamation and others have conducted numerous studies regarding the Project, including, but not limited to the following:

(1) Bureau of Reclamation Technical Review Groups Final Findings Memorandum, July 1997.

(2) Bureau of Reclamation Madera Ranch Artificial Recharge Demonstration Test Memorandum, December 1997.

(3) Bureau of Reclamation Madera Ranch Groundwater Bank Phase 1 Report, 1998.

(4) Draft Memorandum Recommendations for Phase 2 Geohydrologic Work, April 1998.

(5) Bureau of Reclamation Madera Ranch Water Banking Proposal Economic Analysis—MP–340.

(6) Hydrologic Feasibility Report, December 2003.

(7) Engineering Feasibility Report, December 2003.

(8) Feasibility Study of the Preferred Alternative, Water Supply Enhancement Project, 2005.

(9) Engineering Feasibility Report, June 2005.

(10) Report on Geologic and Hydrologic Testing Program for Madera Ranch.

(11) Engine Driver Study, June 2005.

(12) Wetlands Delineation, 2000, 2001, 2004, and 2005.

(13) Madera Ranch Pilot Recharge: Interim Technical Memorandum, May 2005.

(14) Integrated Regional Water Management Plan, July 2005.

(15) Certified California Environmental Quality Act (CEQA) Environmental Impact Report (EIR), September 2005.

(16) Baseline Groundwater Level Monitoring Report, January 2006.

(17) Final Appraisal Study, Madera Irrigation District Water Supply Enhancement Project, October 2006.

(18) WDS Groundwater Monitoring Status Report to Madera Ranch Oversight Committee, November 2006.

(b) NO FURTHER STUDIES OR REPORTS.—Pursuant to the Reclamation Act of 1902 (32 Stat. 388) and Acts amendatory thereof and supplemental thereto, the Project is feasible and the Bureau of Reclamation shall not conduct any further studies or reports related to determining the feasibility of the Project.

SEC. 4. COOPERATIVE AGREEMENT.

All planning, design, and construction of the Project authorized by this Act shall be undertaken in accordance with a cooperative agreement between the Secretary and the District for the Project. Such cooperative agreement shall set forth in a manner acceptable to the Secretary and the District the responsibilities of the District for participating, which shall include—

(1) engineering and design;
(2) construction; and
(3) the administration of contracts pertaining to any of the foregoing.

SEC. 5. AUTHORIZATION FOR THE MADERA WATER SUPPLY AND ENHANCEMENT PROJECT.

(a) AUTHORIZATION OF CONSTRUCTION.—The Secretary, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388), and Acts amendatory thereof or supplementary thereto, as far as those laws are not inconsistent with the provisions of this Act, is authorized to enter into a cooperative agreement through the Bureau with the District for the support of the design, and construction of the Project.

(b) COST SHARE.—The Federal share of the capital costs of the Project shall not exceed 25 percent of the total cost as defined in section 2(4). Capital, planning, design, permitting, financing, construction, and land acquisition costs incurred by the District prior to the date of the enactment of this Act shall be considered a portion of the non-Federal cost share.

(c) IN-KIND SERVICES.—In-kind services performed by the District shall be considered a part of the local cost share to complete the Project authorized by subsection (a).

(d) CREDIT FOR NON-FEDERAL WORK.—The District shall receive credit toward the non-Federal share of the cost of the Project for—

(1) reasonable costs incurred by the District as a result of participation in the planning, design, permitting, financing, and construction of the Project; and

(2) for the fair market value of lands used or acquired by the District for the Project.

(e) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of the Project authorized by this section. The operation, ownership, and maintenance of the Project shall be the sole responsibility of the District.

(f) PLANS AND ANALYSES CONSISTENT WITH FEDERAL LAW.—Before obligating funds for design or construction under this section, the Secretary shall work cooperatively with the District to use, to the extent possible, plans, designs, and engineering and environmental analyses that have already been prepared by the District for the Project. The Secretary shall ensure that such information as is used is consistent with applicable Federal laws and regulations.

(g) TITLE; RESPONSIBILITY; LIABILITY.—Nothing in this section or the assistance provided under this section shall be construed to transfer title, responsibility or liability related to the Project to the United States.

(h) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary to carry out this Act $22,500,000 or 25 percent of the total cost of the Project, whichever is less.

SEC. 6. SUNSET.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

By Mrs. FEINSTEIN:

S. 1474. A bill to authorize the Secretary of the Interior to plan, design and construct facilities to provide water for irrigation, municipal, domestic, and other uses from the Bunker Hill Groundwater Basin, Santa Ana River, California, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to authorize the Riverside-Corona feeder. This project, which is being undertaken by Western Municipal Water District, would provide one of California's fastest growing but drought prone regions, with 40,000 acre-feet of new supply at a reasonable cost of approximately $370 per acre foot. The project would efficiently integrate groundwater storage with existing surface supply management.

The purpose of the Riverside-Corona feeder water supply project is to capture and store new water in the underground aquifer in wet years in order to increase water supply, reduce water costs, and improve water quality. The project will include about 20 wells and 28 miles of pipeline. Studies have shown the safe annual yield of the aquifer is about 40,000 acre-feet.

The project would allow locally stored water to replace the need to import water from Colorado River and State water project sources in times of drought or other shortages. The project proposes to manage the ground water levels by the construction of ground water wells and pumping capacity to deliver the pumped ground water supply to water users. A new water conveyance pipeline is also proposed that will serve western Riverside County.

For water users, dependence on imported water in dry years will be reduced, water costs will be reduced, and water reliability will be improved.

There are also very important environmental remediation aspects of the project. Up to half of the wells would be placed within plumes of VOCs and perchlorate. These wells could remediate about 20,000 acre-feet of currently contaminated water per year. Detailed feasibility studies and environmental reports have been prepared and approved by Western Municipal Water District and certified by the State of California.

The California State Water Resources Control Board recognizes that the Riverside Corona feeder is an important project, recently awarding it $4.3 million from proposition 50 competitive grant funds.

Because water agencies understand that the project is integral to regional water planning, the Riverside-Corona feeder has the support of agencies upstream in San Bernardino County and downstream in Orange County. This bill is also supported by and fully consistent with the Metropolitan Water District of Southern California's Integrated Resource Plan, the Santa Ana Watershed Project Authority's Integrated Watershed Plan, and the water management plans for the cities of Riverside, Norco and Corona as well as the Elsinore Valley Municipal Water District.

This is a bipartisan initiative, as witnessed by the list of cosponsors of the House version of the bill I introduce today. I urge my colleagues to support this bill to help meet the West's water supply needs and to reduce our dependence on the Colorado River.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1474

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Riverside-Corona Feeder Water Supply Act''.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) DISTRICT.—The term ''District'' means the Western Municipal Water District, Riverside County, California.

(2) PROJECT.—The term ''Project'' means the Riverside-Corona Feeder Project and associated facilities.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. PLANNING, DESIGN, AND CONSTRUCTION OF THE RIVERSIDE-CORONA FEEDER.

(a) IN GENERAL.—The Secretary, in cooperation with the Western Municipal Water District, is authorized to participate in the planning, design, and construction of a water supply project, the Riverside-Corona Feeder, which includes 20 groundwater wells, groundwater treatment facilities, water storage and pumping facilities, and 28 miles of pipeline in San Bernardino and Riverside Counties, California.

(b) AGREEMENTS AND REGULATIONS.—The Secretary may enter into such agreements and promulgate such regulations as are necessary to carry out this section.

(c) FEDERAL COST SHARE.—

(1) PLANNING, DESIGN, CONSTRUCTION.—The Federal share of the cost to plan, design, and construct the project described in subsection (a) shall be not more than 25 percent of the total cost of the project, not to exceed $50,000,000.

(2) STUDIES.—The Federal share of the cost to complete the necessary planning studies associated with the project described in subsection (a) shall not exceed 50 percent of the total study cost and shall be included as part of the limitation on funds provided in paragraph (1).

(d) IN-KIND SERVICES.—In-kind services performed by the Western Municipal Water District shall be part of the local cost share to complete the project described in subsection (a).

(e) LIMITATION.—Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from funds in the Treasury not otherwise appropriated, the Federal cost share described in subsection (c).

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1475. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, together with my good friend and colleague, Senator BARBARA BOXER, Chairman of the Committee on the Environment and Public Works, I am pleased to introduce today legislation to help the San Francisco bay area a region with a growing population, limited

water resources, and a unique environmental setting, address its critical water needs.

The bill, the Bay Area Regional Water Recycling Program Authorization Act of 2007, would help seven bay area communities increase their municipal water supplies through innovative and much-needed water recycling projects.

These projects offer significant benefits. For California and the Federal Government such benefits include: the preservation of State and Federal reservoir supplies for higher uses rather than for urban landscape irrigation, particularly in drought years; and, a cost effective, environmentally friendly, implementable solution for increased dry year yield in the sensitive bay-delta region. Regional and local benefits include: the preservation of ever declining water supplies from the Sierra and delta for higher uses; assistance in drought-proofing the region through provision of a sustainable and reliable source of water; and reduction in wastewater discharges to the sensitive bay-delta environment.

The Bay Area Regional Water Recycling Program is a partnership between 17 local bay area water and wastewater agencies, the California Department of Water Resources and the U.S. Bureau of Reclamation that is dedicated to maximizing water recycling throughout the region. The regional approach taken by the bay area project sponsors ensures that projects with the greatest regional, statewide, and national benefits receive the highest priority for implementation.

This bill would authorize the U.S. Bureau of Reclamation to participate in seven bay area water recycling program projects that are closest to completion. Each community with a project would be eligible to receive 25 percent of the project's construction cost. The total cost of the seven projects is $110 million, but the Federal Government's share is only $27.5 million. State funding is available for these projects.

For the most part, the projects are ready to proceed and start delivering their benefits the projects having been repeatedly vetted, both internally at the local level and through the various steps of the Federal review process but Federal funding is needed to make implementation a reality and to allow the many benefits of these projects to be realized.

Specifically, the bill would authorize the Secretary of the Interior to participate in the following bay area water reuse projects: Antioch Recycled Water project—Delta Diablo Sanitation District, city of Antioch; North Coast County Water District Recycled Water project—North Coast County Water District; Mountain View/Moffett Area Water Reuse Project—city of Palo Alto, city of Mountain View: Pittsburg Recycled Water Project–Delta Diablo Sanitation District, city of Pittsburg; Redwood City Recycled Water project—city of Redwood; South Santa Clara County Recycled Water Project–Santa Clara Valley Water District, South County Regional Wastewater Authority; and, South Bay Advanced Recycled Water Treatment Facility—Santa Clara Valley Water District, city of San Jose.

These seven projects are estimated to make 12,205 acre-feet of water available annually in the short term, and 37,600 acre-feet annually in the long term, all while reducing demand on the delta and on existing water infrastructure.

Congressman GEORGE MILLER introduced a companion bill, H.R.1526, in the House on March 14, 2007. The bill was cosponsored by other bay area lawmakers, including Representatives ANNA ESHOO, ELLEN TAUSCHER, JERRY MCNERNEY, TOM LANTOS, MIKE HONDA; ZOE LOFGREN, and PETE STARK.

Water recycling offers great potential to States like California that suffer periodic droughts and have limited fresh water supplies. To address these issues, the bill would establish a partnership between the Federal Government and local communities to implement a regional water recycling program in the bay area. I urge my colleagues to join in support of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1475

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bay Area Regional Water Recycling Program Authorization Act of 2007''.

SEC. 2. PROJECT AUTHORIZATIONS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

''SEC. 16xx. MOUNTAIN VIEW, MOFFETT AREA RECLAIMED WATER PIPELINE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, and the City of Mountain View, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

''SEC. 16xx. PITTSBURG RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Pittsburg, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,400,000.

''SEC. 16xx. ANTIOCH RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Antioch, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,250,000.

''SEC. 16xx. NORTH COAST COUNTY WATER DISTRICT RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the North Coast County Water District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000.

''SEC. 16xx. REDWOOD CITY RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,100,000.

''SEC. 16xx. SOUTH SANTA CLARA COUNTY RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the South County Regional Wastewater Authority and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water system distribution facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000.

''SEC. 16xx. SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of San Jose, California, and the Santa Clara Valley Water

District, is authorized to participate in the design, planning, and construction of recycled water treatment facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,250,000.''.

(b) CONFORMING AMENDMENTS.—The table of items in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 16xx the following:

''Sec. 16xx. Mountain View, Moffett Area Reclaimed Water Pipeline Project.
''Sec. 16xx. Pittsburg Recycled Water Project.
''Sec. 16xx. Antioch Recycled Water Project.
''Sec. 16xx. North Coast County Water District Recycled Water Project.
''Sec. 16xx. Redwood City Recycled Water Project.
''Sec. 16xx. South Santa Clara County Recycled Water Project.
''Sec. 16xx. South Bay Advanced Recycled Water Treatment Facility.''.

SEC. 3. SAN JOSE AREA WATER RECLAMATION AND REUSE PROJECT.

It is the intent of Congress that a comprehensive water recycling program for the San Francisco Bay Area include the San Jose Area water reclamation and reuse program authorized by section 1607 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C 390h–5).

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, and Mr. INOUYE):

S. 1476. A bill to authorize the Secretary of the Interior to conduct a special resources study of the Tule Lake Segregation Center in Modoc County, California, to determine suitability and feasibility of establishing a unit of the National Park System; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today with Senators BARBARA BOXER and DANIEL INOUYE to introduce legislation that would authorize the National Park Service to conduct a special resource study of the Tule Lake Segregation Center, a World War II-era Japanese American internment camp, located in Northern California.

My colleagues in the House of Representatives, Congressman JOHN DOOLITTLE and Congresswoman DORIS MATSUI, also are introducing companion legislation today.

In 1942, as part of a wave of anti-Japanese sentiment following the attack on Pearl Harbor, Franklin D. Roosevelt signed Executive Order 9066 to authorize the U.S. military to incarcerate Japanese American families from California and other west coast States, in violation of their due process rights afforded to all Americans.

Over the years, California's political leaders have led a national bipartisan effort to ensure that this chapter in American history is not forgotten.

In 1992, my colleagues in the California congressional delegation passed bi-partisan legislation to establish the Manzanar National Historic Site, the Nation's first unit of the National Park System dedicated to telling the story of the wrongful internment of the Japanese American community during World War II.

I am pleased to say that Manzanar has been a terrific success story. My colleague Representative JERRY LEWIS and I were able to secure Federal appropriations to refurbish the camp auditorium to accommodate the tens of thousands of visitors to the site. Last year, nearly 90,000 people visited the Manzanar National Historic Site to learn about this unfortunate chapter in United States history.

As part of the Manzanar legislation, Congress directed the National Park Service to conduct a study of the other camp sites and to recommend National Historic Landmark designation for these sites. Based on this study, the Department of the Interior designated Tule Lake as a National Historic Landmark last year, upon finding that the remaining 42 acres of federally owned land at the site possesses national significance.

Of all of the camp sites, Tule Lake has retained some of the most significant historic features dating back to the internment. The federally owned lands include numerous camp buildings in their original locations, most notably the camp stockade, which was a ''jail within a jail.'' The finding of the site's national significance by the Secretary of the Interior last year is a key step forward in the process to evaluate the site's potential for management by the National Park Service.

Over the past several years, the Tule Lake Preservation Committee, the Japanese American Citizens League, the Japanese American National Museum and other local, regional and national partners have worked with Modoc County and the local community to develop a recommendation to study the potential for designation of the Tule Lake Segregation Center as a National Historic Site. I am pleased that this legislation has been endorsed by the Modoc County Board of Supervisors.

Although the Tule Lake Segregation Center is already a National Historic Landmark, the 42-acre site is not managed by the National Park Service. This bill would authorize the National Park Service to study the feasibility and suitability of managing the Federal lands at Tule Lake as a 42-acre National Historic Site, to be managed as part of the Lava Beds National Monument. Through this legislation, the NPS will develop various management alternatives for the site and give the public an opportunity to comment on the alternatives, through a public process. In light of the recent National Park Service work to prepare the national historic landmark designation, the cost to complete this study is quite modest. Upon completion of the study, the NPS would transmit the study to Congress for review.

This year marks the 65th anniversary of the internment of Japanese-Americans, when the Federal Government ordered Japanese American men, women and children to report to temporary assembly centers, including 13 centers in California. Many families were broken up as fathers were sent to prisons, work camps and Department of Justice camps hundreds of miles away. Without hearings or any evidence of disloyalty, Japanese-American families were transported to assembly centers in April and May of 1942. The largest assembly center was at the Santa Anita racetrack, which held over 18,000 people in horse stalls and other makeshift quarters.

Deprived of their basic constitutional rights, Japanese-American citizens and resident aliens were held in these centers until the U.S. government built more permanent camps in 10 locations in California and throughout the Western States and Arkansas. Together, these camps held over 120,000 Japanese Americans, of which about three quarters were living in California before the war.

My good friend, the late-Representative Robert Matsui, was just an infant when his family was ordered from their home in Sacramento to the Pinedale Assembly Center. From there, he was sent to the Tule Lake, Segregation Center in Modoc County, CA not far from the Oregon border.

Like the other camps, the Tule Lake Relocation Center was constructed in a remote area, on a large tract of federally owned land, managed by the U.S. Bureau of Reclamation. Prisoners there held frequent demonstrations and strikes, demanding their rights under the U.S. Constitution. As a result, Tule Lake was made a ''segregation camp,'' and internees from other camps who had refused to take the loyalty oath or had caused disturbances were sent there.

Despite these injustices, many young men in camp answered the call to serve in the U.S. Army and demonstrated their loyalty to the United States and to defend the same basic constitutional freedoms that had been violated by the U.S. Government's actions. Japanese Americans served with great valor and bravery in Europe, including our colleague Senator DANIEL INOUYE.

During its operation, Tule Lake was the largest of the 10 camps, with 18,789 people housed in makeshift barracks. Opened on May 27, 1942, Tule Lake was one of the last camps to be closed, staying open until March 20, 1946, 7 months following the end of World War II.

Following World War II, our Nation has recognized that the forced evacuation and incarceration of Japanese Americans was wrong and that there was no basis to question the loyalty and patriotism of Japanese Americans.

The internment of Japanese Americans during World War II was a grim chapter in America's history. Conducting this special resources study,

and the potential creation of the Tule Lake National Historic Site, will help ensure that we honor surviving internees during their lifetime and will serve as a lasting reminder of our ability to inflict pain and suffering upon our fellow Americans.

It is important that we recognize the historic significance of Tule Lake Segregation Center within the lifetimes of the few surviving Japanese-American internees, before many of their stories are lost.

I urge my colleagues to join me in supporting this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1476

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tule Lake Segregation Center Special Resource Study Act''.

SEC. 2. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') shall conduct a special resource study of the national significance, suitability, and feasibility of including the Tule Lake Segregation Center in the National Park System.

(b) INCLUSION OF SITES IN THE NATIONAL PARK SYSTEM.—The study under subsection (a) shall include an analysis and any recommendations of the Secretary concerning the suitability and feasibility of designating the site as a unit of the National Park System that relates to the themes described in section 3.

(c) STUDY GUIDELINES.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) CONSULTATION.—In preparing and conducting the study under subsection (a), the Secretary shall consult with Modoc County, the State of California, appropriate Federal agencies, Tribal and local government entities, private organizations, and private land owners.

SEC. 3. THEMES.

The study authorized under section 2 shall evaluate the Tule Lake Segregation Center with respect to the following themes:

(1) The significance of the site as a component of World War II.

(2) The significance of the site as it related to other war relocation centers.

(3) Historic buildings, including the stockade, that are intact and in place, along with numerous other resources.

(4) The contributions made by the local agricultural community to the war effort.

(5) The potential impact of designation of the sire as a unit of the National Park Service on private land owners.

SEC. 4. REPORT.

Not later than 1 year after funds are made available for this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 1477. A bill to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. SALAZAR. Mr. President, today Senator ALLARD and I introduced the Jackson Gulch Rehabilitation Act of 2007, which would authorize $6.4 million, subject to appropriations, to pay an 80-percent Federal cost-share for rehabilitation of the Jackson Gulch Canal system and related infrastructures in southwest Colorado.

Nearly 60 years ago, the Mancos Project canal was built, delivering water from Jackson Gulch Dam to residents, farms and businesses in Montezuma County. Since its construction, the Mancos Project has been maintained by the Mancos Water Conservancy District and inspected by the Bureau, but has outlived its expected life and is now badly in need of rehabilitation.

The people of Montezuma County have shown great patience on the Mancos Project, but the situation is turning dire. Washington must not forget the needs of people in rural areas, and in the rural areas of the West, water is one of the most important needs they have.

The Mancos Project and the Jackson Gulch Dam provide supplemental agricultural water for about 8,650 irrigated acres and a domestic water supply for the Mesa Verde National Park. The Mancos Project also delivers water to the more than 500 members of the Mancos Rural Water Company, the town of Mancos, and at least 237 agricultural businesses.

The project was build in 1949, and although it has been maintained since then by the district and inspected by the Bureau of Reclamation, the project has outlived its expected life and is badly in need of rehabilitation. The estimated cost to rehabilitate the canal system is less than one-third the cost of replacement.

If the Jackson Gulch Canal system experienced a catastrophic failure, it could result in Mesa Verde National Park being without water during the peak of their visitation and fire season, the town of Mancos suffering a severe municipal water shortage, and the possible loss of up to approximately $1.48 million dollars of crop production and sales annually.

Mr. President, the Mancos Water Conservancy District has already obtained a loan from the Colorado Water Conservation Board, which, when combined with a recent mill levy increase, will enable the district to meet its share of the project costs. The Federal Government through the Bureau of Reclamation has an important role to play as well. I look forward to working with my colleagues to pass this legislation.

By Mr. BAUCUS (for himself and Mr. ENZI):

S. 1481. A bill to restore fairness and reliability to the medical justice system and promote patient safety by fostering alternatives to current medical tort litigation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BAUCUS. Mr. President, for years, Congress has not been able to answer the question, ''What can be done about rising medical malpractice insurance premiums?'' Today, Senator ENZI and I begin a process we hope will end with action by Congress to resolve the problem.

The discussions the Senate has had about medical malpractice premiums until now have centered around imposing caps on noneconomic damages. The debate over caps has occurred several times in recent years, and has always ended with a failure to invoke cloture to vote on the legislation.

I have consistently opposed caps legislation because caps have been unsuccessful in preventing increases in medical malpractice premiums in my home State of Montana, as well as several other States. Clearly, it is time for a different approach.

The problem of rising insurance premiums affects the medical community, the legal community and, most importantly, patients. Doctors, burdened with continually-increasing insurance costs, have chosen to retire early, relocate their practices, or limit the services they provide to avoid high-risk procedures. Lawyers are concerned that reforms limit patients' ability to be compensated for their injuries. While patients find themselves caught in the middle, with ever-decreasing access to medical and legal services.

One of the reasons caps do not offer significant hope for improving the situation is that they treat the symptom of increasing premiums but not the underlying disease. We need to look for solutions that get to the root of the problem.

Any successful resolution to the problem must focus on compensating injured patients and on attempting to prevent similar injuries in the future. A 1999 Institute of Medicine study, To Err is Human, estimated that medical errors cause as many as 98,000 deaths per year in our Nation's hospitals alone. Even more deaths occur over the long-term and outside hospitals.

I think a new approach is in order. As such, Senator ENZI and I introduced the Fair and Reliable Medical Justice Act in the 109th Congress, and we are here today to reintroduce it. Our bill is innovative in how it confronts the problem.

We believe that a solution to this complex problem requires flexibility. We believe that because the civil justice system is largely a function of State law, the States are best situated to decide how their systems can be improved to work better for patients. We also believe that changes of this order should be tested and well thought out rather than simply mandated. There is no one size fits all answer.

So, our bill provides flexibility, leaves the decision-making to States and provides for demonstration programs to implement change in a thoughtful way. We owe a debt of gratitude to the experts at the Institute of Medicine for their 2002 report entitled, Fostering Rapid Advances in Health

Care: Learning from System Demonstration, for helping shape the Fair and Reliable Justice Act.

Our bill promotes State-based demonstrations of alternatives to current medical liability litigation. It aims to increase the number of patients who receive compensation for their injuries. It also tries to improve the speed with which they receive such compensation. The bill also encourages patient safety by promoting disclosure of medical errors, unlike the current tort system which encourages doctors to cover up medical mistakes.

Because the insurance premium problem and civil justice remedies vary by state we feel that the States are best positioned to analyze their unique situations and most capable to implement an effective solution. Therefore, the Fair and Reliable Medical Justice Act would establish State-based demonstration programs. The bill allows States to develop new ways to address and resolve their health care dispute issues.

There are innovative efforts already in effect in the private sector and some States that have achieved some success. I think it is time to encourage more innovation, to expand the range of options, and to empower the states to experiment and learn how to solve this persistent problem.

I want to thank Senator ENZI for his leadership on this issue. I am proud to have worked with him. I also want to recognize Representatives COOPER and THORNBERRY, who are dropping a companion bill in the House today. This bill approaches the medical liability insurance premium problem from a new perspective, through a set of common-sense pilot projects centered on improving patient safety. Rather than mandating a Federal band-aid for this recurring problem, this bill encourages the States to be innovative and creative to solve the problem while giving them flexibility and Federal support to implement their cures.

Mr. ENZI. Mr. President, I rise to discuss a bill that I will introduce today with Senator BAUCUS—the Fair and Reliable Medical Justice Act of 2007. This legislation recognizes the current disrepair of our medical liability system and puts into place a process that will provide better results for patients and for doctors.

Our legislation is designed to encourage States to rethink the way the system works so that injured patients receive fair and just compensation in a more timely manner. The new system would also provide consistent and reliable results so that doctors can eliminate the practice of defensive medicine and instead focus on the needs of each individual patient. Unfortunately, that doesn't happen right now because our system is broken.

I know we debate medical litigation frequently here on the floor, but throughout those debates I have noticed something interesting. Whenever we argue the pros and cons of the bills before us, no one ever stands up to argue that the system doesn't need any reform. In fact, everyone in the Senate agrees that our medical litigation system needs to be changed.

Why doesn't anyone try to defend our current medical litigation system? Because it doesn't work. No one—not patients or health care providers—are appropriately served by our current procedures. Right now, many patients who are hurt by negligent actions receive no compensation for their loss. Those who do receive a mere 40 cents of every premium dollar, given the high costs of legal fees and administrative costs. That is simply a waste of medical resources. The randomness and delay associated with medical litigation does not contribute to timely, reasonable compensation for most injured patients. Some injured patients get huge jury awards, while many others get nothing at all. It is important to patients and doctors that our justice system is perceived as both efficient and fair. Furthermore, the likelihood and the outcomes of lawsuits and settlements bear little relation to whether a healthcare provider was at fault. Consequently, we are not learning from our mistakes. Rather, we are simply diverting our doctors. When someone has a medical emergency they want to see a doctor in an operating room, not a court room.

The medical liability system is losing information that could be used to improve the practice of medicine. Although zero medical errors is an unattainable goal, the reduction of medical errors, should be the ultimate goal in medical liability reform. The Institute of Medicine, in its seminal study, ''To Err is Human,'' estimated that preventable medical errors kill somewhere between 44,000 and 98,000 Americans each year. That study further emphasized that to improve our health care outcomes, we should no longer focus on individual situations but on the whole systems of care that are failing American patients. In the 8 years since that study, little progress has been made. Instead, the practice of medicine has become more specialized and complex, while the tort system has forced more focus on individual blame than on system safety.

To mitigate that individual blame, doctors practice ''defensive medicine.'' Simply stated, ''defensive medicine'' occurs when a doctor departs from doing what is best for the patient because of fear of a lawsuit. Defensive medicine can mean ordering more tests or providing more treatment than necessary. For instance, a doctor might order an unnecessary and painful biopsy. Some estimates suggest that Americans will pay $70 billion for defensive medicine this year. Even if it is half that, it is still way too much.

Let's face it. Our medical litigation system is in need of repair. It fails to achieve its twin objectives. It doesn't provide fair and fast compensation to injured patients, and it doesn't effectively deter future mistakes. Even worse, it replaces the element of trust that is so vital to the provider-patient relationship with distrust. We can make it better.

That is why I am introducing this key legislation with Senator BAUCUS today. Our bill would provide $5 million to 10 States to initiate, fund, and evaluate demonstration projects that offer alternatives to traditional tort litigation. It will not pre-empt State law. It will allow States to find creative alternatives that will work much better for patients and providers in each State. The States have been policy pioneers in many areas before, including workers' compensation, welfare reform, and electricity deregulation. Medical litigation should be the next item on the agenda of the laboratories of democracy that are our 50 States. Let's take a step forward for American patients and their doctors by allowing this framework to move forward and make the changes that we all know are needed.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1482. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce bipartisan legislation today along with my distinguished colleague, Senator OLYMPIA SNOWE, known as the State Child Well-Being Research Act of 2007. This bill is designed to enhance child well-being by requiring the Secretary of Health and Human Services to facilitate the collection of State-specific data based on a set of defined indicators. The well-being of children is important to both the national and State governments and data collection is a priority that should not be ignored.

In 1996, Congress passed bold legislation to dramatically change our welfare system, and I supported it. The driving force behind this reform was to promote work and self-sufficiency of families and to provide flexibility to States—where most child and family legislation takes place—to achieve these goals. States have used this flexibility to design different programs that work better for families who rely on them. Other programs that serve children, ranging from the Children Health Insurance Program, CHIP, to child welfare services, can vary among States.

It is obvious that in order for policy makers to evaluate child well-being, we need State-by-State data on child well-being to measure the results. Current survey methods can provide minimal data on some indicators of child well-being, but insufficient data is provided on low-income families, geographic variation, and young children. Additionally, the information is not provided in a timely manner, which impedes legislators' ability to effectively

accomplish the goals set forth in welfare reform.

The State Child Well Being Research Act Of 2007 is intended to fill this information gap by collecting up-to-date, State-specific data that can be used by policymakers, researchers, and child advocates to assess the well-being of children. It would require that a survey examine the physical and emotional health of children, adequately represent the experiences of families in individual States, be consistent across States, be collected annually, articulate results in easy to understand terms, and focus on low-income children and families. This legislation also establishes an advisory committee which consists of a panel of experts who specialize in survey methodology, indicators of child well-being, and application of this data to ensure that the purpose is being achieved.

Further, this bill avoids some ofthe other problems in the current system by making data files easier to use and more readily available to the public. As a result, the information will be more useful for policy-makers managing welfare reform and programs for children and families.

Finally, this legislation also offers the potential for the Health and Human Service Department to partner with several private charitable foundations, including the Annie E. Casey, John D. and Catherine T. MacArthur, and McKnight foundations, who are interested in forming a partnership to provide outreach and support and to guarantee that the data collected would be broadly disseminated. This type of public-private partnership helps to leverage additional resources for children and families and increases the study's impact. Given the tight budget we face, partnerships make sense to meet this essential need. I hope my colleagues review this legislation carefully and support it so that we and State policy makers and advocates have the information necessary to make good decisions for children.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 1483. A bill to create a new incentive fund that will encourage States to adopt the 21st Century Skills Framework; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation to create a 21st Century Skills Incentive Fund, and I am proud to have the bipartisan support of my colleague, Senator OLYMPIA SNOWE. We have a tradition of working together, especially on education and technology.

This legislation is designed to support and encourage those States that are willing to accept the bold challenge of the Partnership for 21st Century Skills to teach the core subjects, but to also go beyond the basics to include 21st Century themes like global awareness and entrepreneurial literacy. The partnership's framework emphasizes skills like critical thinking, innovation and communication skills. It also promotes information and communications technology literacy, known as ICT literacy, and life and career skills such as self direction and leadership. This bold agenda needs to be woven into State education strategy at every level, including standards and assessments, curriculum, professional development, and learning environments.

Every State willing to accept and work to implement such a progressive model and agenda deserves encouragement and support. That is why this bill would create a 21st Century Skills Incentive Fund to provide Federal matching dollars for new State investments and foundation donations to 21st Century Skills. There would also be a Federal tax incentive for corporate donations. The Federal Government won't put up a dime until a state's plan is approved by the Partnership for 21st Century Skills, a nonprofit organization of leading technology companies and education leaders. But the Federal Government will offer matching grants to help States that are willing to make an investment in such quality education.

This is an important investment, and the next step to enhance education and prepare our students for the new, competitive workforce. This initiative also will emphasize global awareness, civic literacy and life skills so young people understand our place in the world and are ready to take on greater responsibilities in understanding and improving their own communities.

The Partnership for 21st Century Skills Partnership has introduced a new model for education. It represents a bold and important new direction for the future of education in this country. This legislation is designed to help the Federal Government become a partner and play a positive role in preparing our students for their future.

By Mr. COLEMAN (for himself and Ms. LANDRIEU):

S. 1488. A bill to amend the definition of independent student for purposes of the need analysis in the Higher Education Act of 1965 to include older adopted students; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, as U.S. Senators, we are well aware of the difficulty in making tough decisions. But, a tough decision for 13-year-old foster care child shouldn't be choosing between being adopted and having a permanent loving, stable, and secure family, or attending college for a promising future. Today, I am proud to be joined by my friend, Senator MARY LANDRIEU from Louisiana, in introducing the Fostering Adoption To Further Student Achievement Act because we believe all youth deserve both a loving family and a future of hope.

Our legislation promotes older adoptions of foster care youth by not later penalizing the adopting family when their student applies for student Federal financial aid.

We have heard from former foster teens across our Nation who have stated that they were better off ''aging'' out of the foster care system than being adopted by a family because of a fear of losing student Federal financial aid because as a foster student they don't have to report any parental income on their student financial aid application.

Our legislation provides a solution by amending the definition of ''independent student'' to include foster care youth who were adopted after the age of 13 in the Higher Education Act of 1965. Thus, the family and student would not be penalized on their Federal financial aid as their classification would be determined by only the student's ability to pay. Most prospective adopting parents would not have financially planned for an older teen becoming part of their family. Our legislation offers an incentive to promote older adoptions rather than having the teen stay in foster families until they ''age out.''

The numbers are startling and its time we act. Currently, 20,000 youth ''age'' out of the foster care system each year with 30 percent of these youth incarcerated within 12 months of doing so. There are 513,000 children in foster care with nearly half the kids over the age of 10. Children in foster care are twice as likely as the rest of the population to drop out before finishing high school. Several foster care alumni studies indicate that within three years after leaving foster care: only 54 percent had earned their high school diploma, only 2 percent had graduated from a four-year college, and 25 to 44 percent had experienced homelessness.

Statistics show youth that are adopted out of the foster care system attend college, have stable lives, have a permanent family, and have a future of hope. One to two years of community college coursework significantly increases the likelihood of economic self-sufficiency. A college degree is the single greatest factor in determining access to better job opportunities and higher earnings.

The Fostering Adoption To Further Student Achievement Act ensures that children don't have to make a tough decision between choosing to have a family or an education.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1488

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fostering Adoption to Further Student Achievement Act''.

SEC. 2. AMENDMENT TO INDEPENDENT STUDENT.

Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(8) was adopted from the foster care system when the individual was 13 years of age or older.''.

By Mr. CARPER (for himself and Mr. VOINOVICH):

S. 1490. A bill to provide for the establishment and maintenace of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chaper 89 of title 5, United States Code, and for other purposes; to the Committee on Homeland Security and Govermental Affairs.

Mr. CARPER. Mr. President, I rise today to reintroduce a piece of legislation that Senator VOINOVICH and I have been working on for over a year now.

The Federal Employees Electronic Personal Health Records Act of 2007 makes available electronic personal health records for every enrollee of a Federal health benefits plan who wishes to have one.

Americans will probably spend more than $2 trillion on health care this year alone. Over the next 10 years, health care costs will more than double, topping $4 trillion in 2015.

We spend $6,700 per person on health care, more than twice of what other industrialized nations spend; and for the most part, we are not receiving the gold standard of treatment in care.

A 2005 survey found that medical error rates in the United States far exceed those of other Western countries.

And in that survey, one in three Americans reported getting the wrong dosage of medication, incorrect test results, mistakes in treatment, or late notification of a test result. That is nearly 15 percent higher than similar results in Britain and Germany.

Our excessive reliance on paper record keeping makes our health care system less efficient, more costly and more prone to mistakes.

Doctors diagnose patients without knowing their full medical history, what they are allergic to, what kind of surgeries they have had, whether they have complained about similar symptoms before.

Time constraints, or medical necessity, often force doctors to form a quick diagnosis. Sometimes that diagnosis is wrong and sometimes it proves to be a costly error.

The widespread use of health information technology, the ability to immediately grab someone's full medical history off of a computer, can help doctors provide better care more cheaply. It has the potential to drastically transform the way we provide health care.

If we are looking for success stories on how health care professionals have integrated the use of electronic health records into their daily routines, we don't have to look any further than our own Departments of Defense and Veterans Affairs.

Times have certainly changed since I retired from the Navy some 16 years ago. I used to keep all my medical records in a brown manila folder.

I carried this manila folder with me from the time I left Ohio State, on to Pensacola, Corpus Christi Naval Air Station, out to California, across the seas and back again, and finally, getting off of active duty and coming to Delaware to enroll in business school, on the GI bill, at the University of Delaware.

Over a decade ago, the DOD and the VA decided there was a better way. And the results have been nothing short of phenomenal.

Today, when a patient enrolls in DOD's Military Health System, they get an electronic health record, not a brown manila folder in which to carry years of paper medical records. Your electronic record will follow you wherever you go, both during your time when you are serving in the military and when you leave to join our veterans' community.

Researchers and doctors now laud the VA for having the foresight to use electronic health records to improve patient care and transform itself into one of the best health care operations in the country.

And the cost? About $78 per patient, roughly the cost of not repeating one blood test. In other words, money well spent.

I have witnessed that new-found satisfaction right in my own back yard, at our Veterans Medical Center in Elsmere, DE. Veterans from neighboring States are now coming to Elsmere to seek care instead of going to regular civilian hospitals near them.

So what is keeping the rest of the Nation's health care system from following the lead of the DOD and the VA?

The answer is the high cost of implementing the latest information technologies, as well as the lack of uniformity among various technology products.

A physician can spend up to $40,000 implementing an electronic health records system. A hospital can spend up to five times that amount.

If that weren't enough of a reason to say ''no thanks,'' there is another. We don't have a set of national standards in place to make sure that once health care providers have made the switch, their new systems can communicate with the hospital or doctor on the other side of town.

As a nation, we cannot afford to rely solely on health care providers to bring the health care industry into the 21st century.

While I was Governor, I signed legislation that would call for the creation of a statewide information network to bring our health care system into the 21st century. Delaware is well underway toward meeting our goal of establishing the first statewide health information infrastructure.

We must think outside of the box and build on health information technology initiatives that are all already underway in other areas of the health care industry.

The Federal Employees Electronic Personal Health Records Act of 2006 will require all Insurance Plans that contract with the Federal Employees Health Benefits Program, FEHBP, to make available an electronic personal health record for enrollees in the program.

Via the Internet, an enrollee will be able to log-on to his or her electronic personal health record to keep track of such things as their medications, cholesterol and glucose levels, allergies, and immunization records. An enrollee will also be able to view a comprehensive, easily understood listing of their health care claims.

An enrollee can easily share sections of the electronic personal health record with their health care provider, ensuring that their health care provider has the most up-to-date and accurate health information when making clinical decisions.

Having health information readily available will increase the efficiency and safety of health care for an enrollee by eliminating unwarranted tests, procedures, and prescriptions.

Most importantly, the legislation ensures that the electronic personal health records provided for through this act are kept private and secure.

The electronic personal health records are required to include a number of security features, such as a user authentication and audit trails.

The legislation also requires that insurance plans comply with all privacy and security regulations outlined in the Health Insurance Portability and Accountability Act.

This bill is designed to jumpstart this new technology by requiring some of the largest health insurance companies to offer electronic personal health records, which many are already doing.

As more insurance companies, health care providers and consumers use this new technology, I am convinced that more people will recognize its advantages and we can more quickly move America's health care industry into the 21st century.

And as the Nation's largest employer-sponsored health insurance program, who better than the Federal Employees Health Benefit Program to lead the way in this endeavor.

I urge my colleagues to support the Federal Employees Electronic Personal Health Records Act of 2007.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1490

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Employees Electronic Personal Health Records Act of 2007''.

SEC. 2. ELECTRONIC PERSONAL HEALTH RECORDS FOR FEDERAL EMPLOYEE HEALTH BENEFITS PLANS.

(a) CONTRACT REQUIREMENT.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

''(p) Each contract under this chapter shall require the carrier to provide for the establishment and maintenance of electronic personal health records in accordance with section 8915.''.

(b) ELECTRONIC PERSONAL HEALTH RECORDS.—Chapter 89 of title 5, United States Code, is amended by adding after section 8914 the following:

''§ 8915. Electronic personal health records

''(a) In this section, the term—

''(1) 'claims data' means—

''(A) a comprehensive record of health care services provided to an individual, including prescriptions; and

''(B) contact information for providers of health care services; and

''(2) 'standard electronic format' means a format that—

''(A) uses open electronic standards;

''(B) enables health information technology to be used for the collection of clinically specific data;

''(C) promotes the interoperability of health care information across health care settings, including reporting under this section and to other Federal agencies;

''(D) facilitates clinical decision support;

''(E) is useful for diagnosis and treatment and is understandable for the individual or family member; and

''(F) is based on the Federal messaging and health vocabulary standard endorsed by—

''(i) the Office of the National Coordinator for Health Information Technology;

''(ii) the American Health Information Community; or

''(iii) the Secretary of Health and Human Services.

''(b)(1) Each carrier entering into a contract for a health benefits plan under section 8915 shall provide for the establishment and maintenance of electronic personal health records for each individual and family member enrolled in that health benefits plan in accordance with this section.

''(2) In the administration of this section, the Office of Personnel Management—

''(A) shall ensure that each individual and family member is provided—

''(i) timely notice of the establishment and maintenance of electronic personal health records; and

''(ii) an opportunity to file an election at any time to—

''(I) not participate in the establishment or maintenance of an electronic personal health record for that individual or family member; and

''(II) in the case of an electronic personal health record that is established under this section, terminate that electronic personal health record;

''(B) shall ensure that each electronic personal health record shall—

''(i) be based on standard electronic formats;

''(ii) be available for electronic access through the Internet for the use of the individual or family member to whom the record applies;

''(iii) enable the individual or family member to—

''(I) share any contents of the electronic personal health record through transmission in standard electronic format, fax transmission, or other additional means to providers of health care services or other persons;

''(II) copy or print any contents of the electronic personal health record; and

''(III) add supplementary health information, such as information relating to—

''(aa) personal, medical, and emergency contacts;

''(bb) laboratory tests;

''(cc) social history;

''(dd) health conditions;

''(ee) allergies;

''(ff) dental services;

''(gg) immunizations;

''(hh) prescriptions;

''(ii) family health history;

''(jj) alternative treatments;

''(kk) appointments; and

''(ll) any additional information as needed;

''(iv) contain—

''(I) to the extent feasible, claims data from—

''(aa) providers of health care services that participate in health benefits plans under this chapter;

''(bb) other providers of health care services; and

''(cc) other health benefits plans in which the individual or family members have participated;

''(II) to the extent feasible, clinical care, pharmaceutical, and laboratory records; and

''(III) the name of the source for each item of health information;

''(v) authenticate the identity of each individual upon accessing the electronic personal health record; and

''(vi) contain an audit trail to list the identity of individuals who access the electronic personal health record; and

''(C) shall ensure that the individual or family member may designate—

''(i) any other individual to access and exercise control over the sharing of the electronic personal health record; and

''(ii) any other individual to access the electronic personal health record in an emergency;

''(D) shall require each health benefits plan to comply with all privacy and security regulations promulgated under section 246(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2) and other relevant laws relating to privacy and security;

''(E) shall require each carrier that enters into a contract for a health benefits plan to provide for the electronic transfer of the contents of an electronic personal health record to another electronic personal health record under a different health benefits plan maintained under this section or a similar record not maintained under this section if—

''(i) coverage in a health benefits plan under this chapter for an individual or family member terminates; and

''(ii) that individual or family member elects such a transfer;

''(F) shall require each carrier to provide for education, awareness, and training on electronic personal health records for individuals and family members enrolled in health benefits plans; and

''(G) may require each carrier to provide for an electronic personal health record to be made available for electronic access, other than through the Internet, for the use of the individual or family member to whom the record applies, if that individual or family member requests such access.

''(3) Nothing in paragraph (2)(C) shall be construed to provide any rights additional to the rights provided under the privacy and security regulations promulgated under section 246(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2) and other relevant laws relating to privacy and security.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by adding at the end the following:

''Sec. 8915. Electronic personal health records.''.

SEC. 3. EFFECTIVE DATES AND APPLICATION.

(a) IN GENERAL.—Except as provided under subsection (b), the amendments made by this Act shall take effect 30 days after the date of enactment of this Act.

(b) ESTABLISHMENT AND MAINTENANCE OF ELECTRONIC PERSONAL HEALTH RECORDS.—The requirement for the establishment and maintenance of electronic personal health records under sections 8902(p) and 8915 of title 5, United States Code (as added by this Act), shall apply with respect to contracts for health benefits plans under chapter 89 of that title which take effect on and after January of the earlier of—

(1) the first calendar year following 2 years after the date of enactment of this Act; or

(2) any calendar year determined by the Office of Personnel Management.

Mr. VOINOVICH. Mr. President, I wish to speak about a bill my colleague Senator CARPER and I introduced today, the Electronic Personal Health Records Act. The purpose of this legislation is to provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in the Federal Employee Health Benefits Plan, FEHBP.

The widespread adoption of health information technology, such as electronic health records, EHR, will revolutionize the health care profession. In fact, the Institute of Medicine, the National Committee on Vital and Health Statistics, and other expert panels have identified information technology as one of the most powerful tools in reducing medical errors and improving the quality of care. Unfortunately, our country's health care industry lags far behind other sectors of the economy in its investment in IT.

The Institute of Medicine estimates that there are nearly 98,000 deaths each year resulting from medical errors. Many of these deaths can be directly attributed to the inherent imperfections of our current paper-based health care system. This statistic is startling and one that I hope will motivate my colleagues to take a close look at the goals of our legislation.

The voluntary EHRs that would be established through the Electronic Personal Health Records Act will provide clinicians with real-time access to their patient's health history. Each EHR would contain claims data, contact information for providers of health care services, and other useful information for diagnosis and treatment. The records will be available cost-free to FEHBP participants and will maintain strict adherence to the Health Insurance Portability and Accountability Act, HIPAA.

Under the bill, the Office of Personnel Management, OPM, would be required to ensure that all carriers who participate in FEHBP educate their members about the implementation of the EHR, as well as give timely notice of the establishment of the record and an opportunity for each individual to elect not to participate in the program.

OPM, through their carriers, would also have to ensure that all records

would be available for electronic access through Internet, fax, or printed method for the use of the individual, and that to the extent possible, records could be transferred from one plan to another. The bill would require EHRs to be made available 2 years after the passage of the legislation or earlier at the discretion of OPM in consultation with the Office of the National Coordinator for Health Information Technology within HHS.

Not only can EHRs save lives and improve the quality of health care, they also have the potential to reduce the cost of the delivery of health care. According to Rand Corporation, the health care delivery system in the United States could save approximately $160 billion annually with the widespread use of electronic medical records. As a result, the private market is already moving toward implementing electronic medical records.

This bill, simply encourages the health care industry to continue in that direction and take their use of technology in the delivery of care to the next step. I urge my colleagues to consider not only the benefit it will provide to the 8 million individuals who receive their health care through the FEHBP, but also to our Nation's overall health care system.

By Mr. INOUYE (for himself, Mr. DORGAN, Mr. PRYOR, Ms. CANTWELL, Ms. KLOBUCHAR, and Mr. KERRY):

S. 1492. A bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, broadband communications are quickly becoming the great economic engine of our time. Broadband deployment drives opportunities for business, education, and healthcare. It provides widespread access to information that can change the way we communicate with one another and improve the quality of our lives. From our smallest rural hamlets to our largest urban centers, communities across this country should have access to the opportunities ubiquitous broadband can bring. The state of our broadband union should be broadband for all.

But the news on this front is not all good. Last month, the Organization for Economic Cooperation and Development reported that the United States has fallen to 15th in the world in broadband penetration. In some Asian and European countries, households have high-speed connections that are 20 times faster than ours, for half the cost. While some will debate what, in fact, these rankings measure, one thing that cannot be debated is the fact that we continue to fall precipitously down the list. In 2000 the United States ranked 4th; last year we dropped to 12th; and just last month we dropped to 15th. The broadband bottom line is that too many of our international counterparts are passing us by. For this we are paying a price. Some experts estimate that universal broadband adoption would add $500 billion to the U.S. economy and create more than a million new jobs.

In a digital age, the world will not wait for us. It is imperative that we get our broadband house in order and our communications policy right. But we cannot manage what we do not measure. So the first step in an improved broadband policy is ensuring that we have better data on which to build our efforts.

That is why I am here today to introduce the Broadband Data Improvement Act. This legislation will improve the quality of Federal and State data regarding the availability of broadband service. This, in turn, can be used to craft policies that will increase the availability of affordable broadband service in all parts of the Nation. This legislation will improve broadband data collection at the Federal Communications Commission and Bureau of the Census. It will direct the Comptroller General and the Small Business Administration to study our broadband challenge. It will encourage State initiatives to improve broadband adoption by establishing a State broadband data and development grant program that will authorize $40 million for each of fiscal years 2008 through 2012.

With too many of our industrial counterparts ahead of us, we sorely need the kind of granular data that will inform our policies and propel us to the front of the broadband ranks. I believe that the Broadband Data Improvement Act will give us the tools to make this happen.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1492

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband Data Improvement Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The deployment and adoption of broadband technology has resulted in enhanced economic development and public safety for communities across the Nation, improved health care and educational opportunities, and a better quality of life for all Americans.

(2) Continued progress in the deployment and adoption of broadband technology is vital to ensuring that our Nation remains competitive and continues to create business and job growth.

(3) Improving Federal data on the deployment and adoption of broadband service will assist in the development of broadband technology across all regions of the Nation.

(4) The Federal Government should also recognize and encourage complementary state efforts to improve the quality and usefulness of broadband data and should encourage and support the partnership of the public and private sectors in the continued growth of broadband services and information technology for the residents and businesses of the Nation.

SEC. 3. IMPROVING FEDERAL DATA ON BROADBAND.

(a) IMPROVING FCC BROADBAND DATA.—Within 120 days after the date of enactment of this Act, the Federal Communications Commission shall issue an order in WC docket No. 07-38 which shall, at a minimum—

(1) revise or update, if determined necessary, the existing definitions of advanced telecommunications capability, or broadband;

(2) establish a new definition of second generation broadband to reflect a data rate that is not less than the data rate required to reliably transmit full-motion, high-definition video; and

(3) revise its Form 477 reporting requirements to require filing entities to report broadband connections and second generation broadband connections by 5-digit postal zip code plus 4-digit location.

(b) EXCEPTION.—The Commission shall exempt an entity from the reporting requirements of subsection (a)(3) if the Commission determines that a compliance by that entity with the requirements is cost prohibitive, as defined by the Commission.

(c) IMPROVING SECTION 706 INQUIRY.—Section 706 of the Telecommunications Act of 1996 (47 U.S.C. 157 nt) is amended—

(1) by striking ''regularly'' in subsection (b) and inserting ''annually'';

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following:

''(c) MEASUREMENT OF EXTENT OF DEPLOYMENT.—In determining under subsection (b) whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion, the Commission shall consider data collected using 5-digit postal zip code plus 4-digit location.

''(d) DEMOGRAPHIC INFORMATION FOR UNSERVED AREAS.—As part of the inquiry required by subsection (b), the Commission shall, using 5-digit postal zip code plus 4-digit location information, compile a list of geographical areas that are not served by any provider of advanced telecommunications capability (as defined by section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 nt)) and to the extent that data from the Census Bureau is available, determine, for each such unserved area—

''(1) the population;

''(2) the population density; and

''(3) the average per capita income.'';

(4) by inserting ''an evolving level of'' after ''technology,'' in paragraph (1) of subsection (e), as redesignated.

(d) IMPROVING CENSUS DATA ON BROADBAND.—The Secretary of Commerce, in consultation with the Federal Communications Commission, shall expand the American Community Survey conducted by the Bureau of the Census to elicit information for residential households, including those located on native lands, to determine whether persons at such households own or use a computer at that address, whether persons at that address subscribe to Internet service and, if so, whether such persons subscribe to dial-up or broadband Internet service at that address.

SEC. 4. STUDY ON ADDITIONAL BROADBAND METRICS AND STANDARDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study to consider and evaluate additional broadband metrics or standards that may be used by industry and the

Federal Government to provide users with more accurate information about the cost and capability of their broadband connection, and to better compare the deployment and penetration of broadband in the United States with other countries. At a minimum, such study shall consider potential standards or metrics that may be used—

(1) to calculate the average price per megabyte of broadband offerings;

(2) to reflect the average actual speed of broadband offerings compared to advertised potential speeds;

(3) to compare the availability and quality of broadband offerings in the United States with the availability and quality of broadband offerings in other industrialized nations, including countries that are members of the Organization for Economic Cooperation and Development; and

(4) to distinguish between complementary and substitutable broadband offerings in evaluating deployment and penetration.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the results of the study, with recommendations for how industry and the Federal Communications Commission can use such metrics and comparisons to improve the quality of broadband data and to better evaluate the deployment and penetration of comparable broadband service at comparable rates across all regions of the Nation.

SEC. 5. STUDY ON THE IMPACT OF BROADBAND SPEED AND PRICE ON SMALL BUSINESSES.

(a) IN GENERAL.—The Small Business Administration Office of Advocacy shall conduct a study evaluating the impact of broadband speed and price on small businesses.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Office shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Small Business and Entrepreneurship, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Small Business on the results of the study, including—

(1) a survey of broadband speeds available to small businesses;

(2) a survey of the cost of broadband speeds available to small businesses;

(3) a survey of the type of broadband technology used by small businesses; and

(4) any policy recommendations that may improve small businesses access to comparable broadband services at comparable rates in all regions of the Nation.

SEC. 6. ENCOURAGING STATE INITIATIVES TO IMPROVE BROADBAND.

(a) PURPOSES.—The purposes of any grant under subsection (b) are—

(1) to ensure that all citizens and businesses in a State have access to affordable and reliable broadband service;

(2) to achieve improved technology literacy, increased computer ownership, and home broadband use among such citizens and businesses;

(3) to establish and empower local grassroots technology teams in each State to plan for improved technology use across multiple community sectors; and

(4) to establish and sustain an environment ripe for broadband services and information technology investment.

(b) ESTABLISHMENT OF STATE BROADBAND DATA AND DEVELOPMENT GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Commerce shall award grants, taking into account the results of the peer review process under subsection (d), to eligible entities for the development and implementation of statewide initiatives to identify and track the availability and adoption of broadband services within each State.

(2) COMPETITIVE BASIS.—Any grant under subsection (b) shall be awarded on a competitive basis.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b), an eligible entity shall—

(1) submit an application to the Secretary of Commerce, at such time, in such manner, and containing such information as the Secretary may require; and

(2) contribute matching non-Federal funds in an amount equal to not less than 20 percent of the total amount of the grant.

(d) PEER REVIEW; NONDISCLOSURE.—

(1) IN GENERAL.—The Secretary shall by regulation require appropriate technical and scientific peer review of applications made for grants under this section.

(2) REVIEW PROCEDURES.—The regulations required under paragraph (1) shall require that any technical and scientific peer review group—

(A) be provided a written description of the grant to be reviewed; and

(B) provide the results of any review by such group to the Secretary of Commerce.

(C) certify that such group will enter into voluntary nondisclosure agreements as necessary to prevent the unauthorized disclosure of confidential and proprietary information provided by broadband service providers in connection with projects funded by any such grant.

(e) USE OF FUNDS.—A grant awarded to an eligible entity under subsection (b) shall be used—

(1) to provide a baseline assessment of broadband service deployment in each State;

(2) to identify and track—

(A) areas in each State that have low levels of broadband service deployment;

(B) the rate at which residential and business users adopt broadband service and other related information technology services; and

(C) possible suppliers of such services;

(3) to identify barriers to the adoption by individuals and businesses of broadband service and related information technology services, including whether or not—

(A) the demand for such services is absent; and

(B) the supply for such services is capable of meeting the demand for such services;

(4) to identify the speeds of broadband connections made available to individuals and businesses within the State, and, at a minimum, to rely on the data rate benchmarks for broadband and second generation broadband identified by the Federal Communications Commission to promote greater consistency of data among the States;

(5) to create and facilitate in each county or designated region in a State a local technology planning team—

(A) with members representing a cross section of the community, including representatives of business, telecommunications labor organizations, K-12 education, health care, libraries, higher education, community-based organizations, local government, tourism, parks and recreation, and agriculture; and

(B) which shall—

(i) benchmark technology use across relevant community sectors;

(ii) set goals for improved technology use within each sector; and

(iii) develop a tactical business plan for achieving its goals, with specific recommendations for online application development and demand creation;

(6) to work collaboratively with broadband service providers and information technology companies to encourage deployment and use, especially in unserved and underserved areas, through the use of local demand aggregation, mapping analysis, and the creation of market intelligence to improve the business case for providers to deploy;

(7) to establish programs to improve computer ownership and Internet access for unserved and underserved populations;

(8) to collect and analyze detailed market data concerning the use and demand for broadband service and related information technology services;

(9) to facilitate information exchange regarding the use and demand for broadband services between public and private sectors; and

(10) to create within each State a geographic inventory map of broadband service, and where feasible second generation broadband service, which shall—

(A) identify gaps in such service through a method of geographic information system mapping of service availability at the census block level; and

(B) provide a baseline assessment of statewide broadband deployment in terms of households with high-speed availability.

(f) PARTICIPATION LIMIT.—For each State, an eligible entity may not receive a new grant under this section to fund the activities described in subsection (d) within such State if such organization obtained prior grant awards under this section to fund the same activities in that State in each of the previous 4 consecutive years.

(g) REPORTING.—The Secretary of Commerce shall—

(1) require each recipient of a grant under subsection (b) to submit a report on the use of the funds provided by the grant; and

(2) create a web page on the Department of Commerce web site that aggregates relevant information made available to the public by grant recipients, including, where appropriate, hypertext links to any geographic inventory maps created by grant recipients under subsection (e)(10).

(h) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a non-profit organization that is selected by a State to work in partnership with State agencies and private sector partners in identifying and tracking the availability and adoption of broadband services within each State.

(2) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization—

(A) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) that has an established competency and proven record of working with public and private sectors to accomplish widescale deployment and adoption of broadband services and information technology; and

(D) the board of directors of which is not composed of a majority of individuals who are also employed by, or otherwise associated with, any Federal, State, or local government or any Federal, State, or local agency.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2008 through 2012.

(j) NO REGULATORY AUTHORITY.—Nothing in this section shall be construed as giving any public or private entity established or affected by this Act any regulatory jurisdiction or oversight authority over providers of broadband services or information technology.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 1493. A bill to promote innovation and basic research in advanced information and communications technologies that will enhance or facilitate the availability and affordability of advanced communications services to all Americans; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, the telecommunications industry started in this country as a series of wires crisscrossing the country to provide simple telegraph service. The telegraph allowed people to communicate from coast to coast in a matter of minutes, which was a marked improvement over the days required to deliver postal correspondence via the pony express. The industry quickly evolved from those initial telegraph lines with Alexander Graham Bell's invention of the telephone. This revolutionized telecommunications and created a multibillion dollar industry.

Today, telecommunications accounts for 3 percent of this country's gross domestic income, or roughly $335 billion. It employs over 1.25 million U.S. workers. The industry is a critical driver of U.S. economic growth and innovation. Historically, advances in telecommunications resulted from AT&T's steady funding of Bell Laboratories, the world-famous research facility that discovered the transistor, the laser, radar and sonar, digital signal processors, cellular telephone technology, and data-networking technology. Indeed, research in this last field, data-networking, is the basis of the 21st century's greatest resource, the Internet.

However, today, the pace of innovation in the United States is no longer as swift or as certain. For example, much of the world's wireless technologies come from Europe, and many of the handsets are designed and manufactured in other countries like China and South Korea. Part of the problem is the decline of Bell Labs, but financial pressures from Wall Street to perform in the short-term are also partly to blame. Companies can no longer afford to invest in basic, fundamental telecommunications research with project horizons beyond 5 years. Unless we can reverse this trend, I fear that the United States may fall permanently behind in the telecommunications innovation race.

That is why I am here today, to introduce the advanced Information and Communications Technology Research Act. By rededicating our efforts to the pursuit of innovation through basic, fundamental research, we can begin to restore our Nation's historic leadership in this critical industry. Toward that end, the legislation that I am introducing today will establish a telecommunications program within the National Science Foundation to focus research on the development of affordable advanced communications services in America. It would authorize $40 million in fiscal year 2008, increasing in $5 million increments to reach $60 million in FY 2012. The bill would also establish a Federal Advanced Information and Communications Technology Board within NSF to advise the program on appropriate research topics. Finally, the bill would accelerate efforts initiated almost 4 years ago to promote spectrum sharing technologies. It would require NTIA and the FCC to initiate a pilot program within 1 year that would make a small portion of spectrum available for shared use between Federal and non-Federal government users.

I look forward to working with my colleagues on this legislation in the weeks ahead.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1493

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Advanced Information and Communications Technology Research Act''.

SEC. 2. SPECTRUM-SHARING INNOVATION TESTBED.

(a) SPECTRUM-SHARING PLAN.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission and the Assistant Secretary of Commerce for Communications and Information, in coordination with other Federal agencies, shall—

(1) develop a plan to increase sharing of spectrum between Federal and non-Federal government users; and

(2) establish a pilot program for implementation of the plan.

(b) TECHNICAL SPECIFICATIONS.—The Commission and the Assistant Secretary—

(1) shall each identify a segment of spectrum of equal bandwidth within their respective jurisdiction for the pilot program that is approximately 10 megaHertz in width for assignment on a shared basis to Federal and non-Federal government use; and

(2) may take the spectrum for the pilot program from bands currently allocated on either an exclusive or shared basis.

(c) REPORT.—The Commission and the Assistant Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce 2 years after the inception of the pilot program describing the results of the program and suggesting appropriate procedures for expanding the program as appropriate.

SEC. 3. TELECOMMUNICATIONS INNOVATION ACCELERATION.

(a) PROGRAM.—In order to accelerate the pace of innovation with respect to telecommunications services (as defined in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)), equipment, and technology, the Director of the National Institute of Standards and Technology shall—

(1) establish a program linked to the goals and objectives of the measurement laboratories, to be known as the 'Telecommunications Standards and Technology Acceleration Research Program', to support and promote innovation in the United States through high-risk, high-reward telecommunications research; and

(2) set aside, from funds available to the measurement laboratories, an amount equal to not less than 8 percent of the funds available to the Institute each fiscal year for such Program.

(b) EXTERNAL FUNDING.—The Director shall ensure that at least 80 percent of the funds available for such Program shall be used to award competitive, merit-reviewed grants, cooperative agreements, or contracts to public or private entities, including businesses and universities. In selecting entities to receive such assistance, the Director shall ensure that the project proposed by an entity has scientific and technical merit and that any resulting intellectual property shall vest in a United States entity that can commercialize the technology in a timely manner. Each external project shall involve at least one small or medium-sized business and the Director shall give priority to joint ventures between small or medium-sized businesses and educational institutions. Any grant shall be for a period not to exceed 3 years.

(c) COMPETITIONS.—The Director shall solicit proposals annually to address areas of national need for high-risk, high-reward telecommunications research, as identified by the Director.

(d) ANNUAL REPORT.—Each year the Director shall issue an annual report describing the program's activities, including include a description of the metrics upon which grant funding decisions were made in the previous fiscal year, any proposed changes to those metrics, metrics for evaluating the success of ongoing and completed grants, and an evaluation of ongoing and completed grants. The first annual report shall include best practices for management of programs to stimulate high-risk, high-reward telecommunications research.

(e) ADMINISTRATIVE EXPENSES.—No more than 5 percent of the finding available to the program may be used for administrative expenses.

(f) HIGH-RISK, HIGH-REWARD TELECOMMUNICATIONS RESEARCH DEFINED.—In this section, the term ''high-risk, high-reward telecommunications research'' means research that—

(1) has the potential for yielding results with far-ranging or wide-ranging implications;

(2) addresses critical national needs related to measurement standards and technology; and

(3) is too novel or spans too diverse a range of disciplines to fare well in the traditional peer review process.

SEC. 4. ADVANCED COMMUNICATIONS SERVICES FOR ALL AMERICANS.

The Director of the National Institute of Standards and Technology shall continue to support research and support standards development in advanced information and communications technologies focused on enhancing or facilitating the availability and affordability of advanced communications services to all Americans, in order to implement the Institute's responsibilities under section 2(c)(12) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)(12)). The Director shall support intramural research and cooperative research with institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) and industry.

SEC. 5. ADVANCED INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.

(a) INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH.—The Director of the National Science Foundation shall establish a program of basic research in advanced information and communications technologies focused on enhancing or facilitating the availability and affordability of advanced communications services to all Americans.

In developing and carrying out the program, the Director shall consult with the Board established under subsection (b).

(b) FEDERAL ADVANCED INFORMATION AND COMMUNICATIONS TECHNOLOGY RESEARCH BOARD.—There is established within the National Science Foundation a Federal Advanced Information and Communications Technology Board which shall advise the Director of the National Science Foundation in carrying out the program authorized by subsection (a). The Board Shall be composed of individuals with expertise in information and communications technologies, including representatives from the National Telecommunications and Information Administration, the Federal Communications Commission, the National Institute of Standards and Technology, the Department of Defense, and representatives from industry and educational institutions.

(c) GRANT PROGRAM.—The Director, in consultation with the Board, shall award grants for basic research into advanced information and communications technologies that will contribute to enhancing or facilitating the availability and affordability of advanced communications services to all Americans. Areas of research to be supported through these grants include—

(1) affordable broadband access, including wireless technologies;

(2) network security and reliability;

(3) communications interoperability;

(4) networking protocols and architectures, including resilience to outages or attacks;

(5) trusted software;

(6) privacy;

(7) nanoelectronics for communications applications;

(8) low-power communications electronics;

(9) such other related areas as the Director, in consultation with the Board, finds appropriate; and

(10) implementation of equitable access to national advanced fiber optic research and educational networks, including access in noncontiguous States.

(d) CENTERS.—The Director shall award multiyear grants, subject to the availability of appropriations, to institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), nonprofit research institutions affiliated with institutions of higher education, or consortia thereof to establish multidisciplinary Centers for Communications Research. The purpose of the Centers shall be to generate innovative approaches to problems in communications and information technology research, including the research areas described in subsection (c). Institutions of higher education, nonprofit research institutions affiliated with institutions of higher education, or consortia receiving such grants may partner with 1 or more government laboratories or for-profit entities, or other institutions of higher education or nonprofit research institutions.

(e) APPLICATIONS.—The Director, in consultation with the Board, shall establish criteria for the award of grants under subsections (c) and (d). Grants shall be awarded under the program on a merit-reviewed competitive basis. The Director shall give priority to grants that offer the potential for revolutionary rather than evolutionary breakthroughs.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this section—

(1) $40,000,000 for fiscal year 2008;

(2) $45,000,000 for fiscal year 2009;

(3) $50,000,000 for fiscal year 2010;

(4) $55,000,000 for fiscal year 2011; and

(5) $60,000,000 for fiscal year 2012.

By Mr. DOMENICI (for himself, Mr. DORGAN, Mr. INOUYE, Mr. BAUCUS, Ms. COLLINS, Mrs. LINCOLN, Mr. HATCH, Mr. BINGAMAN, Ms. STABENOW, Mr. SCHUMER, and Mr. DURBIN):

S. 1494. A bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator DORGAN, to introduce a bill to reauthorize and expand two very important public health programs created by the Balanced Budget Act of 1997; The Special Diabetes Program for Indians and the Special Funding Program for Type I Diabetes Research. I want to thank my colleagues, Senator INOUYE, Senator BAUCUS, Senator COLLINS, Senator LINCOLN, Senator HATCH, and Senator BINGAMAN for joining us as original cosponsors of this bill. This type of bipartisan support clearly shows that addressing this disease and its consequences is an important health priority for our Nation.

Diabetes is one of the most serious and devastating health problems of our time. The American Diabetes Association estimates that 20.8 million Americans have diabetes; more than 7 percent of our population. The number of U.S. adults with diagnosed diabetes has increased by more than 60 percent since 1991 and is projected to more than double by 2050. It ranks as the sixth leading cause of death in America. This has serious national implications; it is overwhelming health systems in the states and the Nation.

Although diabetes occurs in people of all ethnicities, the diabetes epidemic is particularly acute in our Native American populations. Among some tribes, as many as 50 percent of the adult population have the disease. That is why during the negotiations on the 1997 Balanced Budget Act, I helped craft an agreement to finance diabetes programs of the Indian Health Service and help raise the profile of tribal health programs. The Special Diabetes Program for Indians began with funding of $30 million annually for 5 years and was later expanded to $150 million a year. This funding has been used widely in Indian country, including among the Navajo Nation and the 19 Pueblos in New Mexico.

Federally supported treatment and prevention programs are showing real results in the Native American populations. The current funding has established almost 400 new diabetes treatment and prevention programs in Native communities. It has helped to provide critical resources such as medications and therapies, clinical exams, screenings, and resources to prevent complications. It has provided primary prevention activities such as physical fitness programs, medical nutrition therapy, wellness activities, and programs that target children and youth. The experiences of these programs have provided many important lessons learned that will benefit other minority communities and all people affected by diabetes.

Despite all the positive results we have seen from these efforts, there is still much more work to be done. I have traveled extensively on the Navajo reservation and other parts of Indian country and seen those who still need help. I have visited the dialysis centers and met with those who are suffering from the effects of this disease. Due to the prevalence of this problem, it will take years for us to achieve our ultimate goal of reducing and eliminating diabetes and its complications. But, unless Congress reauthorizes and expands this program, the funding for these efforts and activities will end next year. We can't let that happen. The Special Diabetes Program for Indians has made an enormous and substantial impact on the problem of diabetes in Indian communities. The loss of funding now would be devastating. We must continue to focus specific resources to address the epidemic of diabetes in the Native American communities. That is why the bill we are introducing today will reauthorize the Special Diabetes Program for Indians for an additional 5 years and increase the funding from $150 million to $200 million each year. This will provide a billion dollars over the next 5 years for this program, $250 million more than we are currently authorized to spend. Reauthorization of this vital program will help save lives. It is the right thing to do and it is a smart investment of our health care dollars.

In addition to the reauthorization of the Special Diabetes Program for Indians, this bill will also reauthorize another important tool in our battle against diabetes, the Special Funding Program for Type I Diabetes Research. Like the Indian program, this program is set to expire next year, and this bill will provide an authorization for an additional 5 years and increase the funding from $150 million to $200 million each year.

The Type I Diabetes research program which was also created in 1997 Balanced Budget Act has allowed the Federal Government to make dramatic advances in research and treatment since its inception. This funding has helped support research into the identification of genes that increase susceptibility to diabetes. It has helped with the development of therapies that have helped slow the progression and in some cases even reverse the progression of this disease. And it has helped develop tools and methods that help people manage the disease long term.

Again though, there is still much more work to be done. Continued investment in this program will help to maintain support for research that is truly helping those who are living with diabetes and help prevent the onset of diabetes in others. The Federal investment in research has produced tangible

results that I believe justify its continued support. Diabetes is taking too heavy a toll on too many Americans and their families. Continued funding is vital to the continuation of our fight against diabetes.

The prevention and treatment of diabetes has improved greatly over the past decade and I believe it is in large part due to the funding and research accomplished through these two programs. Complications of diabetes can be prevented and the costs of this disease to our society can be contained. Research, early detection and treatment, however, are the keys. I hope that Congress will join together to reauthorize these programs and also provide to them the increase in funding that they need to keep making advances.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1494

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

SECTION 1. REAUTHORIZATION OF SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) $200,000,000 for each of fiscal years 2009 through 2013.''.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) $200,000,000 for each of fiscal years 2009 through 2013.''.

Mr. DORGAN. Mr. President, I am pleased today to join my colleague from New Mexico in introducing legislation to reauthorize two very important efforts to address diabetes prevention and treatment and research: the Special Diabetes Program for Indians, which is administered by the Indian Health Service's Division of Diabetes Treatment and Prevention, and the Special Diabetes Programs for Children with Type I Diabetes Research, which is administered by the National Institutes of Health.

The Indian Affairs Committee held an oversight hearing on diabetes in Indian country this past February. Diabetes is an illness that afflicts Native Americans more than any other ethnic/racial group in the United States, and some tribes have the onerous distinction of having the highest diabetes rate in the world. Indian people are 318 percent more likely to die from diabetes than the general population.

The Special Diabetes Program for Indians is recognized as the most comprehensive rural system of care for diabetes in the United States. Grants under this program have been awarded by the Indian Health Service to nearly 400 IHS, tribal and urban Indian programs within the 12 IHS Areas in 35 States. The program serves approximately 116,000 Native American people with various prevention and treatment services.

While each of the Special Diabetes Program grants reflects the unique tribal community that conducts the program, here are some examples of the kinds of activities the program provides: teaching Indians living with diabetes how to examine and take care of their feet; helping young mothers learn how to eat healthy using commodity foods issued under the USDA's Food Distribution Program on Indian reservations, and how to learn the value of breastfeeding their babies to reduce the incidence of diabetes as the children grow older; enabling diabetics to have access to regular eye screening exams; helping Native Americans know the connection between eating healthy and preventing diabetes by adapting materials of the National Institutes of Health-funded clinical trial, called the Diabetes Prevention Program, to be culturally-appropriate; promoting physical activity in the reservation environment, such as building walking trails and displaying signs that say, ''Walk, don't take the elevator;'' and enabling Indian Health Service, tribal and urban Indian health programs to offer new medications for diabetes, such as glitazone, which helps increase insulin sensitivity.

Reauthorization of the Special Diabetes Program for Indians is both a legislative and a medical priority for Indian country. I urge my colleagues to support the measure that we are introducing today.

By Mr. INOUYE (for himself and Mr. WYDEN):

S. 1495. A bill to amend the Internal Revenue Code of 1986 to modify the application of the tonnage tax on vessels operating in the dual United States domestic and foreign trades, and for other purposes; to the Committee on Finance.

Mr. INOUYE. Mr. President, foreign registered ships now carry 97 percent of the imports and exports moving in the U.S. international trade. These foreign vessels are held to lower standards than U.S. registered ships, and are, virtually, untaxed. Therefore, their costs of operation are lower than U.S. ship operating costs, which explains their 97 percent market share.

Three years ago, in order to help level the playing field for U.S. flag ships that compete in international trade, Congress enacted, under the American Jobs Creation Act of 2004, Public Law 108–357, Subchapter R, a ''tonnage tax'' that is based on the tonnage of a vessel, rather than taxing the U.S. flag ship's international income at a 35 percent corporate income tax rate. However, during the House and the Senate conference, language was included, which states that a U.S. vessel cannot use the tonnage tax on international income if that vessel also operates in U.S. domestic commerce for more than 30 days per year.

This 30-day limitation dramatically limits the availability of the tonnage tax for those U.S. ships that operate in both domestic and international trade and, accordingly, severely hinders their competitiveness in foreign commerce. It is important to recognize that ships operating in U.S. domestic trade already have significant cost disadvantages vis-à-vis U.S. ships operating in international trade. Specifically, U.S-flag ships that operate solely in international trade: 1. are built in foreign shipyards at one-third U.S. shipyard prices; 2. receive $2.6 million per ship per year in Federal maritime security payments in return for making these vessels available to the Department of Defense in time of national emergency; and 3. are owned by U.S. subsidiaries of foreign corporations. By contrast, U.S. flag ships that operate both in international trade a domestic trade are: 1. built in higher priced U.S. shipyards; 2. do not receive maritime security payments, even when operated in international trade, but have the same commitments to the Department of Defense; and 3. are owned by U.S.-based American corporations. Furthermore, the inability of these domestic operators to use the tonnage tax for their international service is an unnecessary burden on their competitive position in foreign commerce.

When windows of opportunity present themselves in international trade, American tax policy and maritime policy should facilitate the participation of these American-built ships. Instead, the 30-day limit makes them ineligible to use the tonnage tax, and further handicaps American vessels when competing for international cargo. Denying the tonnage tax to coastwise qualified ships further stymies the operation of American built ships in international commerce, and further exacerbates America's 97 percent reliance on foreign ships to carry its international cargo.

These concerns were of such sufficient importance that in December 2006, the Congress repealed the 30-day limit on domestic trading but only for approximately 50 ships operating in the Great Lakes. These ships primarily operate in domestic trade on the Great Lakes, but also carry cargo between the United States and Canada in international trade Section 415 of P.L. 109–432, the Tax Relief and Health Care Act of 2006.

The identifiable universe of remaining ships other than the Great Lakes ships that operate in domestic trade, but that may also operate temporarily in international trade, totals 13 U.S. flag vessels. These 13 ships normally

operate in domestic trades that involve Washington, Oregon, California, Hawaii, Alaska, Florida, Mississippi, and Louisiana. In the interest of providing equity to the U.S. corporations that own and operate these 13 vessels, my bill would repeal the tonnage tax 30-day limit on domestic operations and enable these vessels to utilize the tonnage tax on their international income so they receive the same treatment as other U.S. flag international operators. I stress that, under my bill, these ships will continue to pay the normal 35 percent U.S. corporate tax rate on their domestic income.

Repeal of the tonnage tax's 30-day limit on domestic operations is a necessary step toward providing tax equity between U.S. flag and foreign flag vessels. I strongly urge the tax writing committees of the Congress to give this legislation their expedited consideration and approval. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1495

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

SECTION 1. MODIFICATION OF THE APPLICATION OF THE TONNAGE TAX ON VESSELS OPERATING IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES,.

(a) IN GENERAL.—Subsection (f) of section 1355 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(f) EFFECT OF OPERATING A QUALIFYING VESSEL IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.—For purposes of this subchapter—

''(1) an electing corporation shall be treated as continuing to use a qualifying vessel in the United States foreign trade during any period of use in the United States domestic trade, and

''(2) gross income from such United States domestic trade shall not be excluded under section 1357(a), but shall not be taken into account for purposes of section 1353(b)(1)(B) or for purposes of section 1356 in connection with the application of section 1357 or 1358.''.

(b) REGULATORY AUTHORITY FOR ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.—Section 1358 of the Internal Revenue Code of 1986 (relating to allocation of credits, income, and deductions) is amended—

(1) by striking ''in accordance with this subsection'' in subsection (c) and inserting ''to the extent provided in such regulations as may be prescribed by the Secretary'', and

(2) by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe regulations consistent with the provisions of this subchapter for the purpose of allocating gross income, deductions, and credits between or among qualifying shipping activities and other activities of a taxpayer.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1355(a)(4) of the Internal Revenue Code of 1986 is amended by striking ''exclusively''.

(2) Section 1355(b)(1)(B) of such Code is amended by striking ''as a qualifying vessel'' and inserting ''in the transportation of goods or passengers''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. CARDIN:

S. 1497. A bill to promote the energy independence of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CARDIN. Mr. President, for the sake of our security, economy and environment, America needs a comprehensive energy policy that is independent of foreign energy sources and weans America off of fossil fuels.

Last year, I introduced comprehensive energy legislation that would address the many challenges across our economy to achieving sustainable energy independence. I am very hopeful that this Congress will soon take steps to bring forward a comprehensive energy bill that will address many of the areas I believe are essential to this effort. I have cosponsored many of the individual planks of this comprehensive effort, and today I want to address how we can ensure that this energy policy does not have an expiration date or fall short of its laudable goals.

Today I am introducing the Energy Independence Act.

The Energy Independence Act will deliver energy independence to Americans by providing an energy plan that has the capacity to change with innovation. My bill will ensure that our energy policy will increase the efficiency and decrease the environmental impact of America's energy policy, and encourage our energy policy to adapt to our needs and abilities.

My bill will set a congressional goal of achieving energy independence by 2017. ''Energy independence'' is defined as meeting all but 10 percent of our energy needs from domestic energy sources. The bill will also set a congressional goal of achieving independence from fossil fuels by 2037.

My bill will also create a Blue Ribbon Energy Commission, which will meet every two years starting in 2009, to evaluate our progress in efforts to become energy independent, and to recommend changes to be made in reports to Congress.

These are achievable goals.

Petroleum, mostly used for transportation, accounts for 84 percent of our imported energy. Transportation accounts for roughly 28 percent of our energy use. I support raising CAFÉ standards, and have cosponsored S. 357, legislation by Senator FEINSTEIN which would raise these standards to 35 miles per gallon by 2019. Studies show that raising CAFÉ standards to 40 miles per gallon would save over 36 billion gallons of gas per year, and creating efficiency standards for replacement tires would save more than 7 billion barrels of oil over the next 50 years. Creating incentives for commuting by train or bus, and funding upgrades and new starts in public transit services, such as the purple line of the DC metro, will also make a difference—in an average year, the round trip to work uses over 250 gallons of gas and creates about 5,000 pounds of carbon dioxide emissions.

As part of a comprehensive energy bill we should also be mindful of the long-term effects of our energy policy on the environment, our landscape, and our health. I cosponsored S. 309, legislation by Senators SANDERS and BOXER that provides for an economy-wide emissions cap and trade program. Enacting an economy-wide cap and trade program will ensure that our energy policy will be truly sustainable.

America currently gets only 6.3 percent of its energy from renewable energy sources. Current ideas for addressing this problem focus on trying to make the large up-front investment in infrastructure required to produce renewable energy less daunting, by creating a long-term market for renewable energy through increasing the Federal Government's use of renewables and creating a Federal renewable portfolio standard to make utilities offer renewable energy to American consumers, and by making incentives like the renewable production tax credit permanent. I support creating Federal renewable portfolio standard, and will cosponsor legislation to be offered by Senator BINGAMAN to do so. I have also cosponsored S. 590, Senator SMITH's legislation that would extend solar tax incentives through 2016, while expanding these incentives to cover more of the up-front investment required to use solar energy.

In order to get to energy independence we must substantially increase our investment in energy research. I cosponsored S. 761, Senator REID's America COMPETES Act, which will increase R&D funding for the Department of Energy, increase the DOE's emphasis on advanced energy research to overcome the long-term and high-risk technological barriers to the development of energy technologies, and implement recommendations made by the National Academies of Sciences report Rising Above a Gathering Storm.

I will be advocating other areas of energy policy reform, including increasing funding for weatherization, providing incentives for telecommuting, and providing additional energy efficiency standards for appliances.

We can do better, and the one overarching theme in the quest for a sustainable, long-term energy policy is the need to be able to be flexible and change our energy policy to suit our needs, capacity, research and development. My bill will give us the ability to provide long-term, bipartisan solutions that will address our energy policy going forward, and give us the flexibility, and the considered solutions of experts, to give the American people the energy policy they deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1497

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Independence Act of 2007''.

SEC. 2. PURPOSE AND GOALS.

The purpose of this Act is to provide support for projects and activities to facilitate the energy independence of the United States so as to ensure that—

(1) all but 10 percent of the energy needs of the United States are supplied by domestic energy sources by calendar year 2017; and

(2) all but 20 percent of the energy needs of the United States are supplied by non-fossil fuel sources by calendar year 2037.

SEC. 3. ENERGY POLICY COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a commission, to be known as the ''National Commission on Energy Independence'' (referred to in this section as the ''Commission'').

(2) MEMBERSHIP.—The Commission shall be composed of 15 members, of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the majority leader of the Senate;

(C) 3 shall be appointed by the minority leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 3 shall be appointed by the minority leader of the House of Representatives.

(3) CO-CHAIRPERSONS.—

(A) IN GENERAL.—The President shall designate 2 co-chairpersons from among the members of the Commission appointed.

(B) POLITICAL AFFILIATION.—The co-chairpersons designated under subparagraph (A) shall not both be affiliated with the same political party.

(4) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act.

(5) TERM; VACANCIES.—

(A) TERM.—A member of the Commission shall be appointed for the life of the Commission.

(B) VACANCIES.—Any vacancy in the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(b) PURPOSE.—The Commission shall conduct a comprehensive review of the energy policy of the United States by—

(1) reviewing relevant analyses of the current and long-term energy policy of, and conditions in, the United States;

(2) identifying problems that may threaten the achievement by the United States of long-term energy policy goals, including energy independence;

(3) analyzing potential solutions to problems that threaten the long-term ability of the United States to achieve those energy policy goals; and

(4) providing recommendations that will ensure, to the maximum extent practicable, that the energy policy goals of the United States are achieved.

(c) REPORT AND RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than December 31 of each of calendar years 2009, 2011, 2013, and 2015, the Commission shall submit to Congress and the President a report on the progress of United States in meeting the long-term energy policy goal of energy independence, including a detailed statement of the findings, conclusions, and recommendations of the Commission.

(2) LEGISLATIVE LANGUAGE.—If a recommendation submitted under paragraph (1) involves legislative action, the report shall include proposed legislative language to carry out the action.

(d) COMMISSION PERSONNEL MATTERS.—

(1) STAFF AND DIRECTOR.—The Commission shall have a staff headed by an Executive Director.

(2) STAFF APPOINTMENT.—The Executive Director may appoint such personnel as the Executive Director and the Commission determine to be appropriate.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) FEDERAL AGENCIES.—

(A) DETAIL OF GOVERNMENT EMPLOYEES.—

(i) IN GENERAL.—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of the Federal agency to the Commission to assist in carrying out the duties of the Commission.

(ii) NATURE OF DETAIL.—Any detail of a Federal employee under clause (i) shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(B) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out the duties of the Commission.

(e) RESOURCES.—

(1) IN GENERAL.—The Commission shall have reasonable access to materials, resources, statistical data, and such other information from Executive agencies as the Commission determines to be necessary to carry out the duties of the Commission.

(2) FORM OF REQUESTS.—The co-chairpersons of the Commission shall make requests for access described in paragraph (1) in writing, as necessary.

By Mrs. BOXER (for herself, Mr. VITTER, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. MENENDEZ):

S. 1498. A bill to amend the Lacey Act Amendments of 1981 to prohibit the import, export, transportation, sale, receipt, acquisition, or purchase in interstate or foreign commerce of any live animal of any prohibited wildlife species, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today, I am introducing the Captive Primate Safety Act. I am pleased to be joined by Senators VITTER, LIEBERMAN, LAUTENBERG, and MENENDEZ. An almost identical bill passed the Senate by unanimous consent in the 109th Congress.

This bipartisan bill amends the Lacey Act to prohibit transporting monkeys, great apes, lemurs, and other nonhuman primates across State lines for the pet trade, much like the Captive Wildlife Safety Act, which passed unanimously in 2003, did for tigers and other big cats.

This bill has no impact on trade or transportation of animals for zoos, medical and other licensed research facilities, or certain other licensed and regulated entities. The prohibitions in the Lacey Act only apply to the pet trade.

I am proud that this legislation is supported by the Humane Society of the United States, the American Zoo and Aquarium Association, the American Veterinary Medical Association, Defenders of Wildlife and the Wildlife Conservation Society and many other organizations.

I look forward to working with all my colleagues to enact this legislation.

By Mr. INHOFE (for himself and Mr. THUNE):

S. 1503. A bill to improve domestic fuels security; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, today I rise to introduce the Gas Petroleum Refiner Improvement and Community Empowerment Act or Gas PRICE Act. While chairman of the Committee on Environment and Public Works, I sought to move a similar measure. Unfortunately, my colleagues on the other side of the aisle managed to block the bill at that time.

Today, motorists are facing record high gas prices and according to Labor statistics, those higher fuel prices are hurting the national economy as a whole. Unfortunately, the pain at the pump, the grocery store, and the shopping mall were predicted long ago and are largely a function of politicking, rhetoric, and finger pointing, actions that continue today.

According to Deutsche Bank energy experts Paul Sankey and Rich Volina, who testified May 15, 2007 before the Senate Energy Committee, ''Anybody who blames record high U.S. gasoline prices on ''gouging'' at the pump simply reveals their total ignorance of global supply and demand fundamentals.'' Yet yesterday the House narrowly passed a bill that; goes just that; goes after so called ''gougers'' while doing nothing to affect supply.

I am hopeful that my colleagues in the Senate will join me and quickly pass the bill I am introducing today. Our constituents elected us to solve problems and make their lives better, not to name call and demagogue.

I have been talking about the lack of adequate refining supplies for some years. In May 2004, while chairman of the Committee on Environment and Public Works, I held a hearing on the environmental issues regarding oil refining. The committee received testimony about the lack of adequate refining capacity and the obstacles the industry faced in order to meet consumer demand.

In a May 2005 speech, then-Federal Reserve Chairman Alan Greenspan stated, ''The status of world refining capacity has become worrisome as well. Of special concern is the need to add adequate coking and desulphurization capacity to convert the average gravity and sulphur content of much of the world's crude oil to the lighter and sweeter needs of product markets, which are increasingly dominated by transportation fuels that must meet ever-more stringent environmental requirements.''

The fact of the matter is that, like it or not, the U.S. needs to increase its

refining capacity if we are to solve the economic struggles facing every family.

The bill I am introducing today redefines and broadens our understanding of a ''refinery'' to be a ''domestic fuels facility.'' Oil has been and will continue to play a major role in the U.S. economy, but the future of our domestic transportation fuels system must also include new sources such as ultra-clean syn-fuels derived from coal and cellulosic ethanol derived from home-grown grasses and biomass.

Expanding existing domestic fuels facilities like refineries or constructing new ones face a maze of environmental permitting challenges. The Gas PRICE Act provides a Governor with the option of requiring the Federal EPA to provide the state with financial and technical resources to accomplish the job and establishes a certain permitting process for all parties. And it does so without waiving environmental laws and working with local governments.

The public demands increasing supplies of transportation fuel, but they also expect that fuel to be good for their health and the environment. To that end, the bill requires the EPA to establish a demonstration to assess the use of Fischer-Tropsch FT diesel and jet fuel as an emission control strategy. Initial tests have found that FT diesel emits 25 percent less NO_X, nearly 20 percent less PM1O, and approximately 90 percent less SO_X than low sulfur petroleum diesel. Further, U.S. Air Force tests at Tinker base in my home state found that blends of FT aircraft fuel reduced particulate 47–90 percent and completely eliminated SO_X emissions over contemporary fuels in use today.

Good concepts in Washington are bad ideas if no one wants them at home. As a former Mayor of Tulsa, I am a strong believer in local and state control. The Federal Government should provide incentives to not mandate on local communities. Increasing clean domestic fuel supplies is in the nation's security interest, but those facilities can also provide high paying jobs to people and towns in need. My bill provides financial incentives to the two most economically distressed communities in the Nation, towns affected by BRAC and Indian tribes consider building coal-to-liquids and commercial scale cellulosic ethanol facilities.

I am very proud that my home state of Oklahoma is a leader in the development of energy crops for cellulosic biofuels, and specifically coordinated programs through the Noble Foundation in Ardmore. The key now is to promote investment in this exciting area, and nothing would speed the rapid expansion of the cellulosic biofuels industry more than investment by the Nation's traditional providers of liquid transportation fuels.

Many integrated oil companies have formed or substantially expanded their biofuels divisions within the past year to prepare for the eventuality of cost-competitive cellulosic biofuels. Cellulosic biorefineries will want to create an assured supply of feedstock and will enter into long-term contracts with surrounding biomass producers.

One of the incentives for oil companies to invest in exploration is that their stock prices are affected by their declared proved reserves. Creating a definition of renewable reserves would create a similar incentive for them to invest in cellulosic biofuels.

In 1975, Congress directed the SEC to promulgate a definition of proved reserves. At that time, the SEC based its definition upon broadly-accepted industry standards established by the Society of Petroleum Engineers 1978 FASB System. While no broadly accepted industry standards yet exist for thinking about dedicated energy crops, industry, growers and agronomists could be brought together to agree on standards and practices. Agronomists could play a similar role in estimation of renewable reserves to that of petroleum engineers in proved reserves by providing independent projections of biomass yields.

The Energy Policy Act of 2005 directed the Department of Energy to accelerate the commercial development of oil shale and tar sands. As these unconventional fuel sources reach viability, the SEC will be pressured to develop methodology to incorporate them into its reserves hierarchy. Given the country's interest in developing renewable alternatives to fossil fuels, it is logical that the SEC would develop criteria for the incorporation of biomass feedstock sources into its hierarchy at the same time.

This is Congress's least expensive way to jumpstart the cellulosic biofuels industry.

Much has changed in Washington since I was chairman of the Environment Committee and held hearings on the need to improve our domestic transportation fuels system. I hope that the new majority joins me in quickly passing the Gas PRICE Act doing so would be a material and substantive action toward their stated goal of ''energy independence'' and would go far beyond more partisan symbolism.

By Mr. GREGG (for himself, Mr. BURR, and Mr. COBURN):

S. 1505. A bill to amend the Public Health Service Act to provide for the approval of biosimilars, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, next month the Senate Health, Education, Labor, and Pensions Committee is expected to markup legislation creating a regulatory pathway for the approval of follow-on biologics, or ''biosimilars''. I look forward to working with my colleagues on this important issue and would especially like to thank Senator Hatch for his leadership in this area.

There are significant differences between small molecule drugs and larger protein derived therapeutic biologics. These differences are going to require a much more detailed and a much more complex approval pathway than the generic drug approval process. To protect patient safety, the FDA must be empowered to apply rigorous scientific standards to biosimilars seeking approval, while at the same time avoiding duplicative testing and unnecessary expense.

Biological products are among the most promising and effective medicines for the treatment of serious and life-threatening diseases. Unfortunately these medicines are often very expensive, and current U.S. law does not provide an abbreviated approval pathway for ''follow-on'' versions of these innovative products after key patents expire. Therefore, Congress should act so that patients can have access to less expensive versions of biologics, just as they do with generic small molecule drugs.

In addition to the great benefits associated with biologic products, the American biotech industry has become the world leader in development of new therapies for serious or life-threatening illnesses. This will only continue as there are now at least 400 biologics currently in development. To preserve this incredibly innovative industry, biotechnology companies need to have a meaningful period of time to recoup the extraordinary expenses incurred in bringing these life-saving medicines to market. If not, U.S. based research and development of new biotech medicines will be threatened.

Therefore, today I am introducing the Affordable Biologics for Consumers Act of 2007. It requires the FDA develop science-based rules for approval of biologics on a product-class basis. The legislation also provides 14 years of data exclusivity for innovator drug manufacturer products, with an additional 2 years available if the Secretary approves a new indication for the reference product. This legislation will ensure that patients have access to safe and affordable biologics, while protecting innovation and spurring the development of new life-saving therapies.

I urge my colleagues to join me, and the many patient groups that have endorsed this legislation, in supporting this crucial piece of legislation.

Mr. HATCH. Mr. President, I rise to commend our colleagues, Senators GREGG, BURR, and COBURN, for their introduction today of the Affordable Biologics for Consumers Act, S. 1505.

As my colleagues are aware, I am the original author with Representative HENRY WAXMAN of the Drug Price Competition and Patent Term Restoration Act, a law which gave rise to today's generic drug industry. And so, I have a long-standing interest in making certain that consumers have access to affordable medications and that we provide the appropriate incentives for development of the new products that are eventually to be copied.

We must rectify the fact that there is no clear pathway for follow-on copies

of biological products, such as human growth hormone or insulin, to take two easy examples. And it must be rectified on a priority basis.

That the Hatch-Waxman law did not cover these biologic products was not a simple omission. Indeed, the market for biologicals really did not develop until after enactment of Waxman-Hatch in 1984.

For many years, I have worked toward development of a pathway for these ''follow-on'' products, but it was not until recently that I believe we have developed a public consensus that there is the scientific and regulatory underpinning necessary to write a good law.

Comes now the Gregg-Burr-Coburn bill, which must be seen as an important contribution to the necessary dialog on follow-on biologics.

The Gregg-Burr-Coburn proposal addresses elements which I believe are key to any law we enact. First, there must be sufficient incentive for the development of biologic products. That incentive is tied inherently to an appropriate protection of the innovator's intellectual property. And the protection must be for a sufficient length of time to allow inventors of the molecule and others who have a financial stake in its development to recoup the substantial time and investment necessary to invent a biologic. Such protections are key for biotechnology companies, large and small, but also for universities that conduct much of the research on new molecules and the other investors who support that promising research.

Second, we should not create unnecessary barriers to marketing of lower-cost, successor biologic products. While the law must contemplate that the follow-on products be subjected to a rigorous scientific review to ensure they are safe, pure and potent, that review, however, should be flexible enough to make certain there are not unnecessary barriers to market entry for the lower-cost alternatives.

Third, past history should inform our decision-making when it can, but any law we write must reflect the emerging realities of today's pharmaceutical market.

And, finally, the law must reflect a careful balance. We all want consumers to have access to more affordable medications, and surely there is a need to allow patients to buy less expensive biological products. At the same time, we want to make certain that the abbreviated pathway for these follow-on biologics contemplates review of products which are truly follow-ons to the innovators' products, and not new biologics. This is tied inherently to the standard which is developed for ''similarity'' of the follow-on to the innovator.

As many are aware, Senators Kennedy, Enzi, Clinton and I have been meeting for some time to discuss the elements that must be included in any follow-on biologics legislation. While I have been working on draft legislation for some time, I have not introduced a proposal pending a successful conclusion to those discussions. It has been our hope, and it remains our hope, that our meetings will lead to development of a consensus document that will provide the basis for the expected HELP Committee markup on June 13th.

There is no doubt in my mind that the Gregg-Burr-Coburn proposal will help inform the discussions of we four Senators, and indeed the HELP Committee's deliberations on this issue. Senators Gregg, Burr and Coburn have a proven record in contributing greatly to the body of law we call the Food, Drug and Cosmetic Act. Their bill is a thoughtful and serious contribution and it is a significant work that this body should recognize.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. 1506. A bill to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation that would increase protections for the Nation's beaches and the public.

This bill, the Beach Protection Act, will amend the sections of the Clean Water Act that were enacted in the Beaches Environmental Assessment and Coastal Health, BEACH, Act, which I wrote in 1990, and which was enacted and signed by President Clinton in 2000.

The BEACH Act required states to adopt the Environmental Protection Agency's 1986 national bacteria standard for beach water quality and provided incentive grants for States to set up beach monitoring and public notification programs. At the time Congress passed the BEACH Act, only 7 States had adopted water quality standards for bacteria at least as stringent as those recommended by EPA in 1986. Only 9 States had programs in place to monitor all or most of their beaches for pathogens, and to close the beaches or issue advisories when coastal waters are not safe. Only 5 States compiled and publicized records of beach closings and advisories. New Jersey was one of the leaders in all three of these categories.

Now, thanks to the BEACH Act, every coastal State except Alaska has a monitoring program and a program for public notification of contamination of beach waters. In addition, every State has adopted standards at least as stringent as those set by EPA.

The Beach Protection Act would build upon the progress we have made since passage of the BEACH Act, to improve monitoring and notification requirements, and improve the protection of our beaches.

The Beach Protection Act will reauthorize the Federal grants created under the BEACH Act, and make several improvements to the program, based upon the lessons learned over the last 7 years. These amendments will increase protections and help reduce the water pollution that threatens the environment and public health.

First, the Beach Protection Act will increase the funds available to States, and expand the uses of those funds to include tracking the sources of pollution that cause beach closures, and supporting pollution prevention efforts. It will also require EPA to develop methods for rapid testing of beach water, so that results are available in 2 hours, instead of 2 days.

Secondly, this legislation will strengthen the requirements for public notification of health risks posed by beach water contamination, and ensure that all State and local agencies that play a role in protecting the environment and public health are notified of violations of water quality standards.

Finally, the Beach Protection Act will improve accountability for states that fail to comply with the requirements of the Act.

These measures will improve the public's awareness of health risks posed by contamination of coastal waters, and create additional tools for addressing the sources of pollution that cause beach closures, including leaking or overflowing sewer systems and stormwater runoff.

Clean water is an economic and public health necessity for New Jersey and other coastal states. I have devoted my career to keeping New Jersey's waters clean and safe for swimming and fishing. The original BEACH Act I authored was an important step toward ensuring cleaner, safer beaches. The Beach Protection Act will further strengthen protections for the public and our beaches.

I am pleased that Senator Menendez is joining me as an original cosponsor of this legislation. I look forward to working with my colleagues to move this legislation forward toward passage.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1507. A bill to amend title XVIII of the Social Security Act to provide for drug and health care claims data release; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague from Montana, Senator BAUCUS in introducing the Access to Medicare Data Act of 2007. This legislation is based on S. 3897, the Medicare Data Access and Research Act, which Senator BAUCUS and I introduced in the 109th Congress.

The bill we are introducing today establishes a framework under which Federal agencies within the Department of Health and Human Services would have access to Medicare data, including data collected under the Medicare prescription drug benefit, to conduct research consistent with the agencies' missions. The legislation also creates a process through which university-based and other researchers who

meet a strict set of requirements would be permitted to use Medicare data for research purposes.

As I said last year, Medicare data, particularly prescription drug data, are an immense resource that can support critical health services research, especially research on drug safety. Examining Medicare data could help the FDA identify situations, such as the one involving Vioxx more quickly and to take quick action to protect the public's health and safety.

But the FDA isn't the only place that this important research can and should occur. The study issued earlier this week in the New England Journal of Medicine regarding the prescription medicine Avandia clearly demonstrates that point. Researchers from the Cleveland Clinic found that there are serious problems with Avandia a drug that has been on the market for 8 years and is used to treat diabetes. Specifically, the researchers believe that taking Avandia increases the likelihood that a diabetic patient will have a heart attack and maybe even die. The researchers came to this conclusion after reviewing information from 42 clinical trials. Making Medicare data available to researchers like those at the Cleveland Clinic will offer another avenue for them to take in conducting research like this.

I want to be clear that, similar to last year's bill, the Access to Medicare Data Act won't permit just anyone to get the Medicare data. In applying for data access, researchers at universities and other organizations will have to meet strict criteria. They must have well-documented experience in analyzing the type and volume of data to be provided under the agreement. They must agree to publish and publicly disseminate their research methodology and results. They must obtain approval for their study from a review board. They must comply with all safeguards established by the Secretary to ensure the confidentiality of information. These safeguards cannot permit the disclosure of information to an extent greater than permitted by the Health Insurance Portability and Accountability Act of 1996 and the Privacy Act of 1974.

I am hopeful that we can get this bill approved soon. I, for one, don't want to be standing here next year talking about another Vioxx or another Avandia. We need to improve and create more opportunities for the government, as well as other researchers, to spot potential trouble with a drug more quickly and to take swifter steps to protect the public's health and safety. The Access to Medicare Data Act will help us accomplish that critical goal.

By Ms. LANDRIEU (for herself, Mr. KERRY, Mr. NELSON of Florida, and Mr. MARTINEZ):

S. 1509. A bill to improve United States hurricane forecasting, monitoring, and warning capabilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, I come to the floor today to speak about a very important, and timely issue, for constituents all along the Gulf Coast, as well as coastal residents along the Atlantic seaboard, the need for accurate hurricane forecasting and tracking. This issue is particularly timely with the 2007 Atlantic Hurricane season beginning next week. According to the National Hurricane Center, 2007 is estimated to have between 13 to 17 named storms, 7 to 10 hurricanes, and 3 to 5 major hurricanes. When I hear ''three to five major hurricanes'' I have to admit it makes me and my constituents a little nervous because, in 2005, as the world is well aware, we had another active hurricane season with three major storms, Katrina, Rita and Wilma impacting the Gulf Coast States. Two of these powerful storms, Katrina and Rita, slammed into my State of Louisiana. We lost hundreds of lives and thousands of businesses as a result. To this day, the region is still slowly recovering, but by all accounts, the loss of life and property could have been much worse had we not had top notch forecasting and tracking of these storms. Accurate monitoring of these storms, from their development in the Gulf and Atlantic Ocean, until they slammed into the Gulf Coast, literally saved lives as thousands of residents were able to evacuate from the impacted areas. This accurate forecast, showing residents if they are in the possible ''danger zone,'' is provided by the experts in the National Hurricane Center but they cannot do their job without the necessary data. Such data is provided via buoys in the water, Hurricane Hunter Aircraft, radar stations on the ground, as well as satellites.

With recent advances in technology, I believe sometimes we take for granted these satellites, which are so far removed from our daily existence as to be ''out of sight, out of mind.'' However, they are a major part of our daily lives as satellites now provide us with our radio stations, give us driving directions, bring us our favorite television shows. These same satellites also give us views of distant galaxies/stars and allow us to see weather patterns days before they come through our towns. It is this use of weather tracking satellites of which I would like to highlight with the upcoming hurricane season. As Hurricane Katrina showed us, Federal and State response plans are not worth the paper they are printed on if you do not know where or when the disaster might strike. No amount of satellite phones or stockpiles of supplies are helpful if they are on the other side of the country when a disaster hits. Pre-positioning personnel and supplies ahead of a disaster, as well as efficient evacuations of residents from a possible disaster area depends just as much on accurate weather forecasting as it does on efficient planning. That is why these weather satellites are so key, they allow experts to say with some certainty that one area will be out of harm's way while another area is in potential danger.

One of these weather satellites is the Quick Scatterometer, or QuikSCAT satellite. QuikSCAT is an ocean-observing satellite launched in June 1999 to replace the capability of the National Aeronautics and Space Administration Scatterometer, NSCAT, satellite. The NSCAT lost power in 1997, 9 months after launch in September 1996. QuikSCAT has the objective of improving weather forecasts near coastlines by using wind data in numerical weather-and-wave prediction. It also was launched with the purpose of improving hurricane warning/monitoring as well as serving as the next ''El Niño watcher'' for NASA. This particular satellite was instrumental in accurate tracking of Tropical Storm, later Hurricane Katrina, as it provided NOAA experts with accurate data on the wind speed and direction for Katrina. It gives experts an estimate of the size of the tropical storm winds and the hurricane winds.

Given how important this satellite is for hurricane forecasting, many in Congress including myself are concerned as this essential satellite is currently 5 years over its intended 3 year lifespan and could fail at any moment. I am aware that there are ongoing discussions in terms of getting a replacement satellite for QuikSCAT but it is just that, discussions. As it stands today, there are currently no contingency plans in place should this satellite fail and no program in place to fast track a next-generation QuikSCAT. What would the impact be you ask if this satellite fails? Well, according to Bill Proenza, Director of the National Hurricane Center, without QuikSCAT, hurricane forecasting would be 16 percent less accurate 72 hours before hurricane landfall and 10 percent less accurate 48 hours before hurricane landfall. This loss of accuracy means a great deal for those impacted by future storms as experts would have to expand the area possibly impacted to fully ensure those impacted were properly warned. For example, a 16 percent loss of accuracy at 72 hours before landfall would increase the area expected to be under hurricane danger from 197 miles to 228 miles on average. With a 10 percent loss of accuracy at 48 hours before landfall, the area expected to be under hurricane danger would rise from 136 miles to 150 miles on average. Greater inaccuracy of this type would lead to more ''false alarm'' evacuations along the Gulf Coast and Atlantic Coast and, as a result, decrease the possibility of impacted populations sufficiently heeding mandatory evacuations. As someone who has spent my whole life in Louisiana and who has been through many hurricanes, I can tell you that if someone evacuates and then the storm turns or does not impact their area,

they are less likely to evacuate for the next storm. It is human nature and although Katrina has left many in my part of the country more attentive to evacuation orders, as time passes certainly people will not heed orders if inaccurate hurricane forecasts cause them to pack their belongings and rush away from their homes, only to have the storm hit another State. So it is essential to provide the National Hurricane Center and NOAA with the tools they need to get the forecast right and better prepare coastal residents for future hurricanes and storms.

With this in mind, I am introducing today the Improved Hurricane Tracking and Forecasting Act of 2007. I am proud to be joined on this legislation by Senators KERRY, BILL NELSON, and MARTINEZ. My colleagues from Florida spend much time working on hurricane preparedness and I am honored to have their support on this bill, as well as the support from my friend from Massachusetts. This broad array of support from senators from both the Gulf Coast and Atlantic Coast shows how essential this particular satellite program is for our coastal residents. Furthermore, my colleague from Louisiana, Representative CHARLIE MELANCON, introduced the House version of this bill along with Representative RON KLEIN from Florida.

This is very straightforward bill as it authorizes $375 million for a new satellite. QuikSCAT is 5 years past its projected lifespan and a new replacement is needed so this bill fills the need. The funds would go to NOAA for the design and launch of an improved QuikSCAT satellite. This new satellite would take advantage of recent advances in technology and maintain continuity of operations for the current QuikSCAT weather forecasting and warning capabilities. To ensure that we are not left in another position like this, with an ailing satellite in space and no contingency plans for a replacement, this bill also institutes some reporting requirements for the new QuikSCAT satellite. When this satellite is launched, NOAA would be required to update Congress on the operational status of the satellite and its data capabilities. I believe this is a commonsense requirement which would put the Congress in a position in the future to fast track authorization or funding should it be necessary, rather than having to play catch up.

I strongly believe this bill is necessary to protect our coastal residents from future hurricanes. This is because, according to the U.S. Census Bureau, close to 53 percent of the U.S. population resides within the first 50 miles of the coast. You also have to take into account that although hurricanes usually hit the Gulf Coast or southern Atlantic Coast, hurricanes have and possibly will strike the more populous northeast Atlantic Coast. Hurricane Katrina devastated Alabama, Louisiana and Mississippi but consider the same magnitude of storm striking heavily populated New York, Massachusetts, or Pennsylvania it would not only devastate the region but leave the Nation's financial and commerce centers in ruins. I urge my colleagues to support this legislation since it will help improve hurricane forecasting and will maintain continuity of operations for current hurricane forecasting and warning capabilities.

I ask unanimous consent that the text of the bill and articles relating to QuikSCAT be printed in the RECORD.

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

S. 1509

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improved Hurricane Tracking and Forecasting Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Scatterometers on satellites are state-of-the-art radar instruments which operate by transmitting high-frequency microwave pulses to the ocean surface and measuring echoed radar pulses bounced back to the satellite.

(2) Scatterometers can acquire hundreds of times more observations of surface wind velocity each day than can ships and buoys, and are the only remote-sensing systems able to provide continuous, accurate and high-resolution measurements of both wind speeds and direction regardless of weather conditions.

(3) The Quick Scatterometer satellite (QuikSCAT) is an ocean-observing satellite launched on June 19, 1999, to replace the capability of the National Aeronautics and Space Administration Scatterometer (NSCAT), an instrument which lost power in 1997, 9 months after launch in September 1996.

(4) The QuikSCAT satellite has the operational objective of improving weather forecasts near coastlines by using wind data in numerical weather-and-wave prediction, as well as improve hurricane warning and monitoring and acting as the next ''El Nino watcher'' for the National Aeronautics and Space Administration.

(5) The QuikSCAT satellite was built in just 12 months and was launched with a 3-year design life, but continues to perform per specifications, with its backup transmitter, as it enters into its 8th year—5 years past its projected lifespan.

(6) The QuikSCAT satellite provides daily coverage of 90 percent of the world's oceans, and its data has been a vital contribution to National Weather Service forecasts and warnings over water since 2000.

(7) Despite its continuing performance, the QuikSCAT satellite is well beyond its expected design life and a replacement is urgently needed because, according to the National Hurricane Center, without the QuikSCAT satellite—

(A) hurricane forecasting would be 16 percent less accurate 72 hours before hurricane landfall and 10 percent less accurate 48 hours before hurricane landfall resulting in—

(i) with a 16 percent loss of accuracy at 72 hours before landfall, the area expected to be under hurricane danger would rise from 197 miles to 228 miles on average; and

(ii) with a 10 percent loss of accuracy at 48 hours before landfall, the area expected to be under hurricane danger would rise from 136 miles to 150 miles on average; and

(B) greater inaccuracy of this type would lead to more ''false alarm'' evacuations along the Gulf Coast and Atlantic Coast and decrease the possibility of impacted populations sufficiently heeding mandatory evacuations.

(8) According to recommendations in the National Academies of Science report entitled ''Decadal Survey'', a next generation ocean surface wind vector satellite mission is needed during the three year period beginning in 2013.

(9) According to the National Hurricane Center, a next generation ocean surface vector wind satellite is needed to take advantage of current technologies that already exist to overcome current limitations of the QuikSCAT satellite and enhance the capabilities of the National Hurricane Center to better warn coastal residents of possible hurricanes.

SEC. 3. PROGRAM FOR IMPROVED OCEAN SURFACE WINDS VECTOR SATELLITE.

(a) REQUIREMENT.—The Administrator of the National Oceanic and Atmospheric Administration shall, in consultation with the Administrator of the National Aeronautics and Space Administration and the head of any other department or agency of the United States Government designated by the President for purposes of this section, carry out a program for an improved ocean surface winds vector satellite.

(b) PURPOSES.—The purposes of the program required under subsection (a) shall be to provide for the development of an improved ocean surface winds vector satellite in order to—

(1) address science and application questions related to air-sea interaction, coastal circulation, and biological productivity;

(2) improve forecasting for hurricanes, coastal winds and storm surge, and other weather-related disasters;

(3) ensure continuity of quality for satellite ocean surface vector wind measurements so that existing weather forecasting and warning capabilities are not degraded;

(4) advance satellite ocean surface vector wind data capabilities; and

(5) address such other matters as the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the National Aeronautics and Space Administration, considers appropriate.

(c) ANNUAL REPORTS.—

(1) REPORTS REQUIRED.—Not later than six months after the date of the enactment of this Act and annually thereafter until the termination of the program required under subsection (a), the Administrator of the National Oceanic and Atmospheric Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the program required under subsection (a).

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) A current description of the program required under subsection (a), including the amount of funds expended for the program during the period covered by such report and the purposes for which such funds were expended.

(B) A description of the operational status of the satellite developed under the program, including a description of the current capabilities of the satellite and current estimate of the anticipated lifespan of the satellite.

(C) A description of current and proposed uses of the satellite by the United States Government, and academic, research, and other private entities, during the period covered by such report.

(D) Any other matters that the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the National Aeronautics and Space Administration, considers appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the National Oceanic and Atmospheric Administration $375,000,000 to carry out the program required under subsection (a).

[From Florida Today, May 17, 2007]

KEY HURRICANE-DETECTING SATELLITE MAY FAIL SOON

(By Jim Waymer)

FORT LAUDERDALE, FLA.—A vital satellite for determining a hurricane's power could soon go kaput. NASA's QuikSCAT polar satellite is running on borrowed time and may soon leave forecasters—and therefore the general public—without the best, most precise information about how powerful approaching storms might become, a top hurricane official warned. And there's nothing to replace it. ''We are already on its backup transmitter,'' Bill Proenza, director of the National Hurricane Center, told a crowd of about 4,000 Wednesday at the first day of the Governor's Hurricane Conference in Fort Lauderdale. ''When we lose that, that satellite is gone.''

Proenza said the QuikSCAT satellite, launched in 1999, could take up to five years and $400 million to replace. The satellite was only designed to operate for three to five years, the new director of the hurricane center said. Proenza recently replaced Max Mayfield as director. ''I came in and was very concerned it wasn't being addressed,'' Proenza said in an interview with Florida Today. Proenza said he has emphasized the satellite's importance to top officials from the National Oceanic and Atmospheric Administration.

QuikSCAT measures broad windfields, giving forecasters a bigger picture of storms than ships or aircraft. Last year, the satellite's data revealed that what forecasters thought a weak tropical storm was really Hurricane Helene, a Category 2 hurricane. Kinks in an infrared camera and $3 billion in cost overruns have stalled the next generation of weather satellites, threatening a three-year or longer gap in coverage from orbiters that loop the Earth's poles and help predict where the next big hurricane will hit. The gap could worsen forecast errors from a few miles to a few hundred miles.

The precision of the two-day forecast would drop 10 percent, Proenza said, and the three-day forecast by 16 percent. Either loss in accuracy would equate to landfall predictions being off by potentially hundreds of miles in Florida, since storms approach at a steep angle.

Officials rely on precise predictions for tracks to avoid expensive, unnecessary evacuations—or worse, a failure to evacuate those in harm's way. A QuikSCAT failure and less precise predictions could lead to ''hurricane fatigue,'' with more people deciding to take their chances against approaching storms, officials said. ''There will be more cries of wolf,'' said Charlie Roberts, senior emergency management coordinator for Brevard County (Fla.) Emergency Management. ''And the probability of us jumping the gun increases.''

Launches of six replacement satellites were to start in 2009. But engineering difficulties with the satellites' cameras, bureaucratic snags and other delays caused the cost of the project to skyrocket to $10 billion—about 30 percent over budget—triggering a Department of Defense review of the project. Now, the earliest launch for the first replacement satellites would be 2012.

Forecasters worry that if the last of a fleet of older-generation satellites, planned for launch in late 2007, fails at or shortly after liftoff—one in 10 do—they would have insufficient satellite coverage beyond 2010. Longer high-altitude aerial flights could help make up for breaks in satellite forecast coverage. But airplanes are only good for forecasting small regions surrounding the storms, not the three- to five-day forecasts so vital for evacuation planning, Proenza said. Other NASA or European satellites may help compensate for some data lapses, too, but many of those are designed to gather long-term climate data, not storm information.

''I would like to see something that would last 10 years,'' Proenza said of a QuikSCAT replacement. ''NOAA needs to take it as a top priority from here.''

[From the Houston Chronicle, March 16, 2007]

EXPERT WARNS OF WORSE HURRICANE FORECASTS IF SATELLITE FAILS

(By Jessica Gresko)

MIAMI.—Certain hurricane forecasts could be up to 16 percent less accurate if a key weather satellite that is already beyond its expected lifespan fails, the National Hurricane Center's new director said Friday in calling for hundreds of millions of dollars in new funding for expanded research and predictions.

Bill Proenza also told the Associated Press in an wide-ranging interview that ties between global warming and increased hurricane strength seemed a ''natural linkage.'' But he cautioned that other weather conditions currently play a larger part in determining the strength and number of hurricanes.

One of Proenza's immediate concerns is the so-called ''QuikScat'' weather satellite, which lets forecasters measure basics such as wind speed. Replacing it would take at least four years even if the estimated $400 million cost were available immediately, he said.

It is currently in its seventh year of operation and was expected to last five, Proenza said, and it is only a matter of time until it fails. Without the satellite providing key data, Proenza said, both two- and three-day forecasts of a storm's path would be affected. The two-day forecast could be 10 percent worse while the three-day one could be affected up to 16 percent, Proenza said. That would mean longer stretches of coastline would have to be placed under warnings, and more people than necessary would have to evacuate.

Average track errors last year were about 100 miles on two-day forecasts and 150 miles on three-day predictions. Track errors have been cut in half over the past 15 years. Losing QuikScat could erode some of those gains, Proenza acknowlegded, adding he did not know of any plans to replace It.

Proenza, 62, also discussed a series of other concerns, naming New Orleans, the Northeast and the Florida Keys as among the areas most vulnerable to hurricanes. Apart from working with the media and emergency managers to help vulnerable residents prepare, he proposed having students come up with plans at school to discuss with their parents.

He said he believes hundreds of millions of dollars more money is needed to better understand storms. At the same time, he strongly opposed a proposal to close any of the National Weather Service's 122 offices around the nation or have them operate part time, saying ''weather certainly doesh't take a holiday.''

Proenza took over one of meteorology's most highly visible posts in January. His predecessor, Max Mayfield, had held the top spot for six years.

Like Mayfield, Proenza stressed the importance of preparedness, but he also set out slightly different positions. Global warming was one of them. Last year, the Caribbean and western Atlantic had the second-highest sea temperatures since 1930, but the season turned out to be quieter than expected, Proenza said. ''So there's got to be other factors working and impacting hurricanes and tropical storms than just sea surface temperatures or global warming,'' he said.

His comments distinguished him from Mayfield, who had said climate change didn't substantially enhance hurricane activity, especially the number of storms. Both men talked about being in a period of heightened hurricane activity since 1995, as part of a natural fluctuation.

[From the Institute for Emergency Management, May 2, 2007]

FAILING HURRICANE TRACKING SATELLITE

Hurricanes take lives and destroy property along the Gulf and Atlantic coasts virtually every year. The danger to lives and property is increasing as more and more people move to the coastlines. Over 50 percent of the U.S. population lives within 50 miles of the coast. Of this population, 7 million have moved to the coast since 2005—many of these people have never faced a hurricane before.

As coastlines become more densely populated, longer lead times are needed to evacuate each area threatened by a storm. As a result, hurricane forecasting tools have become increasingly important. The nation's principal forecast agencies are the National Weather Service and the National Hurricane Center. The National Hurricane Center uses a variety of scientific instruments and tools, including satllites, reconnaissance planes, radar, and weather-sensing devices. One very crucial forecasting tool is the QuikSCAT satellite.

The QuikSCAT satellite was launched in 1999 by NASA's Jet Propulsion Laboratory, and was expected to last until 2002. It includes an experimental sensor to determine a Hurricane's intensity and wind patterns. It is like a storm's X-ray, showing the inner structure of a hurricane. The QuikSCAT is still functioning, but it is now 8 years old, five years past its projected lifespan. If it fails, tbe consequences could be dire.

There is considerable uncertainty about the path of a hurricane. When a storm is far out at sea, a large section of the coastline is identified as being a potential landfall site. As the storm gets closer, the area of expected landfall shrinks down. Since cities and communities have to evacuate many hours before expected landfall, it is important to know as early as possible where a storm might strike. Most cities along the coast require more than 36 hours to safely evacuate the majority of their residents. If there are large numbers of citizens without cars or the ability to move, the time needed to evacuate becomes considerably longer. In 2005, good forecasting prompted timely evacuations of appropriate areas, and was responsible for saving thousands of lives threatened by Hurricanes Katrina, Rita, and Wilma.

Without the QuikSCAT, the National Hurricane Center has estimated that hurricane forecasting would be 16 percent less accurate 72 hours before Hurricane landfall and 10 percent less accurate 48 hours before landfall. With a 16 percent loss of accuracy at 72 hours before landfall, the area expected to be under hurricane danger would rise from 197 miles to 228 miles, on the average. With a 10 percent loss of accuracy at 48 hours before landfall, the average area under hurricane danger would rise from 136 miles to 150 miles.

More communities being warned is not better. Greater inaccuracy will lead to many

''false alarms.'' If communities are evacuated multiple times, but do not suffer a direct hit, people will stop responding to evacuation mandates. There has been no assessment of how the loss of forecasting accuracy would impact deaths or damages from potential storms all along the Gulf and Atlantic coasts.

WHY HURRICANE HUNTER AIRCRAFT CANNOT REPLACE THE QUIKSCAT

The valiant Hurricane Hunter aircraft, managed by the U.S. Air Force Reserves, are important tools for assessing a developing storm. Hurricane Hunter pilots fly directly into the storm and gather data along the flight path. The crafts have been provided with ''active microwave scatterometers,'' technology similar to what is installed in the QuikSCAT. This technology, installed at a cost of $10 million, allows the aircraft to gather the same kind of data that the QuikSCAT collects.

However, the Hurricane Hunter craft cannot replace the QuikSCAT satellite. This is easiest to explain through analogy. Hurricane Katrina's massive storm winds filled the entire Gulf of Mexico and the storm system towered miles into the atmosphere. Imagine that the whole area covered by such a massive storm is an extremely large fishing pond. A single plane gathering data is like a tiny fishing line collecting data only along the single strand of the line. The satellite, on the other hand, provides rich, detailed data horizontally from one side of the storm to the other side, and vertically, from the ocean surface to the top of the storm's swirling winds. The QuikSCAT is like a detailed MRI.

LOOKING FORWARD

Designing and launching a replacement satellite for the aging QuikSCAT will take from three to five years and cost approximately $375 million. No plans are currently in place to replace the satellite, but if it stops functioning, we will face serious consequences. Dr. William M. Gray, storm forecaster, has predicted 17 named storms for 2007, including nine hurricanes, with five of them being intense.

By Mr. NELSON of Florida:

S. 1510. A bill require the Consumer Product Safety Commission to promulgate consumer product safety rules concerning the safety and labeling of portable generators; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, over the last several years, hundreds of Americans have died from inhaling the poisonous carbon monoxide emitted by portable, gas-powered generators. It is well past time for Congress to step in and end these needless deaths. That is why today I am introducing the Portable Generator Safety Act of 2007.

As most of us know, portable generators are frequently used to provide electricity during temporary power outages. These generators use fuel-burning engines that give off poisonous carbon monoxide gas in their exhaust.

Every hurricane season, news stories come from Florida and elsewhere about people killed or seriously injured by carbon monoxide poisoning caused by portable generators. From 2000 through 2006, at least 260 carbon monoxide poisoning deaths were reported to the U.S. Consumer Product Safety Commission. In the last 3 months of 2006 alone, 32 people died from carbon monoxide poisoning caused by generators. These people died because portable generators are not manufactured to automatically cut off when high carbon monoxide levels are reached, and because generators still do not have adequate carbon monoxide warning labels.

Here is what is especially troubling about these senseless deaths: the Consumer Product Safety Commission has studied and known for years that people were dying from carbon monoxide poisoning at an incredibly alarming rate. In study after study, Commission staff has recognized the high death rate from portable generators, and found that current regulations are inadequate to protect consumers. In January of this year, the Commission finally adopted warning label requirements for portable generators, nearly 10 years after they started looking into the issue. While I appreciate this initial step, I remain very troubled that the Commission again refused to take the most logical step, adoption of mandatory Federal safety standards.

Enough is enough. Industry self-regulation, which works in some settings, clearly is not working in this area. Congress must now step in and do its part to eliminate these tragic and avoidable deaths.

My bill, the Portable Generator Safety Act of 2007, takes some simple, common sense steps. The bill requires the Consumer Product Safety Commission to pass tough Federal regulations within 180 days of enactment of this bill. The new regulations would have three key components.

First, every portable generator would be required to have a sensor that automatically shuts off the generator before lethal levels of carbon monoxide are reached. Other products, such as portable heaters, already contain these types of sensors, and they save lives.

Second, every portable generator must have clearly written warnings on the packaging, in the instruction manual accompanying the generator, and on the generator itself. In January, the Consumer Product Safety Commission issued new regulations requiring placement of warning labels on generators. Unfortunately, these labels are not as clear as they should be. This bill will require clear, easy-to-read warnings that consumers will read both when they purchase the generators and when they power them up in emergency situations.

Third, this legislation will require the Consumer Product Safety Commission to carry out a comprehensive education program warning the public of the risks of carbon monoxide poisoning.

How many more innocent people must die before we require the Consumer Product Safety Commission and the portable generator industry to take some sensible, pro-consumer steps? The National Hurricane Center just issued its 2007 hurricane season forecast, and it looks like we will have an above-average year for hurricane activity. I hope we are not back here at the end of the year asking these same questions.

I ask unanimous consent that the text in the bill be printed in the RECORD.

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

S. 1510

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Portable Generator Safety Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Portable generators are frequently used to provide electricity during temporary power outages. These generators use fuel-burning engines that emit carbon monoxide gas in their exhaust.

(2) In the last several years, hundreds of people nationwide have been seriously injured or killed due to exposure to carbon monoxide poisoning from portable generators. From 2000 through 2006, at least 260 carbon monoxide poisoning deaths related to portable generator use were reported to the Consumer Product Safety Commission. In the last three months of 2006 alone, 32 carbon monoxide deaths were linked to generator use.

(3) Virtually all of the serious injuries and deaths due to carbon monoxide from portable generators were preventable. In many instances, consumers simply were unaware of the hazards posed by carbon monoxide.

(4) Since at least 1997, a priority of the Consumer Product Safety Commission has been to reduce injuries and deaths resulting from carbon monoxide poisoning.

(5) On January 4, 2007, the Consumer Product Safety Commission adopted certain labeling standards for portable generators (section 1407 of title 16, Code of Federal Regulations), but such standards do not go far enough to reduce substantially the potential harm to consumers.

(6) The issuance of mandatory safety standards and labeling requirements to warn consumers of the dangers associated with portable generator carbon monoxide would reduce the risk of injury or death.

SEC. 3. SAFETY STANDARD: REQUIRING EQUIPMENT OF PORTABLE GENERATORS WITH CARBON MONOXIDE INTERLOCK SAFETY DEVICES.

Not later than 180 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall promulgate consumer product safety rules, pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056), requiring, at a minimum, that every portable generator sold to the public for purposes other than resale shall be equipped with an interlock safety device that—

(1) detects the level of carbon monoxide in the areas surrounding such portable generator; and

(2) automatically turns off the portable generator before the level of carbon monoxide reaches a level that would cause serious bodily injury or death to people.

SEC. 4. LABELING AND INSTRUCTION REQUIREMENTS.

Not later than 180 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall promulgate consumer product safety rules, pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056), requiring, at a minimum, the following:

(1) WARNING LABELS.—Each portable generator sold to the public for purposes other than resale shall have a large, prominently displayed warning label in both English and Spanish on the exterior packaging, if any, of the portable generator and permanently affixed on the portable generator regarding the carbon monoxide hazard posed by incorrect use of the portable generator. The warning label shall include the word ''DANGER'' printed in a large font that is no smaller than 1 inch tall, and shall include the following information, at a minimum, presented in a clear manner:

(A) Indoor use of a portable generator can kill quickly.

(B) Portable generators should be used outdoors only and away from garages and open windows.

(C) Portable generators produce carbon monoxide, a poisonous gas that people cannot see or smell.

(2) PICTOGRAM.—Each portable generator sold to the public for purposes other than resale shall have a large pictogram, affixed to the portable generator, which clearly states ''POISONOUS GAS'' and visually depicts the harmful effects of breathing carbon monoxide.

(3) INSTRUCTION MANUAL.—The instruction manual, if any, that accompanies any portable generator sold to the public for purposes other than resale shall include detailed, clear, and conspicuous statements that include the following elements:

(A) A warning that portable generators emit carbon monoxide, a poisonous gas that can kill people.

(B) A warning that people cannot smell, see, or taste carbon monoxide.

(C) An instruction to operate portable generators only outdoors and away from windows, garages, and air intakes.

(D) An instruction never to operate portable generators inside homes, garages, sheds, or other semi-enclosed spaces, even if a person runs a fan or opens doors and windows.

(E) A warning that if a person begins to feel sick, dizzy, or weak while using a portable generator, that person should shut off the portable generator, get to fresh air immediately, and consult a doctor.

SEC. 5. PUBLIC OUTREACH.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall establish a program of public outreach to inform consumers of the dangers associated with the emission of carbon monoxide from portable generators.

(b) TIME.—The program required by subsection (a) shall place emphasis on informing consumers of the dangers described in such subsection during the start of each hurricane season.

By Mr. AKAKA (for himself, Ms. MURKOWSKI, and Ms. SNOWE):

S. 1511. A bill to promote the development and use of marine and hydrokinetic renewable energy technologies, and for other purposes; to the Committee on Finance.

Mr. AKAKA. Mr. President, today I introduce legislation that will create opportunities in the development and use of marine and hydrokinetic renewable energy technologies. I want to thank my colleagues Senator MURKOWSKI and Senator SNOWE for cosponsoring this measure.

We must work to encourage the production of clean, nongreenhouse gas emitting renewable energy. Ocean energy has the potential to be one of the largest sources of low-cost renewable energy in the United States by utilizing the power generated by waves in our oceans and major rivers, as well as tidal, current, and thermal power to generate turbine-powered electricity. As we look at ways to increase our renewable energy portfolio as a Nation, and decrease our dependence on oil, we would be remiss if we did not fully research and utilize the power that could be harnessed through water resources. I am acutely aware of this need in Hawaii, as we are an island State with finite natural resources, and who understand the necessity of environmentally friendly solutions to our energy problems. The ocean sits at our doorstep, providing us with sustenance in many different forms. To ignore the potential it can offer as a major source of renewable clean energy, not only in Hawaii, but for our entire country, would be a waste.

While the Energy Policy Act of 2005 qualified ocean energy for research assistance, grants and the federal purchase credit, various forms of ocean energy projects have yet to receive equitable funding.

According to the Electric Power Research Institute, ocean energy has the potential to generate 252 million megawatt hours of electricity. This represents 6.5 percent of today's entire energy portfolio. European nations, such as Portugal and Scotland, have successfully implemented commercial wave farms that are consistently producing clean power for consumer use. While the technology is not developed to the fullest, there is great potential.

However, ocean energy projects do not enjoy a production tax credit, an investment tax credit, or any other financial incentive currently being utilized by wind, solar, geothermal, biomass and other renewable energy resources.

This bill levels the playing field allowing ocean energy projects to be eligible for the financial and tax incentives that other renewable technologies receive. This will allow ocean energy projects to compete equitably in the future with other forms of renewable energy.

In order to work toward reducing greenhouse gas emissions and our dependence on fossil fuels, we must do all that we can to encourage the development and production of many different renewable energy technologies, such as ocean, wind, geothermal, biomass, ethanol, and others. Achieving our goals will only be possible if we approach the problem from many angles, and together, we will make an impact. I encourage my colleagues to support this measure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1511

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Marine and Hydrokinetic Renewable Energy Promotion Act of 2007''.

SEC. 2. DEFINITION.

For purposes of this Act, the term ''marine and hydrokinetic renewable energy'' means electrical energy from—

(1) waves, tides, and currents in oceans, estuaries, and tidal areas;

(2) free flowing water in rivers, lakes, and streams;

(3) free flowing water in man-made channels, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes; and

(4) differentials in ocean temperature (ocean thermal energy conversion).

The term shall not include energy from any source that utilizes a dam, diversionary structure, or impoundment for electric power purposes, except as provided in paragraph (3).

SEC. 3. RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary of Energy, in consultation with the Secretary of Commerce and the Secretary of the Interior, shall establish a program of marine and hydrokinetic renewable energy research focused on—

(1) developing and demonstrating marine and hydrokinetic renewable energy technologies;

(2) reducing the manufacturing and operation costs of marine and hydrokinetic renewable energy technologies;

(3) increasing the reliability and survivability of marine and hydrokinetic renewable energy facilities;

(4) integrating marine and hydrokinetic renewable energy into electric grids;

(5) identifying opportunities for cross fertilization and development of economies of scale between offshore wind and marine and hydrokinetic renewable energy sources;

(6) identifying, in consultation with the Secretary of Commerce and the Secretary of the Interior, the environmental impacts of marine and hydrokinetic renewable energy technologies and ways to address adverse impacts, and providing public information concerning technologies and other means available for monitoring and determining environmental impacts; and

(7) standards development, demonstration, and technology transfer for advanced systems engineering and system integration methods to identify critical interfaces.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $50,000,000 for each of the fiscal years 2008 through 2017.

SEC. 4. ADAPTIVE MANAGEMENT AND ENVIRONMENTAL FUND.

(a) FINDINGS.—The Congress finds that—

(1) the use of marine and hydrokinetic renewable energy technologies can avoid contributions to global warming gases, and such technologies can be produced domestically;

(2) marine and hydrokinetic renewable energy is a nascent industry; and

(3) the United States must work to promote new renewable energy technologies that reduce contributions to global warming gases and improve our country's domestic energy production in a manner that is consistent with environmental protection, recreation, and other public values.

(b) ESTABLISHMENT.—The Secretary of Energy shall establish an Adaptive Management and Environmental Fund, and shall

lend amounts from that fund to entities described in subsection (f) to cover the costs of projects that produce marine and hydrokinetic renewable energy. Such costs include design, fabrication, deployment, operation, monitoring, and decommissioning costs. Loans under this section may be subordinate to project-related loans provided by commercial lending institutions to the extent the Secretary of Energy considers appropriate.

(c) REASONABLE ACCESS.—As a condition of receiving a loan under this section, a recipient shall provide reasonable access, to Federal or State agencies and other research institutions as the Secretary considers appropriate, to the project area and facilities for the purposes of independent environmental research.

(d) PUBLIC AVAILABILITY.—The results of any assessment or demonstration paid for, in whole or in part, with funds provided under this section shall be made available to the public, except to the extent that they contain information that is protected from disclosure under section 552(b) of title 5, United States Code.

(e) REPAYMENT OF LOANS.—

(1) IN GENERAL.—The Secretary of Energy shall require a recipient of a loan under this section to repay the loan, plus interest at a rate of 2.1 percent per year, over a period not to exceed 20 years, beginning after the commercial generation of electric power from the project commences. Such repayment shall be required at a rate that takes into account the economic viability of the loan recipient and ensures regular and timely repayment of the loan.

(2) BEGINNING OF REPAYMENT PERIOD.—No repayments shall be required under this subsection until after the project generates net proceeds. For purposes of this paragraph, the term ''net proceeds'' means proceeds from the commercial sale of electricity after payment of project-related costs, including taxes and regulatory fees that have not been paid using funds from a loan provided for the project under this section.

(3) TERMINATION.—Repayment of a loan made under this section shall terminate as of the date that the project for which the loan was provided ceases commercial generation of electricity if a governmental permitting authority has ordered the closure of the facility because of a finding that the project has unacceptable adverse environmental impacts, except that the Secretary shall require a loan recipient to continue making loan repayments for the cost of equipment, obtained using funds from the loan that have not otherwise been repaid under rules established by the Secretary, that is utilized in a subsequent project for the commercial generation of electricity.

(f) ADAPTIVE MANAGEMENT PLAN.—In order to receive a loan under this section, an applicant for a Federal license or permit to construct, operate, or maintain a marine or hydrokinetic renewable energy project shall provide to the Federal agency with primary jurisdiction to issue such license or permit an adaptive management plan for the proposed project. Such plan shall—

(1) be prepared in consultation with other parties to the permitting or licensing proceeding, including all Federal, State, municipal, and tribal agencies with authority under applicable Federal law to require or recommend design or operating conditions, for protection, mitigation, and enhancement of fish and wildlife resources, water quality, navigation, public safety, land reservations, or recreation, for incorporation into the permit or license;

(2) set forth specific and measurable objectives for the protection, mitigation, and enhancement of fish and wildlife resources, water quality, navigation, public safety, land reservations, or recreation, as required or recommended by governmental agencies described in paragraph (1), and shall require monitoring to ensure that these objectives are met;

(3) provide specifically for the modification or, if necessary, removal of the marine or hydrokinetic renewable energy project based on findings by the licensing or permitting agency that the marine or hydrokinetic renewable energy project has not attained or will not attain the specific and measurable objectives set forth in paragraph (2); and

(4) be approved and incorporated in the Federal license or permit.

(g) SUNSET.—The Secretary of Energy shall transmit a report to the Congress when the Secretary of Energy determines that the technologies supported under this Act have achieved a level of maturity sufficient to enable the expiration of the programs under this Act. The Secretary of Energy shall not make any new loans under this section after the report is transmitted under this subsection.

SEC. 5. PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.

The Secretary of Commerce and the Secretary of the Interior shall, in cooperation with the Federal Energy Regulatory Commission and the Secretary of Energy, and in consultation with appropriate State agencies, jointly prepare programmatic environmental impact statements which contain all the elements of an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), regarding the impacts of the deployment of marine and hydrokinetic renewable energy technologies in the navigable waters of the United States. One programmatic environmental impact statement shall be prepared under this section for each of the Environmental Protection Agency regions of the United States. The agencies shall issue the programmatic environmental impact statements under this section not later than 18 months after the date of enactment of this Act. The programmatic environmental impact statements shall evaluate among other things the potential impacts of site selection on fish and wildlife and related habitat. Nothing in this section shall operate to delay consideration of any application for a license or permit for a marine and hydrokinetic renewable energy technology project.

SEC. 6. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Subsection (c) of section 45 of the Internal Revenue Code of 1986 (relating to resources) is amended—

(1) in paragraph (1)—

(A) by striking ''and'' at the end of subparagraph (G),

(B) by striking the period at the end of subparagraph (H) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.'', and

(2) by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in man-made channels, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is—

''(i) described in subparagraphs (A) through (H) of paragraph (1), or

''(ii) derived from any source that utilizes a dam, diversionary structure, or impoundment for electric power production purposes, except as provided in subparagraph (A)(iii).''.

(b) DEFINITION OF FACILITY.—Subsection (d) of section 45 of such Code (relating to qualified facilities) is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before January 1, 2009.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 7. INVESTMENT CREDIT AND 5-YEAR DEPRECIATION FOR EQUIPMENT WHICH PRODUCES ELECTRICITY FROM MARINE AND HYDROKINETIC RENEWABLE ENERGY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) of the Internal Revenue Code of 1986 (relating to energy property) is amended—

(1) by striking ''or'' at the end of clause (iii),

(2) by inserting ''or'' at the end of clause (iv), and

(3) by adding at the end the following new clause:

''(v) equipment which uses marine and hydrokinetic renewable energy (as defined in section 45(c)(10)) but only with respect to periods ending before January 1, 2018,''.

(b) 30 PERCENT CREDIT.—Clause (i) of section 48(a)(2)(A) of such Code (relating to 30 percent credit) is amended—

(1) by striking ''and'' at the end of subclause (II), and

(2) by adding at the end the following new subclause:

''(IV) energy property described in paragraph (3)(A)(v), and''.

(c) CREDITS ALLOWED FOR INVESTMENT AND PRODUCTION.—Paragraph (3) of section 48(a) of such Code (relating to energy property) is amended by inserting ''(other than property described in subparagraph (A)(v))'' after ''any property'' in the last sentence thereof.

(d) DENIAL OF DUAL BENEFIT.—Paragraph (9) of section 45(e) of such Code (relating to coordination with credit for producing fuel from a nonconventional source) is amended—

(1) in subparagraph (A), by striking ''shall not include'' and all that follows and inserting ''shall not include—

''(i) any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such biodegradation occurred in a facility (within the meaning of section 45K) the production from which is allowed as a credit under section 45K for the taxable year or any prior taxable year, or

''(ii) any marine and hydrokinetic facility for which a credit is claimed by the taxpayer under section 48 for the taxable year.'', and

(2) in the header—

(A) by striking ''CREDIT'' and inserting ''CREDITS'', and

(B) by inserting ''AND INVESTMENT IN MARINE AND HYDROKINETIC RENEWABLE ENERGY'' after ''NONCONVENTIONAL SOURCE''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. OBAMA:

S. 1513. A bill to amend the Higher Education Act of 1965 to authorize grant programs to enhance the access of low-income African-American students to higher education; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, as a college education becomes ever more imperative for economic success, both for individual citizens and for our Nation, a growing number of African-American students enroll in colleges whose mission includes a focus on educating minority students. And, over the years, Congress has acknowledged the important role of similar institutions, recognizing for example, Historically Black Colleges and Universities, and Hispanic Serving Institutions, by establishing grant programs to support their missions. Today, I am introducing legislation to recognize the importance of Predominantly Black Institutions as an essential component of the American system of higher education.

The Predominantly Black Institution designation recognizes urban and rural colleges, many of which are 2-year community or technical colleges, which serve a large proportion of African-American students, most of whom are the first in their families to attend college, and most of whom receive financial aid. These students have already beaten the odds to progress this far, and it is fitting that we offer some support to the institutions they attend, to ensure that the education they receive is worthy of their efforts.

Whereas Predominantly Black Institutions and Historically Black Colleges and Universities both serve African-American students, they differ in ways that necessitate this legislation. Historically Black Colleges and Universities are not required to serve needy students, whereas Predominantly Black Institution must serve at least 50 percent low-income or first-generation college students. Historically Black Colleges and Universities, by definition, were established prior to 1964, whereas PBIs are of more recent origin.

Approximately 75 institutions, and more than a quarter of a million students, would benefit from grants awarded as a result of the Predominantly Black Institution designation. Grants could be used for a variety of purposes, from acquiring laboratory equipment to supporting teacher education to establishing community outreach programs for pre-college students.

Legislation to establish Predominantly Black Institutions was introduced last year by my good friend from Illinois, Congressman DANNY DAVIS. I urge my Senate colleagues to consider the needs of these students, to support their colleges and universities, and to join me in this effort.

By Mr. DODD (for himself, Mr. SMITH, and Mr. REED):

S. 1514. A bill to revise and extend provisions under the Garrett Lee Smith Memorial Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to speak on a bill I am introducing with my colleagues, Senator SMITH and Senator REED. The bill is a reauthorization of the Garrett Lee Smith Memorial Act, a landmark legislation enacted nearly three years ago that significantly strengthened our commitment as a Nation to reduce the public and mental health tragedy of youth suicide. I would like to take a moment to thank my colleagues who joined me in this effort, particularly Senator SMITH. We all know the personal tragedy Senator SMITH, his wife, Sharon, and their family suffered when their son and brother, Garrett, took his life over 3 years ago. Since that time, Senator SMITH and Sharon have become tireless advocates in advancing the cause of youth suicide prevention, and their work should be commended.

Three years after this important legislation became law, suicide among our Nation's young people remains an acute crisis that knows no geographic, racial, ethnic, cultural, or socioeconomic boundaries. Each year, almost 3,000 young people take their lives, making suicide the third overall cause of death between the ages of 10 and 24. Young people under the age of 25 account for 15 percent of all suicides completed. In fact, more children and young adults die from their own hand than from cancer, heart disease, AIDS, birth defects, stroke and chronic lung disease combined.

Equally alarming are the numbers of young people who consider taking or attempt to take their lives. Centers for Disease Control and Prevention figures estimate that almost 3 million high school students, or 20 percent of young adults between the ages of 15 and 19, consider suicide every year. Furthermore, over 2 million children and young adults actually attempt suicide each year. Seventy percent of people who die by suicide tell someone about it in advance. Yet, tragically, few of these young people do not receive appropriate intervention services before it's too late.

When it was enacted into law, the Garrett Lee Smith Memorial Act became the first legislation specifically designed to prevent youth suicide. The legislation established a new grant initiative for the further development and expansion of youth suicide early intervention and prevention strategies and the community-based services they seek to coordinate. It additionally authorized a dedicated technical assistance center to assist States, localities, tribes, and community service providers with the planning, implementation, and evaluation of these strategies and services. It also established a new grant initiative to enhance and improve early intervention and prevention services specifically designed for college-aged students. Lastly, it created a new inter-agency collaboration to focus on policy development and the dissemination of data specifically pertaining to youth suicide. I am pleased to say that to date, 29 States, 7 tribes, and 55 colleges and universities have benefitted from $63.4 million in resources to increase their services to youth, provided by the Garrett Lee Smith Memorial Act.

The bill we introduce today seeks to continue the good work started by the initial legislation. First, it authorizes $210 million over 5 years for continued development and expansion of statewide youth suicide prevention and early intervention strategies. Second, it authorizes $31 million over 5 years to continue assisting college campuses meet the needs of their students. And third, it authorizes $25 million over 5 years to continue the vital research on suicide prevention for all age groups being conducted by the Suicide Prevention Technical Assistance Center.

I continue to believe that finding concrete, comprehensive and effective remedies to the epidemic of youth suicide cannot be done by lawmakers on Capitol Hill alone. Those remedies must also come from individuals, doctors, psychiatrists, psychologists, counselors, nurses, teachers, advocates, survivors, and affected families, who are dedicated to this issue or spend each day with children and young adults that suffer from illnesses related to suicide. Despite the goals we have achieved with the Garrett Lee Smith Memorial Act, I believe that our work is not done. I hope that, as a society, we can continue working collectively both to understand better the tragedy of youth suicide and develop innovative and effective public and mental health initiatives that reach every child and young adult in this country—compassionate initiatives that give them encouragement, hope, and above all, life.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1514

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Garrett Lee Smith Memorial Act Reauthorization of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) INTERAGENCY RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE CENTERS.—Section 520C of the Public Health Service Act (42 U.S.C. 290bb-34) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by striking ''youth suicide early intervention and prevention strategies'' and inserting ''suicide early intervention and prevention strategies for all ages, particularly for youth'';

(B) in paragraph (2), by striking ''youth suicide early intervention and prevention strategies'' and inserting ''suicide early intervention and prevention strategies for all ages, particularly for youth'';

(C) in paragraph (3)—

(i) by striking ''youth''; and

(ii) by inserting before the semicolon the following: ''for all ages, particularly for youth'';

(D) in paragraph (4), by striking ''youth suicide'' and inserting ''suicide for all ages, particularly among youth'';

(E) in paragraph (5), by striking ''youth suicide early intervention techniques and technology'' and inserting ''suicide early intervention techniques and technology for all ages, particularly for youth'';

(F) in paragraph (7)—

(i) by striking ''youth''; and

(ii) by inserting ''for all ages, particularly for youth,'' after ''strategies''; and

(G) in paragraph (8)—

(i) by striking ''youth suicide'' each place that such appears and inserting ''suicide''; and

(ii) by striking ''in youth'' and inserting ''among all ages, particularly among youth''; and

(2) in subsection (e)—

(A) in paragraph (1), by striking ''$4,000,000'' and all that follows through the period and inserting ''$4,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''; and

(B) in paragraph (2), by striking ''$3,000,000'' and all that follows through the period and inserting ''$5,000,000 for each of fiscal years 2008 through 2012.''.

(b) YOUTH SUICIDE EARLY INTERVENTION AND PREVENTION STRATEGIES.—Section 520E of the Public Health Service Act (42 U.S.C. 290bb-36) is amended—

(1) in subsection (b), by striking paragraph (2) and inserting the following:

''(2) LIMITATION.—In carrying out this section, the Secretary shall ensure that a State does not receive more than one grant or cooperative agreement under this section at any one time. For purposes of the preceding sentences, a State shall be considered to have received a grant or cooperative agreement if the eligible entity involved is the State or an entity designated by the State under paragraph (1)(B). Nothing in this paragraph shall be construed to apply to entities described in paragraph (1)(C).''; and

(2) by striking subsection (m) and inserting the following:

''(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $34,000,000 for fiscal year 2008, $38,000,000 for fiscal year 2009, $42,000,000 for fiscal year 2010, $46,000,000 for fiscal year 2011, and $50,000,000 for fiscal year 2012.''.

(c) MENTAL AND BEHAVIORAL HEALTH SERVICES ON CAMPUS.—Section 520E-2(h) of the Public Health Service Act (42 U.S.C. 290bb-36b(h)) is amended by striking ''$5,000,000 for fiscal year 2005'' and all that follows through the period and inserting ''$5,400,000 for fiscal year 2008, $5,800,000 for fiscal year 2009, $6,200,000 for fiscal year 2010, $6,600,000 for fiscal year 2011, and $7,000,000 for fiscal year 2012.''.

Mr. SMITH. Mr. President, today, I rise with my colleagues Senator DODD and Senator REED to introduce an important bill for our youth, the Garrett Lee Smith Memorial Act Reauthorization of 2007. Nearly 3 years ago, the Senate first passed this Act with 39 cosponsors. At that time, we heard an outpouring of support and sharing from other members of the Senate who have lost members of their families. On September 9, 2004, my son Garrett's birthday, the House and Senate passed the Garrett Lee Smith Memorial Act with overwhelming support. I remain thankful for their wisdom and support of the important programs this Act created that focused on youth suicide prevention.

As I said in 2004, this Act represents the best of American Government, an opportunity when our Nation's elected officials can come together, put aside their political parties and politics, to debate and pass legislation. During the last 3 years, this effort has resulted in nearly $65 million in suicide prevention and intervention funding to States, tribes, and on our Nation's higher education institutions.

I also want to recognize and thank my colleagues who have championed this cause for a great many years Senator DODD, Senator JACK REED, Senator HARRY REID AND SENATOR KENNEDY your work to raise awareness about youth suicide has been significant and for that I thank you. I also would like to thank Representative PATRICK KENNEDY for his support on this and so many other issues affecting persons with mental illness. I look forward to continuing to work with all of you to ensure passage of this reauthorization bill.

As most of you know, I came to be a champion of this issue not because I volunteered for it, but because I suffered for it. In September of 2003, Sharon and I lost our son Garrett Lee Smith to suicide. While Sharon and I think about Garrett every day and mourn his loss, we take solace in the time we had with him, and have committed ourselves to preserving his memory by helping others.

Sharon and I adopted Garrett a few days after his birth. He was such a handsome baby boy. He was unusually happy and playful, and he also was especially thoughtful of everyone around him as he grew older. His exuberance for life, however, began to dim in his elementary years. He struggled to spell. His reading and writing were stuck in the rudiments. We had him tested and were surprised to learn that he had an unusually high IQ, but struggled with a severe overlay of learning disabilities, including dyslexia.

However, it would be years later that we learned of the greatest challenge to face Garrett, his diagnosis of bi-polar disorder. Bipolar disorder, also known as manic-depressive illness, is a brain disorder that causes unusual shifts in a person's mood, energy and ability to function. Different from the normal ups and downs of life that everyone goes through, the symptoms of bipolar disorder are severe. As his parents, we knew how long and how desperately Garrett had suffered from his condition. Yet, tragically, over three years ago Garrett reached a point where his illness took over and he could no longer fight.

In his memory, I have committed myself to helping prevent other families from experiencing the tremendous pain that comes with the loss of a loved-one to suicide. We know that each year, more than 4,000 youth aged 15 to 24 die by suicide. From this number we know that since Garrett's death more than 14,000 young people have lost their lives to suicide. Too many young lives have been lost and continue to be lost.

While we can always do more, this Act has taken that first, significant step toward creating and funding an organized effort at the Federal, State and local levels to prevent and intervene when youth are at risk for mental and behavioral conditions that can lead to suicide. The loss of a life to suicide at any age is sad and traumatic, but when it happens to someone who has just begun their life, has just begun to fulfill their potential the impact somehow seems harsher, sadder and more pronounced.

Once signed into law, this bill will authorize $210 million in new funding over 5 years to further support States and Native American tribes in building systems of State-wide early intervention and prevention strategies. This bill will continue the current practice of ensuring that 85 percent of funding will be provided to entities focused on identifying and preventing suicide at the State and community level. Since the Garrett Lee Smith Memorial Act was signed into law in 2004, 29-States and seven tribes have received grants to help them plan for and implement youth suicide prevention strategies. The new and higher funding level will allow States that have never received a grant to receive funding. It also will allow States that have received grants in the past to expand their efforts to include more geographic areas and youth populations.

In my home State of Oregon, which has been especially active and forward-thinking in combating youth suicide, the Department of Human Services has been working in a number of counties throughout the State to increase referrals so care is available when needed, establish linkages to care and improve knowledge among clinicians, crisis response workers, school staff, youth and lay persons related to youth who are at-risk. The Native American Rehabilitation Association of the Northwest, Inc. also has implemented the Native Youth Prevention Project, which serves nine tribes and tribal confederations in Oregon where American Indian youth have the highest suicide rate in the State. Programs such as these can be important catalysts for change across the Nation and we must continue to support them.

The bill also reauthorizes a Suicide Prevention Resource Center, which provides technical assistance to States and local grantees to ensure that they are able to implement their State-wide early intervention and prevention strategy. It also collects data related to the programs, evaluates the effectiveness of the programs, and identifies and distributes best practices. Sharing technical data and program best practices is necessary to ensure that Federal funding is being utilized in the

best manner possible and that information is being circulated among participants. The Center will receive $25 million over 5 years for these purposes. Since 2004, the Center has done great work to support the grantees under this Act as well as push forward broader science-to-service efforts to combat youth suicide.

Finally, the bill will provide $31 million over 5 years to continue the colleges and universities grant program. This program works to establish mental health programs or enhance existing mental health programs focused on increasing access to and enhancing the range of mental and behavioral health services for students. Entering college can be one of the most disruptive and demanding times in a young person's life, but for persons with a mental illness the changes can become overwhelming. Loss of their parental support system, and lack of a familiar and easily accessed health care providers often can become too much of a burden to bear. We must ensure programs are in place to help them overcome these challenges.

So far, 55 colleges and universities have received grants through the Garrett Lee Smith Memorial Act, including two in my home State, helping countless students. However, with more than 4,000 degree-granting institutions in the United States, there are many more campuses that will be helped by this reauthorization.

I am pleased to be a champion of this cause and this bill and hope my colleagues will join me in supporting its passage.

By Mr. BIDEN (for himself and Mr. SPECTER):

S. 1515. A bill to establish a domestic violence volunteer attorney network to represent domestic violence victims; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, today I am introducing with my good friend from Pennsylvania, Senator SPECTER, an innovative bill that will help the lives of domestic violence victims. Sadly, domestic violence remains a reality for one out of four women in our country. Experts agree a pivotal factor to ending domestic violence is meaningful access to the justice system. Recent academic research finds that increased provision of legal services is ''one likely significant factor in explaining the decline [of domestic violence] . . . Because legal services help women with practical matters such as protective orders, custody, and child support they appear to actually present women with real, longterm alternatives to their relationships.'' Stopping the violence hinges on a victim's ability to obtain effective protection orders, initiate separation proceedings or design safe child custody.

Yet thousands of victims of domestic violence go without representation every day in this country. A patchwork of services do their best to provide represent domestic violence victims, law school clinics, individual State domestic violence coalitions, legal services, and private attorneys. But there are obvious gaps and simply not enough lawyers for victims and their myriad legal needs due to the abuse, including protection orders, divorce and child custody, immigration adjustments, and bankruptcy declarations. Experts estimate that current legal services serve about 170,000 low-income domestic violence victims each year and yet, there are at least 1 million victims each year. At best then, less than 1 out of 5 low-income victims ever see a lawyer.

I believe there is a wealth of untapped resources in this country, lawyers who want to volunteer. My National Domestic Violence Volunteer Act would harness the skills, enthusiasm and dedication of these lawyers and infuse 100,000 new volunteer lawyers into the justice system to represent domestic violence victims. We should make it as smooth and simple for volunteer lawyers. My bill creates a streamlined, organized and national system to connect lawyers to clients.

I can't overemphasize the importance of having a lawyer standing shoulder-to-shoulder with a victim as she navigates the system. We must match a willing lawyer to a victim as soon as the victim calls the Hotline, walks into a courtroom or involves the police. It is at that crucial moment a victim needs to feel support, and if she doesn't, she may retreat back into the abuse.

To enlist, train and place volunteer lawyers, my bill creates a new, electronic National Domestic Violence Attorney Network and Referral Project that will be administered by the American Bar Association Commission on Domestic Violence.

There are five components of my legislation.

First, it creates a National Domestic Violence Volunteer Attorney Network Referral Project to be managed by the American Bar Association Commission on Domestic Violence. With $2 million of new Federal funding each year, the American Bar Association Commission on Dometic Violence will solicit for volunteer lawyers and then create and maintain an electronic network. It will provide appropriate mentoring, training and technical assistance to volunteer lawyers. And it will establish and maintain a point of contact in each State, a statewide legal coordinator, to help match willing lawyers to victims.

Second, it enlists the National Domestic Violence Hotline and Internet sources to provide legal referrals. The bill will help the National Domestic Violence Hotline to update their system and train advocates on how to provide legal referrals to callers in coordination with the American Bar Association Commission on Domestic Violence. Legal referrals may also be done by qualified Internet-based services.

Third, it creates a Pilot Program and National Rollout of National Domestic Violence Volunteer Attorney Network and Referral Project. The bill designs a pilot program to implement the volunteer attorney network in five diverse States. The Office on Violence Against Women in the Department of Justice will administer these monies to qualified statewide legal coordinators to help them connect with the ABA Commission on Domestic Violence, the National Domestic Violence Hotline, and the volunteer lawyers. After a successful stint in five States, the bill will rollout the program nationally.

Fourth, the measure establishes a Domestic Violence Legal Advisory Task Force to monitor the program and make recommendations.

Fifth, the bill mandates the General Accounting Office to study each State and assess the scope and quality of legal services available to battered women and report back to Congress within a year.

A terrific roundtable of groups reviewed and contributed to this legislation, including the National Network to End Domestic Violence, the Legal Resource Center for Violence Against Women, the National Coalition Against Domestic Violence, the National Council of Juvenile and Family Court Judges, the American Bar Association, WomensLaw.org, the National Domestic Violence Hotline, the Legal Services Corporation, the American Prosecutors Research Institute, National Legal Aid and Defenders Association, National Center for State Courts, National Association for Attorneys General, Battered Women's Justice Project, National Association of Women Judges, National Association of Women Lawyers, National Crime Victim Bar Association and National Center for the Victims of Crime.

I want to end today with a story about an American hero, a woman who has been to hell and back and now is a tremendous advocate for domestic violence victims, Yvette Cade. I want to tell it to you because I think it serves as such a powerful message about why battered women should have legal assistance.

Yvette Cade, a Maryland resident, was doused with gasoline and set on fire by her estranged husband while she was at work. Half of her upper body, including her entire face, suffered third-degree burns, the most serious level.

Just three weeks before the attack, a judge dismissed the protective order Yvette had against her husband, despite her protests that he was violent. At the hearing in which the judge dismissed Cade's protective order, the judge told Cade he could not be her advocate, only the ''umpire.'' Cade told him that she no longer wanted to be married to her abusive husband. The judge replied, ''well, then get a lawyer, and get a divorce. That's all you have to do,'' I believe that today's National Domestic Violence Volunteer Attorney Network Act would make getting a lawyer a reality, not just good advice.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1515

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Domestic Violence Volunteer Attorney Network Act''.

SEC. 2. DEFINITIONS.

In this Act, the terms ''dating partner'', ''dating violence'', ''domestic violence'', ''legal assistance'', ''linguistically and culturally specific services'', ''stalking'', and ''State domestic violence coalitions'' shall have the same meaning given such terms in section 3 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162).

SEC. 3. NATIONAL DOMESTIC VIOLENCE VOLUNTEER ATTORNEY NETWORK.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended by adding at the end the following:

''(g) NATIONAL DOMESTIC VIOLENCE VOLUNTEER ATTORNEY NETWORK.—

''(1) IN GENERAL.—

''(A) GRANTS.—The Attorney General may award grants to the American Bar Association Commission on Domestic Violence to work in collaboration with the American Bar Association Committee on Pro Bono and Public Service and other organizations to create, recruit lawyers for, and provide training, mentoring, and technical assistance for a National Domestic Violence Volunteer Attorney Network.

''(B) USE OF FUNDS.—Funds allocated to the American Bar Association's Commission on Domestic Violence under this subsection shall be used to—

''(i) create and maintain a network to field and manage inquiries from volunteer lawyers seeking to represent and assist victims of domestic violence;

''(ii) solicit lawyers to serve as volunteer lawyers in the network;

''(iii) retain dedicated staff to support volunteer attorneys by—

''(I) providing field technical assistance inquiries;

''(II) providing on-going mentoring and support;

''(III) collaborating with national domestic violence legal technical assistance providers and statewide legal coordinators and local legal services programs; and

''(IV) developing legal education and other training materials; and

''(iv) maintain a point of contact with the statewide legal coordinator in each State regarding coordination of training, mentoring, and supporting volunteer attorneys representing victims of domestic violence.

''(2) AUTHORIZATION.—There are authorized to be appropriated to carry out this subsection $2,000,000 for each of the fiscal years 2008 and 2009 and $3,000,000 for each of the fiscal years 2010 through 2013.

''(3) ELIGIBILITY FOR OTHER GRANTS.—A receipt of an award under this subsection by the Commission on Domestic Violence of the American Bar Association shall not preclude the Commission from receiving additional grants under the Office on Violence Against Women's Technical Assistance Program to carry out the purposes of that program.

''(4) OTHER CONDITIONS.—

''(A) PROHIBITION ON TORT LITIGATION.—Funds appropriated for the grant program under this subsection may not be used to fund civil representation in a lawsuit based on a tort claim. This subparagraph shall not be construed as a prohibition on providing assistance to obtain restitution.

''(B) PROHIBITION ON LOBBYING.—Any funds appropriated under this subsection shall be subject to the prohibitions in section 1913 of title 18, United States Code, relating to lobbying with appropriated moneys.''.

SEC. 4. DOMESTIC VIOLENCE VOLUNTEER ATTORNEY REFERRAL PROGRAM.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—For fiscal years 2008 and 2009, the Office on Violence Against Women of the Department of Justice, in consultation with the Domestic Violence Legal Advisory Task Force, shall designate 5 States in which to implement the pilot program of the National Domestic Violence Volunteer Attorney Referral Project and distribute funds under this subsection.

(2) CRITERIA.—Criteria for selecting the States for the pilot program under this subsection shall include—

(A) equitable distribution between urban and rural areas, equitable geographical distribution;

(B) States that have a demonstrated capacity to coordinate among local and statewide domestic violence organizations;

(C) organizations serving immigrant women; and

(D) volunteer legal services offices throughout the State.

(3) PURPOSE.—The purpose of the pilot program under this subsection is to—

(A) provide for a coordinated system of ensuring that domestic violence victims throughout the pilot States have access to safe, culturally, and linguistically appropriate representation in all legal matters arising as a consequence of the abuse or violence; and

(B) support statewide legal coordinators in each State to manage referrals for victims to attorneys and to train attorneys on related domestic violence issues.

(4) ROLE OF STATEWIDE LEGAL COORDINATOR.—A statewide legal coordinator under this subsection shall—

(A) be employed by the statewide domestic violence coalition, unless the statewide domestic violence coalition determines that the needs of victims throughout the State would be best served if the coordinator was employed by another statewide organization;

(B) develop and maintain an updated database of attorneys throughout the State, including—

(i) legal services programs;

(ii) volunteer programs;

(iii) organizations serving immigrant women;

(iv) law school clinical programs;

(v) bar associations;

(vi) attorneys in the National Domestic Violence Volunteer Attorney Network; and

(vii) local domestic violence programs;

(C) consult and coordinate with existing statewide and local programs including volunteer representation projects or statewide legal services programs;

(D) provide referrals to victims who are seeking legal representation in matters arising as a consequence of the abuse or violence;

(E) participate in biannual meetings with other Pilot Program grantees, American Bar Association Commission on Domestic Violence, American Bar Association Committee on Pro Bono and Public Service, and national domestic violence legal technical assistance providers;

(F) receive referrals of victims seeking legal representation from the National Domestic Violence Hotline and other sources;

(G) receive and disseminate information regarding volunteer attorneys and training and mentoring opportunities; and

(H) work with the Office on Violence Against Women, the American Bar Association Commission on Domestic Violence, and the National Domestic Violence Legal Advisory Task Force to assess the effectiveness of the Pilot Program.

(5) ELIGIBILITY FOR GRANTS.—The Attorney General shall award grants to statewide legal coordinators under this subsection.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $750,000 for each of fiscal years 2008 and 2009 to fund the statewide coordinator positions and other costs associated with the position in the 5 pilot program States under this subsection.

(7) EVALUATION AND REPORTING.—An entity receiving a grant under this subsection shall submit to the Department of Justice a report detailing the activities taken with the grant funds, including such additional information as the agency shall require.

(b) NATIONAL PROGRAM.—

(1) PURPOSE.—The purpose of the national program under this subsection is to—

(A) provide for a coordinated system of ensuring that domestic violence victims throughout the country have access to safe, culturally and linguistically appropriate representation in legal matters arising as a consequence of the abuse or violence; and

(B) support statewide legal coordinators in each State to coordinate referrals to domestic violence attorneys and to train attorneys on related domestic violence issues, including immigration matters.

(2) GRANTS.—The Attorney General shall award grants to States for the purposes set forth in subsection (a) and to support designated statewide legal coordinators under this subsection.

(3) ROLE OF THE STATEWIDE LEGAL COORDINATOR.—The statewide legal coordinator under this subsection shall be subject to the requirements and responsibilities provided in subsection (a)(4).

(4) GUIDELINES.—The Office on Violence Against Women, in consultation with the Domestic Violence Legal Advisory Task Force and the results detailed in the Study of Legal Representation of Domestic Violence Victims, shall develop guidelines for the implementation of the national program under this section, based on the effectiveness of the Pilot Program in improving victims' access to culturally and linguistically appropriate legal representation in the pilot States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $8,000,000 for each of fiscal years 2010 through 2013 to fund the statewide coordinator position in every State and other costs associated with the position.

(6) EVALUATION AND REPORTING.—An entity receiving a grant under this subsection shall submit to the Department of Justice a report detailing the activities taken with the grant funds, including such additional information as the agency shall require.

SEC. 5. TECHNICAL ASSISTANCE FOR THE NATIONAL DOMESTIC VIOLENCE VOLUNTEER ATTORNEY NETWORK.

(a) PURPOSES.—The purpose of this section is to allow—

(1) national domestic violence legal technical assistance providers to expand their services to provide training and ongoing technical assistance to volunteer attorneys in the National Domestic Violence Volunteer Attorney Network; and

(2) providers of domestic violence law to receive additional funding to train and assist attorneys in the areas of—

(A) custody and child support;

(B) employment;

(C) housing;

(D) immigrant victims' legal needs (including immigration, protection order, family and public benefits issues); and

(E) interstate custody and relocation law.

(b) GRANTS.—The Attorney General shall award grants to national domestic violence legal technical assistance providers to expand their services to provide training and ongoing technical assistance to volunteer attorneys in the National Domestic Violence Volunteer Attorney Network, statewide legal coordinators, the National Domestic Violence Hotline and Internet-based legal referral organizations described in section 1201(i)(1) of the Violence Against Women Act of 2000, as added by section 6.

(c) ELIGIBILITY FOR OTHER GRANTS.—A receipt of an award under this section shall not preclude the national domestic violence legal technical assistance providers from receiving additional grants under the Office on Violence Against Women's Technical Assistance Program to carry out the purposes of that program.

(d) ELIGIBLE ENTITIES.—In this section, an eligible entity is a national domestic violence legal technical assistance provider that—

(1) has expertise on legal issues that arise in cases of victims of domestic violence, dating violence and stalking, including family, immigration, housing, protection order, public benefits, custody, child support, interstate custody and relocation, employment and other civil legal needs of victims; and

(2) has an established record of providing technical assistance and support to lawyers representing victims of domestic violence.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $800,000 for national domestic violence legal technical assistance providers for each fiscal year from 2008 through 2013.

SEC. 6. NATIONAL DOMESTIC VIOLENCE HOTLINE LEGAL REFERRALS.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended by adding at the end the following:

''(h) LEGAL REFERRALS BY THE NATIONAL DOMESTIC VIOLENCE HOTLINE.—

''(1) IN GENERAL.—The Attorney General may award grants to the National Domestic Violence Hotline (as authorized by section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416)) to provide information about statewide legal coordinators and legal services.

''(2) USE OF FUNDS.—Funds allocated to the National Domestic Violence Hotline under this subsection shall be used to—

''(A) update the Hotline's technology and systems to reflect legal services and referrals to statewide legal coordinators;

''(B) collaborate with the American Bar Association Commission on Domestic Violence and the national domestic violence legal technical assistance providers to train and provide appropriate assistance to the Hotline's advocates on legal services; and

''(C) maintain a network of legal services and statewide legal coordinators and collaborate with the American Bar Association Commission on Domestic Violence.

''(3) AUTHORIZATION.—There are to be appropriated to carry out this subsection $500,000 for each of fiscal years 2008 through 2013.

''(i) LEGAL REFERRALS BY INTERNET-BASED SERVICES FOR DOMESTIC VIOLENCE VICTIMS.—

''(1) IN GENERAL.—The Attorney General may award grants to Internet-based nonprofit organizations with a demonstrated expertise on domestic violence to provide State-specific information about statewide legal coordinators and legal services through the Internet.

''(2) USE OF FUNDS.—Funds allocated to Internet-based organizations under this subsection shall be used to—

''(A) collaborate with the American Bar Association Commission on Domestic Violence and the national domestic violence legal technical assistance providers to train and provide appropriate assistance to personnel on referring legal services; and

''(B) maintain a network of legal services and statewide legal coordinators, and collaborate with the American Bar Association Commission on Domestic Violence and the National Domestic Violence Hotline.

''(3) AUTHORIZATION.—There are to be appropriated to carry out this subsection $250,000 for each fiscal years of 2008 through 2013.''.

SEC. 7. STUDY OF LEGAL REPRESENTATION OF DOMESTIC VIOLENCE VICTIMS.

(a) IN GENERAL.—The General Accountability Office shall study the scope and quality of legal representation and advocacy for victims of domestic violence, dating violence, and stalking, including the provision of culturally and linguistically appropriate services.

(b) SCOPE OF STUDY.—The General Accountability Office shall specifically assess the representation and advocacy of—

(1) organizations providing direct legal services and other support to victims of domestic violence, dating violence, and stalking, including Legal Services Corporation grantees, non-Legal Services Corporation legal services organizations, domestic violence programs receiving Legal Assistance for Victims grants or other Violence Against Women Act funds to provide legal assistance, volunteer programs (including those operated by bar associations and law firms), law schools which operate domestic violence, and family law clinical programs; and

(2) organizations providing support to direct legal services delivery programs and to their volunteer attorneys, including State coalitions on domestic violence, National Legal Aid and Defender Association, the American Bar Association Commission on Domestic Violence, the American Bar Association Committee on Pro Bono and Public Service, State bar associations, judicial organizations, and national advocacy organizations (including the Legal Resource Center on Violence Against Women, and the National Center on Full Faith and Credit).

(c) ASSESSMENT.—The assessment shall, with respect to each entity under subsection (b), include—

(1) what kind of legal assistance is provided to victims of domestic violence, such as counseling or representation in court proceedings;

(2) number of lawyers on staff;

(3) how legal services are being administered in a culturally and linguistically appropriate manner, and the number of multilingual advocates;

(4) what type of cases are related to the abuse, such as protective orders, divorce, housing, and child custody matters, and immigration filings;

(5) what referral mechanisms are used to match a lawyer with a domestic violence victim;

(6) what, if any, collaborative partnerships are in place between the legal services program and domestic violence agencies;

(7) what existing technical assistance or training on domestic violence and legal skills is provided to attorneys providing legal services to victims of domestic violence;

(8) what training or technical assistance for attorneys would improve the provision of legal services to victims of domestic violence;

(9) how does the organization manage means-testing or income requirements for clients;

(10) what, if any legal support is provided by non-lawyer victim advocates; and

(11) whether they provide support to or sponsor a pro bono legal program providing legal representation to victims of domestic violence.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the General Accountability Office shall submit to Congress a report on the findings and recommendations of the study required by this section.

SEC. 8. ESTABLISH A DOMESTIC VIOLENCE LEGAL ADVISORY TASK FORCE.

(a) IN GENERAL.—The Attorney General shall establish the Domestic Violence Legal Advisory Task Force to provide guidance for the implementation of the Study of Legal Representation of Domestic Violence Victims, the Pilot Program for the National Domestic Violence Volunteer Attorney Referral Project, and the National Program for the National Domestic Violence Volunteer Attorney Referral Project.

(b) COMPOSITION.—The Task Force established under this section shall be composed of experts in providing legal assistance to domestic violence victims and developing effective volunteer programs providing legal assistance to domestic violence victims, including judges with expertise on domestic violence, individuals with experience representing low-income domestic violence victims, and private bar members involved with volunteer legal services.

(c) RESPONSIBILITIES.—The Task Force shall provide—

(1) ongoing advice to the American Bar Association Commission on Domestic Violence, the National Domestic Violence Hotline, and the Statewide Coordinators regarding implementation of the Pilot Program and the National Program of the Domestic Violence Volunteer Attorney Referral Project;

(2) recommendations to the Office on Violence Against Women regarding the selection of the 5 sites for the Pilot Program; and

(3) attend regular meetings covered by American Bar Association Commission or Domestic Violence.

(d) REPORT.—The Task Force shall report to Congress every 2 years on its work under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000 for each of fiscal years 2008 through 2013.

By Mr. REED (for himself, Mr. ALLARD, Ms. MIKULSKI, Mr. BOND, Mr. DURBIN, Ms. COLLINS, Mr. SCHUMER, Mr. AKAKA, Mrs. CLINTON, Mr. WHITEHOUSE, Mr. LEVIN, Mr. BROWN, and Mrs. BOXER):

S. 1518. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I introduce, along with Senators ALLARD, MIKULSKI, BOND, DURBIN, COLLINS, SCHUMER, AKAKA, CLINTON, WHITEHOUSE, LEVIN, BROWN, and BOXER, the Community Partnership to End Homelessness Act of 2007, CPEHA. This legislation would reauthorize and amend the housing titles of the McKinney-Vento Homeless Assistance Act of 1987. Specifically, our bill would realign the incentives behind the Department of Housing and Urban Development's homelessness assistance programs to accomplish the goals of preventing and ending homelessness.

According to the Homelessness Research Institute at the National Alliance to End Homelessness, as many as 3.5 million Americans experience homelessness each year. On any one night, approximately 744,000 men, women, and children are without homes.

Many of these people have served our country in uniform. According to the National Coalition for Homeless Veterans, nearly 200,000 veterans of the United States armed forces are homeless on any given night, and about one-third of homeless men are veterans.

Statistics regarding the number of children who experience homelessness are especially troubling. Each year, it is estimated that at least 1.35 million children experience homelessness. Over 900,000 homeless children and youth were identified and enrolled in public schools in the 2005–2006 school year. However, this Department of Education count does not include preschool children, and over 40 percent of homeless children are under the age of five. Whatever their age, we know that children who are homeless are in poorer health, have developmental delays, and suffer academically.

In addition, many of those who are homeless have a disability. According to the Homelessness Research Institute, about 23 percent of homeless people were found to be ''chronically homeless,'' which according to the current HUD definition means that they are homeless for long periods of time or homeless repeatedly, and they have a disability. For many of these individuals and families, housing alone, without some attached services, may not be enough.

Finally, as rents have soared and affordable housing units have disappeared from the market during the past several years, even more working Americans have been left unable to afford housing. According to the National Low Income Housing Coalition's most recent ''Out of Reach'' report, nowhere in the country can a minimum wage earner afford a one-bedroom home. Eighty-eight percent of renters in cities live in areas where they cannot afford the fair market rent for a two-bedroom rental even with two minimum wage jobs. Low income renters who live paycheck to paycheck are in precarious circumstances and sometimes must make tough choices between paying rent and buying food, prescription drugs, or other necessities. If one unforeseen event occurs in their lives, they can end up homeless.

So why should the Federal Government work to help prevent and end homelessness? Simply put, we cannot afford not to address this problem. Homelessness leads to untold costs, including expenses for emergency rooms, jails, shelters, foster care, detoxification, and emergency mental health treatment.

According to a number of studies, it costs just as much, if not more in overall expenditures, to allow men, women, and children to remain homeless as it does to provide them with assistance and get them back on the road to self-sufficiency.

It has been 20 years since the enactment of the Steward B. McKinney Homeless Assistance Act, and we have learned a lot about the problem of homelessness since then. At the time of its adoption in 1987, this legislation was viewed as an emergency response to a national crisis, and was to be followed by measures to prevent homelessness and to create more systemic solutions to the problem. It is now time to take what we have learned during the past 20 years, and put those best practices and proposals into action.

First and foremost, our bill would consolidate HUD's three main competitive homelessness programs, Supportive Housing Program, Shelter Plus Care, and Moderate Rehabilitation/Single Room Occupancy, into one program called the Community Homeless Assistance Program. The consolidation would reduce the administrative burden on communities caused by different program requirements. It also would allow funding to be used for an array of eligible activities maximizing flexibility, creativity, and local-decision making.

Second, the bill would create a new prevention title that would allow communities to apply for funding to prevent homelessness. This would allow them to serve people who move frequently for economic reasons, are doubled up, are about to be evicted, live in severely overcrowded housing, or otherwise live in an unstable situation that puts them at risk of homelessness. The program could fund short- to medium-term housing assistance, housing relocation and stabilization, and supportive services. The program would be authorized for up to $250 million in fiscal year 2008.

Third, the bill would create a more flexible set of requirements for rural communities by modifying HUD's long-dormant Rural Homelessness Grant Program. Under the new requirements, a rural community could use funds for homelessness prevention and housing stabilization, in addition to transitional housing, permanent housing, and supportive services. The application process for these funds would be streamlined to be more consistent with the capacities of rural homelessness programs.

Fourth, HUD would be required to provide incentives for communities to use proven strategies to end homelessness. These strategies would include permanent supportive housing for chronically homeless people, rapid rehousing programs for homeless families, and other research-based strategies that HUD, after public comment, determines are effective.

Fifth, thirty percent of total funds available nationally would be allocated for permanent housing for individuals with disabilities or families headed by a person with disabilities. At least 10 percent of overall funds would be allocated for permanently housing families with children.

Sixth, communities that demonstrate results, reducing the number of people who become homeless, the length of time people are homeless, and recidivism back into homelessness—would be allowed to use their homeless assistance funding more flexibly and to serve groups that are at risk of becoming homeless.

Finally, leasing, rental assistance, and operating costs of permanent housing programs would be renewed for 1 year at a time through the section 8 housing voucher account, provided that the applicant demonstrates need and compliance with appropriate standards.

There is a growing consensus on ways to help communities break the cycle of repeated and prolonged homelessness. If we combine Federal dollars with the right incentives to local communities, we can prevent and end long-term homelessness.

This bipartisan legislation seeks to do just that. It will reward communities for initiatives that prevent and end homelessness.

Groups that are endorsing the Community Partnership to End Homelessness Act include: The National Alliance to End Homelessness; the U.S. Conference of Mayors; the National Association of Counties; National Association of Local Housing Finance Agencies; National Community Development Association; the National Housing Conference; the Corporation for Supportive Housing; National Alliance on Mental Illness; Consortium for Citizens With Disabilities Housing Task Force; Habitat for Humanity; Technical Assistance Collaborative; and the Housing Assistance Council.

The Community Partnership to End Homelessness Act will set us on the path to meeting an important national goal. I hope my colleagues will join us in supporting this bill and other homelessness prevention efforts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1518

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 ''Community Partnership to End Homelessness Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSE.

Section 102 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301) is amended to read as follows:

''SEC. 102. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the United States faces a crisis of individuals and families who lack basic affordable housing and appropriate shelter;

''(2) assistance from the Federal Government is an important factor in the success of efforts by State and local governments and the private sector to address the problem of homelessness in a comprehensive manner;

''(3) there are several Federal Government programs to assist persons experiencing homelessness, including programs for individuals with disabilities, veterans, children, and youth;

''(4) homeless assistance programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals and families to permanent housing and stability, and optimizing their self-sufficiency;

''(5) States and units of general local government receiving Federal block grant and other Federal grant funds must be evaluated on the basis of their effectiveness in—

''(A) implementing plans to appropriately discharge individuals to and from mainstream service systems; and

''(B) reducing barriers to participation in mainstream programs, as identified in—

''(i) a report by the Government Accountability Office entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999; or

''(ii) a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(6) an effective plan for reducing homelessness should provide a comprehensive housing system (including permanent housing and, as needed, transitional housing) that recognizes that, while some individuals and families experiencing homelessness attain economic viability and independence utilizing transitional housing and then permanent housing, others can reenter society directly and optimize self-sufficiency through acquiring permanent housing;

''(7) supportive housing activities include the provision of permanent housing or transitional housing, and appropriate supportive services, in an environment that can meet the short-term or long-term needs of persons experiencing homelessness as they reintegrate into mainstream society;

''(8) homeless housing and supportive services programs within a community are most effective when they are developed and operated as part of an inclusive, collaborative, locally driven homeless planning process that involves as decision makers persons experiencing homelessness, advocates for persons experiencing homelessness, service organizations, government officials, business persons, neighborhood advocates, and other community members;

''(9) homelessness should be treated as a symptom of many neighborhood, community, and system problems, whose remedies require a comprehensive approach integrating all available resources;

''(10) there are many private sector entities, particularly nonprofit organizations, that have successfully operated outcome-effective homeless programs;

''(11) Federal homeless assistance should supplement other public and private funding provided by communities for housing and supportive services for low-income households;

''(12) the Federal Government has a responsibility to establish partnerships with State and local governments and private sector entities to address comprehensively the problems of homelessness; and

''(13) the results of Federal programs targeted for persons experiencing homelessness have been positive.

''(b) PURPOSE.—It is the purpose of this Act—

''(1) to create a unified and performance-based process for allocating and administering funds under title IV;

''(2) to encourage comprehensive, collaborative local planning of housing and services programs for persons experiencing homelessness;

''(3) to focus the resources and efforts of the public and private sectors on ending and preventing homelessness;

''(4) to provide funds for programs to assist individuals and families in the transition from homelessness, and to prevent homelessness for those vulnerable to homelessness;

''(5) to consolidate the separate homeless assistance programs carried out under title IV (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

''(6) to allow flexibility and creativity in re-thinking solutions to homelessness, including alternative housing strategies, outcome-effective service delivery, and the involvement of persons experiencing homelessness in decision-making regarding opportunities for their long-term stability, growth, well-being, and optimum self-sufficiency; and

''(7) to ensure that multiple Federal agencies are involved in the provision of housing, health care, human services, employment, and education assistance, as appropriate for the missions of the agencies, to persons experiencing homelessness, through the funding provided for implementation of programs carried out under this Act and other programs targeted for persons experiencing homelessness, and mainstream funding, and to promote coordination among those Federal agencies, including providing funding for a United States Interagency Council on Homelessness to advance such coordination.''.

SEC. 3. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by striking the period at the end and inserting the following: ''whose mission shall be to develop and coordinate the implementation of a national strategy to prevent and end homelessness while maximizing the effectiveness of the Federal Government in contributing to an end to homelessness in the United States.'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by striking ''(16)'' and inserting ''(19)''; and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''2 times each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Assistant to the President for Domestic Policy within the Executive Office of the President shall oversee the functioning of the United States Interagency Council on Homelessness to ensure Federal interagency collaboration and program coordination to focus on preventing and ending homelessness, to increase access to mainstream programs (as identified in a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000) by persons experiencing homelessness, to eliminate the barriers to participation in those programs, to implement a Federal plan to prevent and end homelessness, and to identify Federal resources that can be expended to prevent and end homelessness.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (8), (9), and (10), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) not later than 1 year after the date of enactment of the Community Partnership to End Homelessness Act of 2007, develop and submit to the President and to Congress a National Strategic Plan to End Homelessness;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10''; and

(D) by inserting after paragraph (5), as redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of multi-year plans to end homelessness at State, city, and county levels;

''(7) develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);''; and

(4) by striking section 208 (42 U.S.C. 11318) and inserting the following:

''SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $3,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal years 2009, 2010, 2011, and 2012.''.

SEC. 4. HOUSING ASSISTANCE GENERAL PROVISIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle A—General Provisions'';

(2) by redesignating section 401 (42 U.S.C. 11361) as section 403;

(3) by redesignating section 402 (42 U.S.C. 11362) as section 406;

(4) by inserting before section 403 (as redesignated in paragraph (2)) the following:

''SEC. 401. DEFINITIONS.

''In this title, the following definitions shall apply:

''(1) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless', used with respect to an individual or family, means an individual or family who—

''(i) is homeless and lives or resides in a place not meant for human habitation or in an emergency shelter;

''(ii) has been homeless and living or residing in a place not meant for human habitation or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

''(iii) has an adult head of household with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(2) COLLABORATIVE APPLICANT.—The term 'collaborative applicant' means an entity that—

''(A) carries out the duties specified in section 402;

''(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(3) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422; and

''(B) is submitted to the Secretary by a collaborative applicant.

''(4) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to receive directly grant amounts under that subtitle.

''(6) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(7) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(8) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(9) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(10) NEW.—The term 'new', used with respect to housing, means housing for which no assistance has been provided under this title.

''(11) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

''(A) the administration, maintenance, repair, and security of such housing;

''(B) utilities, fuel, furnishings, and equipment for such housing; or

''(C) coordination of services as needed to ensure long-term housing stability.

''(12) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse treatment services.

''(13) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes permanent supportive housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(14) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(15) PROJECT.—The term 'project', used with respect to activities carried out under subtitle C, means eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(16) PROJECT-BASED.—The term 'project-based', used with respect to rental assistance, means assistance provided pursuant to a contract that—

''(A) is between—

''(i) a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(17) PROJECT SPONSOR.—The term 'project sponsor', used with respect to proposed eligible activities, means the organization directly responsible for the proposed eligible activities.

''(18) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(19) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(20) SERIOUS MENTAL ILLNESS.—The term 'serious mental illness' means a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(21) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

''(22) SUPPORTIVE SERVICES.—The term 'supportive services' means the supportive services described in section 425(c).

''(23) TENANT-BASED.—The term 'tenant-based', used with respect to rental assistance, means assistance that allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(A) in a particular structure or unit for not more than the first year of the participation; and

''(B) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A).

''(24) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing, the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

''(25) UNIFIED FUNDING AGENCY.—The term 'unified funding agency' means a collaborative applicant that performs the duties described in section 402(f).

''SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

''(1) submit an application for amounts under this subtitle; and

''(2) perform the duties specified in subsection (e) and, if applicable, subsection (f).

''(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

''(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(e) DUTIES.—A collaborative applicant shall—

''(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

''(A) to determine compliance with—

''(i) the program requirements under section 425; and

''(ii) the selection criteria described under section 427; and

''(B) to establish priorities for funding projects in the geographic area involved;

''(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system for purposes of—

''(A) collecting unduplicated counts of individuals and families experiencing homelessness;

''(B) analyzing patterns of use of assistance provided under subtitles B and C for the geographic area involved; and

''(C) providing information to project sponsors and applicants for needs analyses and funding priorities.

''(f) UNIFIED FUNDING.—

''(1) IN GENERAL.—In addition to the duties described in subsection (e), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

''(A) the collaborative applicant—

''(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

''(ii) is selected to perform such responsibilities by the Secretary; or

''(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

''(i) a finding by the Secretary that the applicant—

''(I) has the capacity to perform such responsibilities; and

''(II) would serve the purposes of this Act as they apply to the geographic area; and

''(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

''(2) REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

''(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(g) CONFLICT OF INTEREST.—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.'';

(5) by inserting after section 403 (as redesignated in paragraph (2)) the following:

''SEC. 404. TECHNICAL ASSISTANCE.

''(a) TECHNICAL ASSISTANCE FOR PROJECT SPONSORS.—The Secretary shall make effective technical assistance available to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties that are potential project sponsors, in order to implement effective planning processes for preventing and ending homelessness, to optimize self-sufficiency among individuals experiencing homelessness, and to improve their capacity to become project sponsors.

''(b) TECHNICAL ASSISTANCE FOR COLLABORATIVE APPLICANTS.—The Secretary shall make effective technical assistance available to collaborative applicants—

''(1) to improve their ability to carry out the duties required under subsections (e) and (f) of section 402;

''(2) to design and execute outcome-effective strategies for preventing and ending homelessness in their geographic areas consistent with the provisions of this title; and

''(3) to design and implement a community-wide process for assessing the performance of the applicant and project sponsors in meeting the purposes of this Act.

''(c) RESERVATION.—The Secretary may reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to make available technical assistance under subsections (a) and (b).

''SEC. 405. APPEALS.

''(a) IN GENERAL.—Not later than 3 months after the date of enactment of the Community Partnership to End Homelessness Act of 2007, the Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to an application for funding.

''(b) PROCESS.—The Secretary shall ensure that appeals procedure established under subsection (a) permits appeals submitted by—

''(1) collaborative applicants;

''(2) entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs); and

''(3) homeless planning bodies not established as collaborative applicants.''; and

(6) by inserting after section 406 (as redesignated in paragraph (2)) the following:

''SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $1,800,000,000 for fiscal year 2008 and such sums as may be necessary for fiscal years 2009, 2010, 2011, and 2012.''.

SEC. 5. EMERGENCY HOMELESSNESS PREVENTION AND SHELTER GRANTS PROGRAM.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle B—Emergency Homelessness Prevention and Shelter Grants Program'';

(2) by striking section 412 (42 U.S.C. 11372) and inserting the following:

''SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 414.

''SEC. 412A. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally not less than 10 nor more than 15 percent of such amount for activities described in section 414.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 414, in consultation with the collaborative applicants.'';

(3) in section 413(b) (42 U.S.C. 11373(b)), by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 407 and made available to carry out this subtitle for any'';

(4) by striking section 414 (42 U.S.C. 11374) and inserting the following:

''SEC. 414. ELIGIBLE ACTIVITIES.

''Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services, including services concerned with employment, health, education, family support services for homeless youth, alcohol or drug abuse prevention or treatment, or mental health treatment, if such essential services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings.

''(4) Housing relocation or stabilization services for individuals and families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, short- or medium-term rental assistance, assistance with moving costs, or other activities that are effective at—

''(A) stabilizing individuals and families in their current housing; or

''(B) quickly moving such individuals and families to other housing before such individuals and families become homeless.'';

(5) by repealing section 417 (42 U.S.C. 11377); and

(6) by redesignating section 418 as section 417.

SEC. 6. HOMELESS ASSISTANCE PROGRAM.

Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle C—Homeless Assistance Program'';

(2) by striking sections 421 through 424 (42 U.S.C. 11381 et seq.) and inserting the following:

''SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote community-wide commitment to the goal of ending homelessness;

''(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

''(3) to promote access to, and effective utilization of, mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

''SEC. 422. COMMUNITY HOMELESS ASSISTANCE PROGRAM.

''(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a Notification of Funding Availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for the fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing—

''(A) such information as the Secretary determines necessary—

''(i) to determine compliance with the program requirements and selection criteria under this subtitle; and

''(ii) to establish priorities for funding projects in the geographic area.

''(2) ANNOUNCEMENT OF AWARDS.—The Secretary shall announce, within 4 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(1) REQUIREMENTS FOR OBLIGATION.—

''(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient of a grant announced under such subsection shall, with respect to a project to be funded through such grant, meet, or cause the project sponsor to meet, all requirements for the obligation of funds for such project, including site control, matching funds, and environmental review requirements, except as provided in subparagraph (C).

''(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 15 months after the announcement referred to in subsection (c)(2), each recipient of a grant announced under such subsection seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under such subsection shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient of a grant announced under subsection (c)(2) shall meet or cause a project sponsor to meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, or completing the technical submission requirements for the project.

''(2) OBLIGATION.—Not later than 45 days after a recipient meets or causes a project sponsor to meet the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

''(3) DISTRIBUTION.—A unified funding agency that receives funds through a grant under this section—

''(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''(f) CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.—When providing renewal funding for leasing or rental assistance for permanent housing, the Secretary shall take into account increases in the fair market rents for modest rental property in the geographic area.

''(g) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—The Secretary may award grants to project sponsors under section 422 to carry out homeless assistance projects that consist of 1 or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing to homeless individuals and families.

''(2) Acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families, or providing supportive services to homeless individuals and families.

''(4) Provision of rental assistance to provide transitional or permanent housing to homeless individuals and families. The rental assistance may include tenant-based or project-based rental assistance.

''(5) Payment of operating costs for housing units assisted under this subtitle.

''(6) Provision of supportive services to homeless individuals and families, or individuals and families who in the prior 6 months have been homeless but are currently residing in permanent housing.

''(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

''(A) are effective at moving homeless individuals and families immediately into housing; or

''(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

''(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(e)(3).

''(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

''(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(e), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

''(11) In the case of a collaborative applicant that is a unified funding agency under section 402(f), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

''(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 5 percent of the total funds made available to that project sponsor through this subtitle for such costs.

''(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

''(c) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the collaborative applicant or unified funding agency involved to carry out instead a project for the direct benefit of low-income persons, and the collaborative applicant or unified funding agency determines that the initial project is no longer needed to provide transitional or permanent housing, the collaborative applicant or unified funding agency may recommend that the Secretary approve the project described in the request and authorize the recipient or project sponsor to carry out that project. If the collaborative applicant or unified funding agency is the recipient or project sponsor, it shall submit such a request directly to the Secretary who shall determine if the conversion of the project is appropriate.

''(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient (or a project sponsor receiving funds from the recipient) receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient (or the project sponsor receiving funds from the recipient) who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient (or a project sponsor receiving funds from the recipient) from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient (or a project sponsor receiving funds from the recipient) shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle; or

''(C) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness under section 1004.

''SEC. 424. FLEXIBILITY INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

''(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

''(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

''(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

''(3) 2-YEAR PHASE IN.—In each of the first 2 years after the date of enactment of this section, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

''(4) EXCESS OF QUALIFIED APPLICANTS.—In the event that during the 2-year period described under paragraph (2) more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

''(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

''(b) APPLICATION TO BE A HIGH-PERFORMING COMMUNITY.—

''(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

''(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

''(A) a report showing how any money received under this subtitle in the preceding year was expended; and

''(B) information that such applicant can meet the requirements described under subsection (d).

''(3) PUBLICATION OF APPLICATION.—The Secretary shall—

''(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

''(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

''(c) USE OF FUNDS.—

''(1) BY PROJECT SPONSORS IN A HIGH-PERFORMING COMMUNITY.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

''(A) for any of the eligible activities described in section 423; or

''(B) for any of the eligible activities described in section 1003.

''(2) COMMUNITY HOMELESSNESS PREVENTION FUNDS.—

''(A) IN GENERAL.—Funds used for activities that are eligible under section 1003 but not under section 423 shall be subject to—

''(i) the matching requirements of section 1008 rather than section 430; and

''(ii) the other program requirements of title X rather than of this subtitle.

''(B) DUTY OF SECRETARY.—The Secretary shall transfer any funds awarded under section 422(a) for activities that are eligible under section 1003 but not under section 423 from the account for this subtitle to the account for title X.

''(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term 'high-performing community' means a geographic area that demonstrates through reliable data that all of the following 4 requirements are met for that geographic area:

''(1) The mean length of episodes of homelessness for that geographic area—

''(A) is less than 20 days; or

''(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

''(2) Of individuals and families—

''(A) who leave homelessness, less than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

''(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least ⅕ within the preceding year.

''(3) The communities that compose the geographic area have—

''(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

''(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

''(4) If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 1003 in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

''(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.'' ;

(3) in section 426 (42 U.S.C. 11386)—

(A) by striking subsection (a) and inserting the following:

''(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient (or project sponsor receiving funds from the recipient) fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.'';

(B) by striking subsection (b) and inserting the following:

''(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to monitor and report to the Secretary the progress of the project;

''(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(4) to require certification from all project sponsors that—

''(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

''(D) they will provide data and reports as required by the Secretary pursuant to the Act; and

''(E) if the project includes the provision of permanent housing to people with disabilities, the housing will be provided for not more than—

''(i) 8 such persons in a single structure or contiguous structures;

''(ii) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

''(iii) more than 16 such persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community;

''(5) if a collaborative applicant is a unified funding agency under section 402(f) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(7), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

''(6) to monitor and report to the Secretary the provision of matching funds as required by section 430; and

''(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(C) by redesignating subsection (d) as subsection (c);

(D) in subsection (c) (as redesignated in subparagraph (C)), in the first sentence, by striking ''recipient'' and inserting ''recipient or project sponsor'';

(E) by striking subsection (e);

(F) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(G) in subsection (e) (as redesignated in subparagraph (F)), in the first sentence, by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(H) by striking subsection (i); and

(I) by redesignating subsection (j) as subsection (g);

(4) by repealing section 429 (42 U.S.C. 11389);

(5) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 431 and 432, respectively; and

(6) by inserting after section 426 the following:

''SEC. 427. SELECTION CRITERIA.

''(a) IN GENERAL.—The Secretary shall award funds to recipients by a national competition between geographic areas based on criteria established by the Secretary.

''(b) REQUIRED CRITERIA.—

''(1) IN GENERAL.—The criteria established under subsection (a) shall include—

''(A) the previous performance of the recipient regarding homelessness, measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

''(i) the length of time individuals and families remain homeless;

''(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

''(iii) the thoroughness of grantees in the geographic area in reaching all homeless individuals and families;

''(iv) overall reduction in the number of homeless individuals and families;

''(v) jobs and income growth for homeless individuals and families;

''(vi) success at reducing the number of individuals and families who become homeless; and

''(vii) other accomplishments by the recipient related to reducing homelessness;

''(B) the plan of the recipient, which shall describe—

''(i) how the number of individuals and families who become homeless will be reduced in the community;

''(ii) how the length of time that individuals and families remain homeless will be reduced; and

''(iii) the extent to which the recipient will—

''(I) address the needs of all relevant subpopulations, including—

''(aa) individuals with serious mental illness, addiction disorders, HIV/AIDS and other prevalent disabilities;

''(bb) families with children;

''(cc) unaccompanied youth;

''(dd) veterans; and

''(ee) other subpopulations with a risk of becoming homeless;

''(II) incorporate all necessary strategies for reducing homelessness, including the interventions referred to in section 428(d);

''(III) set quantifiable performance measures;

''(IV) set timelines for completion of specific tasks;

''(V) identify specific funding sources for planned activities;

''(VI) identify an individual or body responsible for overseeing implementation of specific strategies;

''(VII) include a review of local policies and practices relating to discharge planning from institutions, access to benefits and services from mainstream government programs, and zoning and land use, to determine whether such local policies and practices aggravate or ameliorate homelessness in the geographic area;

''(VIII) include interventions that will help reunify families that have been split up as a result of homelessness; and

''(IX) incorporate the findings and recommendations of the most recently completed annual assessments, conducted pursuant to section 2034 of title 38, United States Code, of the Department of Veterans Affairs medical centers or regional benefits offices whose service areas include the geographic area of the recipient;

''(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

''(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

''(ii) includes evaluations obtained directly from the individuals and families served by the project;

''(iii) evaluates whether the population served by the project matches the priority population for that project;

''(iv) is based on objective criteria that have been publicly announced by the recipient;

''(v) is open to proposals from entities that have not previously received funds under this subtitle; and

''(vi) avoids conflicts of interest in the decision-making of the recipient;

''(D) the extent to which the recipient has a comprehensive understanding of the extent and nature of homelessness in the geographic area and efforts needed to combat the problem of homelessness in the geographic area;

''(E) the need for the types of projects proposed in the geographic area to be served and the extent to which the prioritized programs of the recipient meet such unmet needs;

''(F) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(G) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects, to the extent practicable;

''(H) the degree to which homeless individuals and families in the geographic area, including members of all relevant subpopulations listed in subparagraph (B)(III)(I), are able to access—

''(i) public benefits and services for which they are eligible, besides the services funded under this subtitle, including public schools; and

''(ii) the benefits and services provided by the Department of Veterans Affairs;

''(I) the extent to which the opinions and views of the full range of people in the geographic area are considered, including—

''(i) homeless individuals and families, individuals and families at risk of homelessness, and individuals and families who have experienced homelessness;

''(ii) individuals associated with community-based organizations that serve homeless individuals and families and individuals and families at risk of homelessness;

''(iii) persons who act as advocates for the diverse subpopulations of individuals and families experiencing or at risk of homelessness;

''(iv) relatives of individuals and families experiencing or at risk of homelessness;

''(v) Federal, State, and local government agency officials, particularly those officials responsible for administering funding under programs targeted for individuals and families experiencing homelessness, and other programs for which individuals and families experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(vi) local educational agency liaisons designated under section 722(g)(1)(J)(ii), or their designees;

''(vii) members of the business community;

''(viii) members of neighborhood advocacy organizations; and

''(ix) members of philanthropic organizations that contribute to preventing and ending homelessness in the geographic area of the collaborative applicant; and

''(J) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under subsection (a) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

''(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the Notice of Funding Availability for grants under section 422(b), of the pro rata estimated need amount under this subtitle for the geographic area represented by the collaborative applicant.

''(B) AMOUNT.—

''(i) BASIS.—The estimated need amount under subparagraph (A) shall be based on a percentage of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year that is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) for the prior fiscal year that—

''(I) was allocated to all metropolitan cities and urban counties within the geographic area represented by the collaborative applicant; or

''(II) would have been distributed to all counties within such geographic area that are not urban counties, if the 30 percent portion of the allocation to the State involved (as described in subsection (d)(1) of that section 106) for that year had been distributed among the counties that are not urban counties in the State in accordance with the formula specified in that subsection (with references in that subsection to nonentitlement areas considered to be references to those counties).

''(ii) RULE.—In computing the estimated need amount under subparagraph (A), the Secretary shall adjust the estimated need amount determined pursuant to clause (i) to ensure that—

''(I) 75 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated to the metropolitan cities and urban counties that received a direct allocation of funds under section 413 for the prior fiscal year; and

''(II) 25 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated—

''(aa) to the metropolitan cities and urban counties that did not receive a direct allocation of funds under section 413 for the prior fiscal year; and

''(bb) to counties that are not urban counties.

''(iii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(iv) AUTHORITY OF SECRETARY.—The Secretary may increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''SEC. 428. ALLOCATION AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

''(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

''(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

''(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which available funding for grants under this subtitle would not be sufficient to renew for 1 year existing grants that would otherwise be funded under this subtitle.

''(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

''(b) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

''(c) FUNDING FOR ACQUISITION, CONSTRUCTION, AND REHABILITATION OF PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this subtitle shall be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''(d) INCENTIVES FOR PROVEN STRATEGIES.—

''(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation.

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

''(A) permanent supportive housing for chronically homeless individuals and families;

''(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

''(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally or reducing homelessness for a specific subpopulation.

''(e) INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.—

''(1) IN GENERAL.—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or section 1003 for homeless people generally or for the relevant subpopulation.

''(2) USE OF FUNDS.—Bonus or incentive funds awarded under this subsection that are used for activities that are eligible under section 1003 but not under section 423 shall be subject to—

''(A) the matching requirements of section 1008 rather than section 430; and

''(B) the other program requirements of title X rather than of this subtitle.

''(3) DUTY OF SECRETARY.—The Secretary shall transfer any bonus or incentive funds awarded under this subsection for activities that are eligible under section 1003 but not under section 423 from the account for this subtitle to the account for title X.

''SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Of the total amount available in the account or accounts designated for appropriations for use in connection with section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), the Secretary shall use such sums as may be necessary for the purpose of renewing expiring contracts for leasing, rental assistance, or operating costs for permanent housing.

''(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts for a 1-year term for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the date of enactment of the Community Partnership to End Homelessness Act of 2007). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

''(1) there is a demonstrated need for the project; and

''(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

''SEC. 430. MATCHING FUNDING.

''(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area.

''(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

''(c) COUNTABLE ACTIVITIES.— The contributions required under subsection (a) may consist of—

''(1) funding for any eligible activity described under section 423; and

''(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.''.

SEC. 7. RURAL HOUSING STABILITY ASSISTANCE.

Subtitle D of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.), as redesignated by section 9, is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle D—Rural Housing Stability Assistance Program''; and

(2) in section 491—

(A) by striking the section heading and inserting ''rural housing stability grant program.'';

(B) in subsection (a)—

(i) by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program'';

(ii) by inserting ''in lieu of grants under subtitle C and title X'' after ''eligible organizations''; and

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

''(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

''(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

''(3) improving the ability of the lowest-income residents of the community to afford stable housing.'';

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families;

''(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families;

''(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families, or providing supportive services to homeless individuals and families;

''(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families, such rental assistance may include tenant-based or project-based rental assistance;

''(H) payment of operating costs for housing units assisted under this title;'';

(D) in subsection (b)(2), by striking ''appropriated'' and inserting ''transferred'';

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking ''appropriated'' and inserting ''transferred''; and

(ii) in paragraph (3), by striking ''appropriated'' and inserting ''transferred'';

(F) in subsection (d)—

(i) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking ''an agreement'' and all that follows through ''families'' and inserting the following: ''a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization''; and

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

''(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

''(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.'';

(G) by striking subsections (f) and (g) and inserting the following:

''(f) MATCHING FUNDING.—

''(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions that shall be made available in an amount equal to not less than 25 percent of the funds provided for the project or activity.

''(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

''(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

''(A) funding for any eligible activity described under subsection (b); and

''(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

''(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

''(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

''(2) the degree to which the project addresses the most harmful housing situations present in the community;

''(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

''(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

''(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

''(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

''(7) any other relevant criteria as determined by the Secretary.'';

(H) in subsection (h)—

(i) in paragraph (1)(A), by striking ''providing housing and other assistance to homeless persons'' and inserting ''meeting the goals described in subsection (a)'';

(ii) in paragraph (1)(B), by inserting ''in the worst housing situations'' after ''homelessness''; and

(iii) in paragraph (2), by inserting ''in the worst housing situations'' after ''homelessness'';

(I) in subsection (k)(1), by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program'';

(J) in subsection (l)—

(i) by striking the subsection heading and inserting ''PROGRAM FUNDING.—''; and

(ii) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under both section 427(b)(2) and section 1003(h) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and the grant program under section 1002 and consolidate such transferred amounts for grants under this section.''; and

(K) by adding at the end the following:

''(m) DIVISION OF FUNDS.—

''(1) AGREEMENT AMONG GEOGRAPHIC AREAS.—If the Secretary receives an application or applications to provide services in a geographic area under this subtitle, and also under subtitle C and title X, the Secretary shall consult with all applicants from the geographic area to determine whether all agree to proceed under either this subtitle or under subtitle C and title X.

''(2) DEFAULT IF NO AGREEMENT.—If no agreement is reached under paragraph (1), the Secretary shall proceed under this subtitle, or under subtitle C and title X, depending on which results in the largest total grant funding to the geographic area.''.

SEC. 8. FUNDS TO PREVENT HOMELESSNESS AND STABILIZE HOUSING FOR PRECARIOUSLY HOUSED INDIVIDUALS AND FAMILIES.

The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) is amended by inserting after title IX the following:

''TITLE X—PREVENTING HOMELESSNESS AND STABILIZING HOUSING FOR PRECARIOUSLY HOUSED INDIVIDUALS AND FAMILIES

''SEC. 1001. PURPOSES.

''The purposes of this title are—

''(1) to assist local communities to stabilize the housing of individuals and families who are most at risk of homelessness; and

''(2) to improve the ability of publicly funded institutions to avoid homelessness among individuals and families leaving the institutions.

''SEC. 1002. COMMUNITY HOMELESSNESS PREVENTION AND HOUSING STABILITY.

''(a) PROJECTS.—The Secretary shall award grants to recipients, on a competitive basis using the selection criteria described in section 1006, to carry out eligible activities under this title, for projects that meet the program requirements established under section 1005.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a Notification of Funding Availability for grants awarded under this title for a fiscal year not later than 3 months after the date of enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for the fiscal year.

''(c) COLLABORATIVE APPLICANT.—

''(1) IN GENERAL.—A collaborative applicant, as such term is defined in section 401, shall for purposes of this title have the same responsibilities as set forth under section 402.

''(2) DUAL ROLE ENCOURAGED.—The Secretary shall encourage the same entity which serves as a collaborative applicant for purposes of subtitle C of title IV to serve as a collaborative applicant for purposes of this title.

''(d) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—A collaborative applicant shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary to determine if the applicant is in compliance with—

''(A) program requirements established under section 1005;

''(B) the selection criteria described in section 1006; and

''(C) the priorities for funding projects in the geographic area under this title.

''(2) COORDINATION WITH COMMUNITY HOMELESS ASSISTANCE PROGRAM.—The Secretary shall, to the maximum extent feasible, coordinate the application process under this section with the application processes for programs under subtitles B and C of title IV.

''(3) ANNOUNCEMENT OF AWARDS.—The Secretary shall announce, within 4 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this title that the Secretary determines is effective at preventing homelessness, and was included as part of a total application that met the criteria of subsection (d)(1), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''(f) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 1006.

''SEC. 1003. ELIGIBLE ACTIVITIES.

''The Secretary may award grants to qualified recipients under section 1002 to carry out homeless prevention projects that consist of 1 or more of the following eligible activities:

''(1) Leasing of property, or portions of property, not owned by the recipient involved, for use in providing short-term or medium-term housing to people at risk of homelessness, or providing supportive services to people at risk of homelessness.

''(2) Provision of rental assistance to provide short-term or medium-term housing to people at risk of homelessness. The rental assistance may include tenant-based or project-based rental assistance.

''(3) Payment of operating costs for housing units assisted under this title.

''(4) Supportive services for people at risk of homelessness.

''(5) Housing relocation or stabilization services, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at stabilizing individuals and families in their current housing or quickly moving them to other housing.

''(6) In the case of a collaborative applicant that is a legal entity payment of administrative costs related to meeting the requirements of section 1002(c), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle.

''(7) In the case of a collaborative applicant that is a unified funding agency, as such term is defined under section 402, payment of administrative costs related to meeting the requirements of serving as such an agency, for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this title.

''SEC. 1004. ELIGIBLE CLIENTS FOR FUNDED PROJECTS.

''(a) RULE OF CONSTRUCTION.—For purposes of this title, 'individuals and families at risk of homelessness' means individuals and families who meet all of the following criteria:

''(1) Have incomes below 20 percent of the median for the geographic area, adjusted for household size.

''(2) Have moved frequently due to economic reasons, are living in the home of another due to economic hardship, have been notified that their right to occupy their current housing or living situation will be terminated, live in severely overcrowded housing, or otherwise live in housing that has characteristics associated with instability and increased risk of homelessness as determined by the Secretary.

''(3) Have insufficient resources immediately available to attain housing stability.

''(b) WAIVER AUTHORITY.—The Secretary my waive any of the criteria described in subsection (a) in a geographic area upon a finding that all individuals and families who meet such criteria in the geographic area will be served under this title, and that individuals and families in the geographic area who do not meet the criteria described in subsection (a) remain at risk of homelessness.

''SEC. 1005. PROGRAM REQUIREMENTS.

''The program requirements set forth under section 426 shall apply to projects funded under this title.

''SEC. 1006. SELECTION CRITERIA.

''(a) IN GENERAL.—The Secretary shall award funds to recipients by a national competition based on criteria established by the Secretary.

''(b) REQUIRED CRITERIA.—The criteria established under subsection (a) shall include—

''(1) the previous performance of the recipient regarding stabilizing housing and preventing homelessness, measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individuals and families at risk of homelessness;

''(2) the plan of the recipient, which shall describe—

''(A) how the number of individuals and families who become homeless will be reduced in the community; and

''(B) how the length of time that individuals and families remain homeless will be reduced;

''(3) all of the criteria established under section 427(b)(1)(B)(iii);

''(4) the methodology used by the recipient to determine the priority for funding local projects under section 1002(d)(1), including use of the same methodology used in section 427(b)(1)(C);

''(5) the degree to which services are to be provided by the recipient to those individuals and families most at risk of homelessness; and

''(6) all of the criteria established under—

''(A) subparagraphs (D) through (J) of subsection (b)(1) of section 427; and

''(B) subsection (b)(2) of section 427.

''SEC. 1007. ELIGIBLE GRANT RECIPIENTS.

''The Secretary may make grants under this title to States, local governments, or nonprofit corporations.

''SEC. 1008. MATCHING REQUIREMENT.

''(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this title shall specify contributions that shall be made available in that geographic area, in an amount equal to not less than 25 percent of the Federal funds provided under the grant, except that when services are provided to individuals and families who are or were within the past 2 years residents of institutions or systems of care funded, in whole or in part, by State or local government, including prison, jail, child welfare, and hospitals (including mental hospitals), for periods exceeding 2 years, then the collaborative applicant shall specify contributions that shall be made available in an amount equal to not less than 60 percent of the Federal funds provided under the grant.

''(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a recipient of a grant under this title by an entity other than the recipient may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the recipient and the other entity that such services will be provided.

''(c) COUNTABLE ACTIVITIES.— The contributions required under subsection (a) may consist of—

''(1) funding for any eligible activity described under section 423 or section 1003; and

''(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423 or section 1003.

''SEC. 1009. REGULATIONS.

''The Secretary shall promulgate regulations to carry out this title.

''SEC. 1010. REPORT TO CONGRESS.

''Not later than 1 year after the date of enactment of the Community Partnership to End Homelessness Act of 2007, the Secretary shall report to Congress on the accomplishments of the program in this title.

''SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $250,000,000 for fiscal year 2008, and such sums as may be necessary for fiscal years 2009, 2010, 2011, and 2012.''.

SEC. 9. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are repealed.

(b) CONFORMING AMENDMENT.—Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended by redesignating subtitle G as subtitle D.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of enactment of this Act.

By Mr. CARDIN (for himself and Mr. SPECTER):

S. 1519. A bill to amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals; to the Committee on Finance.

Mr. CARDIN. Mr. President, today I rise to introduce the Voluntary Medicare Quality Reporting Act of 2007. I thank my good friend, the gentleman from Pennsylvania, Mr. SPECTER, for joining me in this effort. This is an important bill for tens of millions of Medicare beneficiaries, for the physicians, nurse practitioners and allied health professionals who treat them, and for the future of the Medicare program.

At the end of this year, providers will again face the prospect of an across-the-board cut in their Medicare reimbursements. The scheduled cut for 2008 is the largest ever, 9.9 percent. These cuts are the result of a flawed reimbursement system created in 1997 that uses the Sustainable Growth Rate formula, or SGR, to determine an acceptable increase in the growth of provider expenditures.

Medicare reimbursements increase when the previous year's payments do not exceed a target level that is based on the growth of our economy. However, when the previous year's payments exceed that target level, reimbursements are cut. According to MedPAC, the SGR formula would reduce Medicare provider reimbursements by 40 percent over the next eight years if Congress does not act. MedPAC is also concerned that over the next several years these reductions ''would threaten beneficiary access to physician services over time, particularly those provided by primary care physicians.'' MedPAC recognizes the importance of provider participation in the Medicare program, particularly in our rural and underserved urban areas where the decision to not accept new Medicare patients can make all the difference in seniors' access to medical care.

Congress recognizes this as well, and so we have intervened to prevent scheduled cuts resulting from SGR from taking effect. For all except the newest members of this body, this process of enacting a ''physician fix'' is a familiar scenario. For the past four years, Congress has acted to prevent these cuts to providers, usually through a last-minute provision added to a must-pass bill.

In the 109th Congress, I introduced bipartisan legislation implementing MedPAC's recommendations and calling for Congress to repeal the SGR formula and update provider reimbursements by the cost of care. Replacing SGR will require a thoughtful and protracted process involving the input of lawmakers and the provider community, and it is costly, but it is something that we must do.

The most recent ''fix'' was made to the 2006 Tax Relief and Health Care Act, Public Law 109–432. That law froze payment rates, staving off an across-the-board cut of 5.1 percent. Congress also added a quality reporting system called the Physician Quality Reporting Initiative program PQRI, which made providers eligible for a bonus payment of 1.5 percent of their total allowed Medicare charges if they report to HHS on certain quality measures starting in July 2007.

This new system is also known as ''pay-for-reporting,'' and it is based on the concept that physicians should receive an increase in Medicare reimbursement only once they have participated in extensive quality reporting. Across my State, I have heard serious concerns that this will lead to a mandatory reporting system in the near future, and that we will soon see an untested ''pay-for-performance'' system in place.

Now, I think all my colleagues would agree that our seniors deserve the highest quality care. But in our quest for improved quality, we must answer two questions here: should we proceed with an untested system of reporting requirements just for the sake of reporting, and will we actually achieve better care for our seniors via the PQRI.

I am very concerned about implementing reporting requirements that have not been tested. I believe that we must have the right process in place for defining a quality reporting system for services provided to Medicare beneficiaries by health care professionals. We should not be establishing reporting requirements for health professionals just for the sake of reporting, and we should not be moving forward with this system until we have adequate time to evaluate each stage of its development.

Current law does not provide sufficient time to assess the appropriateness and effectiveness of this new system. Nor do they take into account the fact that most physicians and other health professionals have no experience in quality reporting and do not have in place the necessary health information technology and administrative infrastructures to participate in a reporting system.

The bill I am introducing today will assure that health professionals will be at the center of the process for defining areas where quality measures are needed, as well as for defining the relevant measures themselves. Why is this important? Health professionals must be actively engaged in developing and implementing an effective reporting system because they are on the front lines of health care delivery, and they best understand the nexus between care delivery and quality measurement. The development process for quality measures must be transparent and consistent for all health professionals because they are the ones who will determine its successful implementation.

Additionally, quality measures should be tested across a variety of specialties and practice settings before they are included in a reporting system because measures must be clinically valid to be relevant for defining quality, and because physicians and health professionals practice in a variety of settings, for example: small vs. large practices, urban vs. suburban vs. rural locations, office-based vs. hospital-base practices.

Most importantly, we should not be using hastily devised quality measures to justify reimbursement cuts. There are some who advocate pay-for-performance as a way to slow the growth of physician spending. They think we can accomplish lower physician expenditures by setting arbitrary standards and then cutting payments to physicians who fail to meet them. But across America, there are practices that would face tremendous obstacles in meeting such standards: they lack of the information technology necessary to document and report standards in a timely manner; they see patients with economic and language barriers that will result in higher noncompliance rates; they treat a patient population for whom ethnic and racial differences require different clinical interventions than for other patients. Ignoring these considerations will not only fail to dramatically improve quality, it will significantly penalize providers who treat traditionally underserved populations.

This bill provides an opportunity to thoughtfully and carefully develop effective quality measures that reflect differences in practice patterns, to share our findings, and to determine and encourage the most cost-effective methods of providing the highest quality care.

Rather than moving forward precipitously in 2008 with a permanent Medicare quality reporting system after a transitional 6-month period this year, as current law requires, our bill, the Voluntary Medicare Quality Reporting Act of 2007, instead would establish a more realistic timeline for quality measure reporting by health professionals. It does so by:

Requiring the Secretary first to evaluate the 6-month transitional reporting system and reporting findings to the Congress by June 1, 2008;

Requiring the Secretary to undertake demonstrations for defining appropriate mechanisms whereby health professionals may provide data on quality measures to the Secretary through an appropriate medical registry;

Allowing physicians and other eligible professionals to continue reporting to the Secretary quality measures developed for 2007, in order for the Secretary to refine systems for reporting quality measures;

After completion of the evaluation, phasing in a permanent Voluntary Medicare Quality Reporting Program, with implementation beginning January 1, 2010, based on a consistent set of rules that define an orderly and transparent process of quality measure development;

Requiring that the Physician Consortium for Performance Improvement of the American Medical Association be the beginning point for the designation of clinical areas where quality measures are needed;

Having the Consortium, in collaboration with physician specialty organizations and other eligible professional organizations, develop and propose quality measures to a consensus organization such as the National Quality Forum for endorsement; and

Prohibiting the Secretary from using any measures that have not been recommended by the Consortium and endorsed by the consensus organization.

I am confident that with all of these measures we will achieve a successful and effective quality reporting system that will truly make a difference in the quality of care that our Medicare beneficiaries receive. At the end of this year, as Congress moves forward to address the physician reimbursement issue, I urge my colleagues to support this rational approach to promoting quality and guaranteeing access to care.

By Mr. FEINGOLD (for himself and Mr. SPECTER):

S. 1521. A bill to provide information, resources, recommendations, and funding to help State and local law enforcement enact crime prevention and intervention strategies supported by rigorous evidence; to the Committee on the Judiciary.

Mr. FEINGOLD: Mr. President, today I will introduce the PRECAUTION Act the Prevention Resources for Eliminating Criminal Activity Using Tailored Interventions in Our Neighborhoods Act. It is a long name, but it stands for an important principle that it is better to invest in precautionary measures now than it is to pay the costs of crime both in dollars and lives later on. I am very pleased that the Senator from Pennsyivania, Mr. SPECTER, will join me as a cosponsor of this legislation.

As the Memorial Day weekend approaches, there is a particular urgency for this bill. Last year, Milwaukee suffered a devastating surge of violence over that holiday weekend. Just to take one example, a gunmand opened fire on a crowd of picnickers that included, according to news reports, almost 50 children. By the end of the weekend, nearly 30 people were wounded in shootings around the city, many

of them fatal. Instead of spending their Memorial Day weekend remembering those who gave their lives in defense of this country, Milwaukee residents found themselves mourning the victims of a war-zone rising up in their own neighborhoods.

Violence has continued to dominate the news in Milwaukee ever since. Brandon Sprewer, a Special Olympian, was waiting at a bus stop when he was shot and killed for his wallet. Wisconsin Department of Justice officer Jay Balchunas was shot and killed for no apparent reason, the victim of a random robbery that turned violent. Shaina Mersman was shot and killed at noon in the middle of a busy shopping area. She was 8 months pregnant, and she died in the middle of the street. And just this very month, 4-year-old Jasmine Owens was shot and killed by a drive-by shooter. She had been skipping rope in her front yard. These are but a few of the senseless deaths in a list of names that is far too long.

According to a report released by the Police Executive Research Forum, Milwaukee's homicide rates have increased by 17 percent, robbery rates by 39 percent, and aggravated assault by 85 percent in the past 2 years. While Milwaukee has been one of those cities hardest hit, cities across America are struggling with rising crime rates. In fact, the 2005 FBI Uniform Crime Report showed a startling increase in violent crime, reporting the largest single year percent increase in violent crime in 14 years. The FBI has also reported that crime increased another 3.7 percent in the first half of 2006 when compared with the same time frame in 2005.

These statistics are shocking, and they show that this is not a localized problem. Yet David Kennedy, director of the Center for Crime Prevention and Control at the John Jay College of Criminal Justice, reported in an August 2006 Washington Post article that, ''State and local officials feel abandoned by the Federal Government. The Federal Government must return to its role as a real partner in conquering crime by providing funding and crafting effective approaches to key problems.'' Something must be done at the Federal level to stem the tide of violence threatening our Nation. Put very simply, we, as representatives of our constituents, have an obligation to act.

At the same time, we have an obligation to act responsibly. The Federal government must work in concert with state and local law enforcement, with the non profit criminal justice community, and with other branches of State and Federal government. While we have an obligation to provide leadership and support, we do not have the right to unilaterally take control from the state and local officials on the ground. We must also act wisely, investing our resources in crime-fighting measures that we are confident will work and whose effectiveness has been demonstrated. Sometimes, small and careful advances are the ones that yield the most benefit.

The PRECAUTION Act is based on the premise that the cornerstones of Federal participation in crime fighting are threefold. First, the Federal Government should develop and disseminate knowledge to State and local officials regarding the newest and most effective law enforcement techniques and strategies. Second, the Federal Government should provide financial support for innovations that our State and local partners cannot afford to fund on their own. With that funding, we also should provide the guidance, training, and technical assistance to implement those innovations. Third, the Federal Government needs to create and maintain effective partnerships among agencies at all levels of government, partnerships that are crafted to address specific law enforcement challenges. And in its implementation, the PRECAUTION Act fulfills all three of these principles.

The PRECAUTION Act creates a national commission to wade through the sea of information on crime prevention and intervention strategies currently available and identify those programs that are most ready for replication around the country. Over taxed law enforcement officials need a simple, accessible resource to turn to that recommends a few, top-tier crime prevention and intervention programs. They need a resource that will single out those existing programs that are truly ''evidence-based,'' programs that are proven by scientifically reliable evidence to be effective. And the commission created by the PRECAUTION Act will provide just such a report, one written in plain language and focused on pragmatic implementation issues, approximately a year and a half after the bill is enacted.

In the course of holding hearings and writing this first report, the commission will also identify some types of prevention and intervention strategies that are promising but need further research and development before they are ready for further implementation.

The National Institute of Justice then will administer a grant program that will fund pilot projects in these identified areas. The commission will follow closely the progress of these pilot projects, and at the end of the three years of the grant program, the commission will publish a second report, providing a detailed discussion of each pilot project and its effectiveness. This second report will include detailed implementation information will discuss frankly both the successes and failures that arose over the course of the 3 years of the grant program.

The PRECAUTION Act answers a call put out by police chiefs and mayors from more than 50 cities around the country during a national conference hosted by the Police Executive Research Forum. According to a report on the event from the Forum, these law enforcement leaders agreed that while there is a desperate need to focus on violent crime in the law enforcement community, ''other municipal agencies and social services organizations, including schools, mental health, public health, courts, corrections, and conflict management groups need to be brought together to partner toward the common goal of reducing violent crime.'' In the hearings held by the commission, these voices will all be heard. In the reports filed by the commission, these perspectives will be acknowledged. And in the pilot projects administered by the National Institute of Justice, these partnerships will be developed and fostered.

The PRECAUTION Act, though modest in scope, is an important supplement to the essential financial support the Federal Government provides to our state and local law enforcement partners through programs such as the Byrne Justice Assistance grants and the COPS grants. When State and local law enforcement receive Federal support for policing, they have difficult decisions to make on how to spend those Federal dollars. We all know that prevention and intervention are integral components of any comprehensive law enforcement plan. The PRECAUTION Act not only highlights the importance of these components, but will also help to single out some of the best, most effective forms of prevention and intervention programs available. At the same time, it will help to develop additional, cutting-edge strategies that are supported by solid scientific evidence of their effectiveness. I am pleased that the bill has been endorsed by the National Sheriffs' Association, the Council for Excellence in Government, the American Society of Criminology, and the Consortium of Social Science Associations.

It is my sincere hope that Milwaukee is able to enjoy a peaceful Memorial Day weekend this year, but I will not rest on hopes alone. As Ted Kamatchus, President of the National Sheriffs' Association, testified in a hearing before the Senate Judiciary Committee, Subcommittee on Crime and Drugs, this week, ''we need a coordinated national attack on crime, recognizing that there is no single 'silver bullet' solution. Political rhetoric must not prevail over action.'' I urge my colleagues to listen to this advice and to join Senator SPECTER and me in working to get this important piece of legislation passed.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1521

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 ''Prevention Resources for Eliminating Criminal Activity Using Tailored Interventions in Our Neighborhoods Act of 2007'' or the ''PRECAUTION Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) establish a commitment on the part of the Federal Government to provide leadership on successful crime prevention and intervention strategies;

(2) further the integration of crime prevention and intervention strategies into traditional law enforcement practices of State and local law enforcement offices around the country;

(3) develop a plain-language, implementation-focused assessment of those current crime and delinquency prevention and intervention strategies that are supported by rigorous evidence;

(4) provide additional resources to the National Institute of Justice to administer research and development grants for promising crime prevention and intervention strategies;

(5) develop recommendations for Federal priorities for crime and delinquency prevention and intervention research, development, and funding that may augment important Federal grant programs, including the Edward Byrne Memorial Justice Assistance Grant Program under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.), grant programs administered by the Office of Community Oriented Policing Services of the Department of Justice, grant programs administered by the Office of Safe and Drug-Free Schools of the Department of Education, and other similar programs; and

(6) reduce the costs that rising violent crime imposes on interstate commerce.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) COMMISSION.—The term ''Commission'' means the National Commission on Public Safety Through Crime Prevention established under section 4(a).

(2) RIGOROUS EVIDENCE.—The term ''rigorous evidence'' means evidence generated by scientifically valid forms of outcome evaluation, particularly randomized trials (where practicable).

(3) SUBCATEGORY.—The term ''subcategory'' means 1 of the following categories:

(A) Family and community settings (including public health-based strategies).

(B) Law enforcement settings (including probation-based strategies).

(C) School settings (including antigang and general antiviolence strategies).

(4) TOP-TIER.—The term ''top-tier'' means any strategy supported by rigorous evidence of the sizable, sustained benefits to participants in the strategy or to society.

SEC. 4. NATIONAL COMMISSION ON PUBLIC SAFETY THROUGH CRIME PREVENTION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on Public Safety Through Crime Prevention.

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President, 1 of whom shall be the Assistant Attorney General for the Office of Justice Programs or a representative of such Assistant Attorney General;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

(D) 2 shall be appointed by the majority leader of the Senate, unless the majority leader is of the same party as the President, in which case 1 shall be appointed by the majority leader of the Senate and 1 shall be appointed by the minority leader of the Senate; and

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) PERSONS ELIGIBLE.—

(A) IN GENERAL.—Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(B) REQUIRED REPRESENTATIVES.—At least—

(i) 2 members of the Commission shall be respected social scientists with experience implementing or interpreting rigorous, outcome-based trials; and

(ii) 2 members of the Commission shall be law enforcement practitioners.

(3) CONSULTATION REQUIRED.—The President, the Speaker of the House of Representatives, the minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult prior to the appointment of the members of the Commission to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) TERM.—Each member shall be appointed for the life of the Commission.

(5) TIME FOR INITIAL APPOINTMENTS.—The appointment of the members shall be made not later than 60 days after the date of enactment of this Act.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(7) EX OFFICIO MEMBERS.—The Director of the National Institute of Justice, the Director of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Community Capacity Development Office, the Director of the Bureau of Justice Statistics, the Director of the Bureau of Justice Assistance, and the Director of Community Oriented Policing Services (or a representative of each such director) shall each serve in an ex officio capacity on the Commission to provide advice and information to the Commission.

(c) OPERATION.—

(1) CHAIRPERSON.—At the initial meeting of the Commission, the members of the Commission shall elect a chairperson from among its voting members, by a vote of ⅔ of the members of the Commission. The chairperson shall retain this position for the life of the Commission. If the chairperson leaves the Commission, a new chairperson shall be selected, by a vote of ⅔ of the members of the Commission.

(2) MEETINGS.—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the date on which all the members of the Commission have been appointed.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business, and the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(4) RULES.—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this Act or other applicable law.

(d) PUBLIC HEARINGS.—

(1) IN GENERAL.—The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under this section.

(2) FOCUS OF HEARINGS.—The Commission shall hold at least 3 separate public hearings, each of which shall focus on 1 of the subcategories.

(3) WITNESS EXPENSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(e) COMPREHENSIVE STUDY OF EVIDENCE-BASED CRIME PREVENTION AND INTERVENTION STRATEGIES.—

(1) IN GENERAL.—The Commission shall carry out a comprehensive study of the effectiveness of crime and delinquency prevention and intervention strategies, organized around the 3 subcategories.

(2) MATTERS INCLUDED.—The study under paragraph (1) shall include—

(A) a review of research on the general effectiveness of incorporating crime prevention and intervention strategies into an overall law enforcement plan;

(B) an evaluation of how to more effectively communicate the wealth of social science research to practitioners;

(C) a review of evidence regarding the effectiveness of specific crime prevention and intervention strategies, focusing on those strategies supported by rigorous evidence;

(D) an identification of—

(i) promising areas for further research and development; and

(ii) other areas representing gaps in the body of knowledge that would benefit from additional research and development;

(E) an assessment of the best practices for implementing prevention and intervention strategies;

(F) an assessment of the best practices for gathering rigorous evidence regarding the implementation of intervention and prevention strategies; and

(G) an assessment of those top-tier strategies best suited for duplication efforts in a range of settings across the country.

(3) INITIAL REPORT ON TOP-TIER CRIME PREVENTION AND INTERVENTION STRATEGIES.—

(A) DISTRIBUTION.—Not later than 18 months after the date on which all members of the Commission have been appointed, the Commission shall submit a public report on the study carried out under this subsection to—

(i) the President;

(ii) Congress;

(iii) the Attorney General;

(iv) the chief federal public defender of each district;

(v) the chief executive of each State;

(vi) the Director of the Administrative Office of the Courts of each State.

(vii) the Director of the Administrative Office of the United States Courts; and

(viii) the attorney general of each State.

(B) CONTENTS.—The report under subparagraph (A) shall include—

(i) the findings and conclusions of the Commission;

(ii) a summary of the top-tier strategies, including—

(I) a review of the rigorous evidence supporting the designation of each strategy as top-tier;

(II) a brief outline of the keys to successful implementation for each strategy; and

(III) a list of references and other information on where further information on each strategy can be found;

(iii) recommended protocols for implementing crime and delinquency prevention and intervention strategies generally;

(iv) recommended protocols for evaluating the effectiveness of crime and delinquency prevention and intervention strategies; and

(v) a summary of the materials relied upon by the Commission in preparation of the report.

(C) CONSULTATION WITH OUTSIDE AUTHORITIES.—In developing the recommended protocols for implementation and rigorous evaluation of top-tier crime and delinquency prevention and intervention strategies under this paragraph, the Commission shall consult with the Committee on Law and Justice at the National Academy of Science and with national associations representing the law enforcement and social science professions, including the National Sheriffs' Association, the Police Executive Research Forum, the International Association of Chiefs of Police, the Consortium of Social Science Associations, and the American Society of Criminology.

(f) RECOMMENDATIONS REGARDING DISSEMINATION OF THE INNOVATIVE CRIME PREVENTION AND INTERVENTION STRATEGY GRANTS.—

(1) SUBMISSION.—

(A) IN GENERAL.—Not later than 30 days after the date of the final hearing under subsection (d) relating to a subcategory, the Commission shall provide the Director of the National Institute of Justice with recommendations on qualifying considerations relating to that subcategory for selecting grant recipients under section 5.

(B) DEADLINE.—Not later than 13 months after the date on which all members of the Commission have been appointed, the Commission shall provide all recommendations required under this subsection.

(2) MATTERS INCLUDED.—The recommendations provided under paragraph (1) shall include recommendations relating to—

(A) the types of strategies for the applicable subcategory that would best benefit from additional research and development;

(B) any geographic or demographic targets;

(C) the types of partnerships with other public or private entities that might be pertinent and prioritized; and

(D) any classes of crime and delinquency prevention and intervention strategies that should not be given priority because of a preexisting base of knowledge that would benefit less from additional research and development.

(g) FINAL REPORT ON THE RESULTS OF THE INNOVATIVE CRIME PREVENTION AND INTERVENTION STRATEGY GRANTS.—

(1) IN GENERAL.—Following the close of the 3-year implementation period for each grant recipient under section 5, the Commission shall collect the results of the study of the effectiveness of that grant under section 5(b)(3) and shall submit a public report to the President, the Attorney General, Congress, the chief executive of each State, and the attorney general of each State describing each strategy funded under section 5 and its results. This report shall be submitted not later than 5 years after the date of the selection of the chairperson of the Commission.

(2) COLLECTION OF INFORMATION AND EVIDENCE REGARDING GRANT RECIPIENTS.—The Commission's collection of information and evidence regarding each grant recipient under section 5 shall be carried out by—

(A) ongoing communications with the grant administrator at the National Institute of Justice;

(B) visits by representatives of the Commission (including at least 1 member of the Commission) to the site where the grant recipient is carrying out the strategy with a grant under section 5, at least once in the second and once in the third year of that grant;

(C) a review of the data generated by the study monitoring the effectiveness of the strategy; and

(D) other means as necessary.

(3) MATTERS INCLUDED.—The report submitted under paragraph (1) shall include a review of each strategy carried out with a grant under section 5, detailing—

(A) the type of crime or delinquency prevention or intervention strategy;

(B) where the activities under the strategy were carried out, including geographic and demographic targets;

(C) any partnerships with public or private entities through the course of the grant period;

(D) the type and design of the effectiveness study conducted under section 5(b)(3) for that strategy;

(E) the results of the effectiveness study conducted under section 5(b)(3) for that strategy;

(F) lessons learned regarding implementation of that strategy or of the effectiveness study conducted under section 5(b)(3), including recommendations regarding which types of environments might best be suited for successful replication; and

(G) recommendations regarding the need for further research and development of the strategy.

(h) PERSONNEL MATTERS.—

(1) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(2) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation.

(3) STAFF.—

(A) IN GENERAL.—The chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF FEDERAL EMPLOYEES.—With the affirmative vote of ⅔ of the members of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(i) CONTRACTS FOR RESEARCH.—

(1) NATIONAL INSTITUTE OF JUSTICE.—With a ⅔ affirmative vote of the members of the Commission, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this Act. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

(2) OTHER ORGANIZATIONS.—Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this section.

(k) TERMINATION.—The Commission shall terminate on the date that is 30 days after the date on which the Commission submits the last report required by this section.

(l) EXEMPTION.—The Commission shall be exempt from the Federal Advisory Committee Act.

SEC. 5. INNOVATIVE CRIME PREVENTION AND INTERVENTION STRATEGY GRANTS.

(a) GRANTS AUTHORIZED.—The Director of the National Institute of Justice may make grants to public and private entities to fund the implementation and evaluation of innovative crime or delinquency prevention or intervention strategies. The purpose of grants under this section shall be to provide funds for all expenses related to the implementation of such a strategy and to conduct a rigorous study on the effectiveness of that strategy.

(b) GRANT DISTRIBUTION.—

(1) PERIOD.—A grant under this section shall be made for a period of not more than 3 years.

(2) AMOUNT.—The amount of each grant under this section—

(A) shall be sufficient to ensure that rigorous evaluations may be performed; and

(B) shall not exceed $2,000,000.

(3) EVALUATION SET-ASIDE.—

(A) IN GENERAL.—A grantee shall use not less than $300,000 and not more than $700,000 of the funds from a grant under this section for a rigorous study of the effectiveness of the strategy during the 3-year period of the grant for that strategy.

(B) METHODOLOGY OF STUDY.—

(i) IN GENERAL.—Each study conducted under subparagraph (A) shall use an evaluator and a study design approved by the employee of the National Institute of Justice hired or assigned under subsection (c).

(ii) CRITERIA.—The employee of the National Institute of Justice hired or assigned under subsection (c) shall approve—

(I) an evaluator that has successfully carried out multiple studies producing rigorous evidence of effectiveness; and

(II) a proposed study design that is likely to produce rigorous evidence of the effectiveness of the strategy.

(iii) APPROVAL.—Before a grant is awarded under this section, the evaluator and study design of a grantee shall be approved by the employee of the National Institute of Justice hired or assigned under subsection (c).

(4) DATE OF AWARD.—Not later than 6 months after the date of receiving recommendations relating to a subcategory from the Commission under section 4(f), the Director of the National Institute of Justice shall award all grants under this section relating to that subcategory.

(5) TYPE OF GRANTS.—One-third of the grants made under this section shall be made in each subcategory. In distributing grants, the recommendations of the Commission under section 4(f) shall be considered.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $18,000,000 to carry out this subsection.

(c) DEDICATED STAFF.—

(1) IN GENERAL.—The Director of the National Institute of Justice shall hire or assign a full-time employee to oversee the grants under this section.

(2) STUDY OVERSIGHT.—The employee of the National Institute of Justice hired or assigned under paragraph (1) shall be responsible for ensuring that grantees adhere to the study design approved before the applicable grant was awarded.

(3) LIAISON.—The employee of the National Institute of Justice hired or assigned under paragraph (1) may be used as a liaison between the Commission and the recipients of a grant under this section. That employee shall be responsible for ensuring timely cooperation with Commission requests.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000 for each of fiscal years 2008 through 2012 to carry out this subsection.

(d) APPLICATIONS.—A public or private entity desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Director of the National Institute of Justice may reasonably require.

(e) COOPERATION WITH THE COMMISSION.—Grant recipients shall cooperate with the Commission in providing them with full information on the progress of the strategy being carried out with a grant under this section, including—

(1) hosting visits by the members of the Commission to the site where the activities under the strategy are being carried out;

(2) providing pertinent information on the logistics of establishing the strategy for which the grant under this section was received, including details on partnerships, selection of participants, and any efforts to publicize the strategy; and

(3) responding to any specific inquiries that may be made by the Commission.

SEC. 6. ELIMINATION OF THE RED PLANET CAPITAL VENTURE CAPITAL PROGRAM.

(a) REDUCTION OF NASA BUDGET.—Section 203 of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16632) is amended—

(1) in the matter preceding paragraph (1), by striking ''$18,686,300,000'' and inserting ''$18,680,300,000''; and

(2) in paragraph (2), by striking ''$10,903,900,000'' and inserting ''$10,897,900,000''.

(b) PROHIBITION.—The Administrator of the National Aeronautics and Space Administration may not carry out the Red Planet Capital Venture Capital Program established by the Administrator during the period of fiscal years 2008 through 2012.

By Mr. WYDEN (for himself, Mr. SMITH, Mr. CRAIG, Mrs. MURRAY, Ms. CANTWELL, Mr. BAUCUS, Mr. CRAPO, and Mr. TESTER):

S. 1522. A bill to amend the Bonneville Power Administration portions of the Fisheries Restoration and Irrigation Mitigation Act of 2000 to authorize appropriations for fiscal years 2008 through 2014, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I am pleased to be joined today by all Members of the Senate from the Northwest: Senator GORDON SMITH, Senator LARRY CRAIG, Senator PATTY MURRAY, Senator MARIA CANTWELL, Senator JON TESTER, Senator MAX BAUCUS and Senator MIKE CRAPO in introducing the Fisheries Restoration and Irrigation Mitigation Act of 2007, or FRIMA. Our legislation extends a homegrown, commonsense program that has a proven track record in helping restore Northwestern salmon runs. Dollar-for-dollar, the fish screening and fish passage facilities funded by our legislation are among the most cost-effective uses of public and private restoration dollars. These projects protect fish while producing significant benefits. That is why it is important that this program be reauthorized and funding be appropriated now.

Since 2001, when the original Fisheries Restoration and Irrigation Mitigation Act of 2000, FRIMA, was enacted, more than $9 million in Federal funds has leveraged nearly $20 million in private, local funding. This money has been used to protect, enhance and restore more than 550 rivers miles of important fish habitat and species throughout Oregon, Washington, Idaho and western Montana. For decades, State, tribal and Federal fishery agencies in the Pacific Northwest have identified the screening of irrigation and other water diversions, and improved fish passage, as critically important for the survival of salmon and other fish populations.

This program is very popular and has the support of a wide range of constituents, including community leaders, environmental organizations, and agricultural producers. Senator SMITH and I are proud of the successful collaborative projects that irrigators and members of the Oregon Water Resources Congress have completed while putting this program to work in our home State. Our program also has the support of Oregon Governor Ted Kulongoski, irrigators throughout the Northwestern States, Oregon Trout, American Rivers and the National Audubon Society.

FRIMA authorizes the Secretary of the Interior to establish a program to plan, design, and construct fish screens, fish passage devices, and related features. It also authorizes inventories to provide the information needed for planning and making decisions about the survival and propagation of all Northwestern fish species. The program is currently carried out by the U.S. Fish and Wildlife Service on behalf of the Interior Secretary.

FRIMA provides benefits by: keeping fish out of places where they should not be, such as in an irrigation system; easing upstream and downstream fish passage; improving the protection, survival, and restoration of native fish species; helping avoid new endangered species listings by protecting and enhancing the fish populations not yet listed; making progress toward the delisting of listed species; utilizing a positive, win/win, public-private partnership; and, assisting in achieving both sustainable agriculture and fisheries. Since FRIMA's enactment in 2001, 103 projects have been installed. This is a true partnership and fine example of how our fisheries and farmers can work together to protect fish species throughout the Northwest.

While he was Governor of Idaho, Interior Secretary Dirk Kempthorne said, ''. . . . the FRIMA program serves as an excellent example of government and private land owners working together to promote conservation. The screening of irrigation diversions plays a key role in Idaho's efforts to restore salmon populations while protecting rural economies.'' This is from ''Fisheries Restoration and Irrigation Mitigation Programs, fiscal year 2002–2004'', U.S. Fish & Wildlife Service, Washington, DC, July, 2005, page 13.

The bill that we are introducing today specifically extends the authorization for tbis program through 2014; gives priority to projects costing less than $2.5 million, a reduction in a targeted project's cost from $5,000,000 to $2,500,000; clarifies that any Bonneville Power Administration, BPA, funds provided either directly or through a grant to another entity shall be considered nonFederal matching funds, because BPA's funding comes from ratepayers; requires an inventory report describing funded projects and their benefits; and changes the administrative expenses formula used by the Fish & Wildlife Service and the States of Oregon, Washington, Montana and Idaho, so that administrative costs may be held to a minimum while projects in the field receive the majority of available funding.

Ultimately, it will take the combined efforts of all interests in our region to recover our salmon. State and local governments, local watershed councils, private landowners and the Federal Government need to continue working together. Initiatives such as the bill I am introducing today help to sustain the partnerships upon which successful salmon recovery will be based.

I look forward to working with my colleagues to see this legislation pass.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1522

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fisheries Restoration and Irrigation Mitigation Act of 2007''.

SEC. 2. PRIORITY PROJECTS.

Section 3(c)(3) of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended by striking ''$5,000,000'' and inserting ''$2,500,000''.

SEC. 3. COST SHARING.

Section 7(c) of Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended—

(1) by striking ''The value'' and inserting the following:

''(1) IN GENERAL.—The value''; and

(2) by adding at the end the following:

''(2) BONNEVILLE POWER ADMINISTRATION.—

''(A) IN GENERAL.—The Secretary may, without further appropriation and without fiscal year limitation, accept any amounts provided to the Secretary by the Administrator of the Bonneville Power Administration.

''(B) NON-FEDERAL SHARE.—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity for a project carried under the Program shall be credited toward the non-Federal share of the costs of the project.''.

SEC. 4. REPORT.

Section 9 of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended—

(1) by inserting ''any'' before ''amounts are made''; and

(2) by inserting after ''Secretary shall'' the following: '', after partnering with local governmental entities and the States in the Pacific Ocean drainage area,''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended—

(1) in subsection (a), by striking ''2001 through 2005'' and inserting ''2008 through 2014''; and

(2) in subsection (b), by striking paragraph (2) and inserting the following:

''(2) ADMINISTRATIVE EXPENSES.—

''(A) DEFINITION OF ADMINISTRATIVE EXPENSE.—In this paragraph, the term 'administrative expense' means, except as provided in subparagraph (B)(iii)(II), any expenditure relating to—

''(i) staffing and overhead, such as the rental of office space and the acquisition of office equipment; and

''(ii) the review, processing, and provision of applications for funding under the Program.

''(B) LIMITATION.—

''(i) IN GENERAL.—Not more than 6 percent of amounts made available to carry out this Act for each fiscal year may be used for Federal and State administrative expenses of carrying out this Act.

''(ii) FEDERAL AND STATE SHARES.—To the maximum extent practicable, of the amounts made available for administrative expenses under clause (i)—

''(I) 50 percent shall be provided to the State agencies provided assistance under the Program; and

''(II) an amount equal to the cost of 1 full-time equivalent Federal employee, as determined by the Secretary, shall be provided to the Federal agency carrying out the Program.

''(iii) STATE EXPENSES.—Amounts made available to States for administrative expenses under clause (i)—

''(I) shall be divided evenly among all States provided assistance under the Program; and

''(II) may be used by a State to provide technical assistance relating to the program, including any staffing expenditures (including staff travel expenses) associated with—

''(aa) arranging meetings to promote the Program to potential applicants;

''(bb) assisting applicants with the preparation of applications for funding under the Program; and

''(cc) visiting construction sites to provide technical assistance, if requested by the applicant.''.

By Mr. STEVENS (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mr. CARPER, Ms. MURKOWSKI, and Ms. LANDRIEU):

S. 1526. A bill to direct the Secretary of Energy to develop standards for general service lamps that will operate more efficiently and assist in reducing costs to consumers, business concerns, government entities, and other users, to require that general service lamps and related products manufactured or sold in interstate commerce after 2013 meet those standards, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. STEVENS. Mr. President, I join my colleagues Senator CARPER, SNOWE, LIEBERMAN, MURKOWSKI, and LANDRIEU in introducing two important domestic energy bills.

The Senate has an opportunity to save consumers $15 billion annually in energy costs, eliminate the need for hundreds of new power plants, prevent the release of tons of mercury into our environment annually, reduce greenhouse gas emissions by 3 trillion pounds, lead the world in the innovation of new technologies and increase domestic employment opportunities.

How? The good old fashion light bulb.

Thomas Edison was one of our Nation's greatest inventors. He holds nearly 1100 patents, including the light bulb. Over 125 years ago, he invented the conventional incandescent light bulb. While most of his other inventions have been significantly improved upon since then, Edison's incandescent light bulb is still the most widely used bulb today. Unfortunately, only 10 percent of the electricity that goes into this light bulb is actually used to produce light. The remaining 90 percent is often wasted as heat.

Just as another Edison invention, the phonograph, evolved into compact discs and mp3 technologies, today, American innovation has improved upon the light bulb. This innovation will continue. Light bulb manufacturers and our hard-working Americans have developed technologies that are capable of reducing the electricity use associated with conventional incandescent light bulbs from between 10 to over 50 percent. These bulbs are available today.

These technological and domestic manufacturing capabilities can save consumers billions of dollars a year in energy costs.

My colleagues and I are proud to introduce two bills that will ensure that we take advantage of these new technologies to save energy, save consumers on their electricity bills and promote American ingenuity.

The first is the Bright Idea Act of 2007. This bill will establish efficiency targets for light bulbs that will cut light bulb energy consumption by at least half in just 6 years and triple the efficiency of today's incandescent bulbs by 2018.

These efficiency standards are merely the beginning. The bill establishes a working group of light bulb manufacturers, labor unions, environmentalists and consumer groups to evaluate the state of bulb technologies and domestic manufacturing capabilities every 3 years. If the technology has advanced and our businesses are capable of higher standards, the Secretary of Energy may raise these targets.

The bill also authorizes a technology-neutral research and development program to help our domestic manufacturers, in partnership with our national laboratories and universities, advance new lighting technologies and directs the Secretary of Energy to educate consumers about the benefits of using newer light bulbs.

We recognize the concerns related to new light bulbs such as mercury release and labeling requirements. The bill requires the Secretary, together with the EPA, to provide recommendations to Congress on how to deal with these challenges.

The second component of this light bulb package that we are introducing today is a bill that will ensure that our Nation is capable of taking full advantage of America's lighting innovation through the creation of additional domestic employment opportunities. This bill provides a construction tax credit for the costs associated with the renovation and construction of domestic light bulb manufacturing facilities designed to produce the next generation of lighting technology.

I urge Senators to join my colleagues and me in saving consumers billions of dollars in electricity costs, reducing greenhouse gas emissions, tempering energy demand, eliminating the need for at least dozens of new power plants annually, preventing the release of tons of mercury into our environment each year and building upon our innovation by creating additional domestic employment opportunities for Americans by supporting the Bright Idea Act of 2007 and tax incentives for domestic lighting technologies. I ask consent that the text of the bill be printed in the RECORD.

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

S. 1526

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bright Idea Act of 2007''.

SEC. 2. TECHNICAL STANDARDS FOR GENERAL SERVICE LAMPS.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF STANDARDS.—As soon as practicable after the date of enactment of this Act, the Secretary of Energy shall initiate a project to establish technical standards for general service lamps.

(2) CONSULTATION WITH INTERESTED PARTIES.—In carrying out the project, the Secretary shall consult with representatives of environmental organizations, labor organizations, general service lamp manufacturers, consumer organizations, and other interested parties.

(3) MINIMUM INITIAL STANDARDS; DEADLINE.—The initial technical standards established shall be standards that enable those general service lamps to provide levels of illumination equivalent to the levels of illumination provided by general service lamps generally available in 2007, but with—

(A) a lumens per watt rating of not less than 30 by calendar year 2013; and

(B) a lumens per watt rating of not less than 45 by calendar year 2018.

(b) MANUFACTURE AND DISTRIBUTION IN INTERSTATE COMMERCE.—If the Secretary of Energy, after consultation with the interested parties described in subsection (a)(2), determines that general service lamps meeting the standards established under subsection (a) are generally available for purchase throughout the United States at costs that are substantially equivalent (taking into account useful life, lifecycle costs, domestic manufacturing capabilities, energy consumption, and such other factors as the Secretary deems appropriate) to the cost of the general service lamps they would replace, then the Secretary shall take such action as may be necessary to require that at least 95 percent of general service lamps sold, offered for sale, or otherwise made available in the United States meet the standards established under subsection (a), except for those general service lamps described in subsection (c).

(c) EXCEPTION.—The standards established by the Secretary under subsection (a) shall not apply to general service lamps used in applications in which compliance with those standards is not feasible, as determined by the Secretary.

(d) REVISED STANDARDS.—After the initial standards are established under subsection (a), the Secretary shall consult periodically with the interested parties described in subsection (a)(2) with respect to whether those standards should be changed. The Secretary may change the standards, and the dates and percentage of lamps to which the changed standards apply under subsection (b), if after such consultation the Secretary determines that such changes are appropriate.

(e) REPORT.—The Secretary shall submit reports periodically to the Senate Committee on Commerce, Science, and Technology, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Energy and Commerce with respect to the development and promulgation of standards for lamps and lamp-related technology, such as switches, dimmers, ballast, and non-general service lighting, that includes the Secretary's findings and recommendations with respect to such standards.

SEC. 3. RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary of Energy may carry out a lighting technology research and development program—

(1) to support the research, development, demonstration, and commercial application of lamps and related technologies sold, offered for sale, or otherwise made available in the United States; and

(2) to assist manufacturers of general service lamps in the manufacturing of general service lamps that, at a minimum, achieve the lumens per watt ratings described in section 2(a).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2008 through 2013.

(c) SUNSET.—The program under this section shall terminate on September 30, 2015.

SEC. 4. CONSUMER EDUCATION PROGRAM.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Commissioner of the Federal Trade Commission, shall carry out a comprehensive national program to educate consumers about the benefits of using light bulbs that have improved efficiency ratings.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2008 through 2014.

SEC. 5. REPORT ON MERCURY USE AND RELEASE.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report describing recommendations relating to the means by which the Federal Government may reduce or prevent the release of mercury during the manufacture, transportation, storage, or disposal of light bulbs.

SEC. 6. REPORT ON LAMP LABELING.

Not later than 1 year after the date of enactment of this Act, the Commissioner of the Federal Trade Commission, in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of Energy, shall submit to Congress a report describing current lamp labeling practices by lamp manufacturers and recommendations for a national labeling standard.

By Mr. HARKIN (for himself and Mr. LUGAR):

S. 1529. A bill to amend the Food Stamp Act of 1977 to end benefit erosion, support working families with child care expenses, encourage retirement and education savings, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, throughout my time in the United States Congress, I have worked with my colleagues to promote the economic security of low-income and working American families. In many respects, we have made significant progress, but in others, much work remains to be done. The last several years have been difficult ones for low-income Americans. Since 2000, the number of Americans living in poverty has increased by 5 million. At the same time, wages have stagnated for Americans in the bottom tenth of earners. It's no surprise that more and more Americans have turned to vital Federal food assistance such as the Food Stamp Program, which this year will serve 26 million Americans.

The Food Stamp Program is our Nation's first line of defense against hunger, providing modest but vital benefits to millions of American families, and also serving our country during times of extraordinary need. In fact, the Food Stamp Program played a crucial role in helping millions of Americans who were devastated by the Gulf Coast hurricanes of 2005.

Unfortunately, Congress has not taken action to modernize the program so that it addresses the current challenges that low-income Americans must face. It is time for Congress to make such needed program improvements. With the food stamp reauthorization pending as part of the upcoming farm bill, we have an opportunity and an obligation to invest in the Food Stamp Program and, in so doing, in the food security and health of our country's families.

Today I am joined by my good friend and colleague, Senator LUGAR from Indiana, in introducing the Food Stamp Fairness and Benefit Restoration Act of 2007. I thank the Senator from Indiana for his long-time efforts to fight hunger in America, and for joining me today to introduce this legislation.

The bill that we are introducing today contains several particular improvements.

First and foremost, the legislation would halt food stamp benefit erosion that is occurring as a result of draconian cuts enacted in the mid-90s. As a result of these cuts, food stamp benefits are eroding with every passing year and, as they do, the economic situations of families receiving food stamps grows ever more precarious.

Second, the bill would enable families to deduct fully the costs of child care for purposes of eligibility and benefit determination. Currently, program rules allow families to deduct just $175 per month of the cost of child care. Not only has this deduction not been adjusted to account for increases in the cost of child care, but it comes nowhere near covering the cost of child care, which nationwide averages almost $650 per month.

Third, the legislation would update archaic program rules regarding the resources that a family may have and still receive food stamps. In 1977, Congress established a program rule that said that a family may have $1,750 in available liquid assets and still receive food stamps. Had this asset limit been adjusted for inflation, today a family would be able to have nearly $6,000 in savings and still receive food stamps. Instead, we allow just $2,000. This makes no sense. Not only does it actively discourage families from saving for their future, it all but requires families that experience an economic shock such as a job loss or a medical emergency to spend down their savings to hit absolute rock bottom just to receive meager food benefits. It is time to adjust this asset limit and stop discouraging families from doing what we tell every other American that they must do—save. To that end, the bill also exempts tax-preferred retirement and educational savings accounts.

Fourth, this bill restores food stamp eligibility for legal immigrant households. This too is nothing but a basic restoration of a principle of fairness that existed prior to the mid-1990s. Unfortunately, Congress chose, unwisely in my opinion, to take away benefits from those legal immigrants who played by the rules and legally entered our country. Keep in mind these are families who work and are part of our society. I disagreed with the decision then and I disagree with it today. It is time to rectify this grave injustice and abide by the basic principle that those who enter the country legally and play by the same rules as the rest of us, should also be eligible for the same benefits for which they pay taxes. Our bill would do that.

Fifth, the legislation would set more humane eligibility standards for unemployed, childless adults. These individuals are among the poorest in our country and often have significant

mental health and substance abuse problems. They are, in short, among the people who need our help the most. But ironically, they are among those who we deny the most basic of food assistance. Currently, such adults can receive food stamps for only 3 months out of every 3 years. This legislation proposes a modestly more sympathetic standard of 6 months out of every 2-year period.

Finally, my bill would increase funding for commodity purchases for food banks and community food providers. U.S. Government donations to food banks have dropped dramatically in recent years, even as the number of Americans seeking help from community food providers has consistently increased.

I know that the budget is tight and that Congress must be prudent in decisions about how we allocate funding. But I also know that there is no function of the federal government as basic and as critical as ensuring that low-income Americans, families with children, elderly living on fixed incomes, and persons with disabilities, have enough food for their next meal. It is past time for Congress to act in this regard, and I hope that my colleagues on both sides of the aisle will join me and the Senator from Indiana to enact the Food Stamp Fairness and Benefit Restoration Act of 2007.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 214—CALLING UPON THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN TO IMMEDIATELY RELEASE DR. HALEH ESFANDIARI

Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. BIDEN, Mr. LIEBERMAN, Mr. SMITH, Mrs. CLINTON, Mr. DODD, Mr. BINGAMAN, and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 214

Whereas Dr. Haleh Esfandiari, Ph.D., holds dual citizenship in the United States and the Islamic Republic of Iran;

Whereas Dr. Esfandiari taught Persian language and literature for many years at Princeton University, where she inspired untold numbers of students to study the rich Persian language and culture;

Whereas Dr. Esfandiari is a resident of the State of Maryland and the Director of the Middle East Program at the Woodrow Wilson International Center for Scholars in Washington, D.C. (referred to in this preamble as the ''Wilson Center'');

Whereas, for the past decade, Dr. Esfandiari has traveled to Iran twice a year to visit her ailing 93-year-old mother;

Whereas, in December 2006, on her return to the airport during her last visit to Iran, Dr. Esfandiari was robbed by 3 masked, knife-wielding men, who stole her travel documents, luggage, and other effects;

Whereas, when Dr. Esfandiari attempted to obtain replacement travel documents in Iran, she was invited to an interview by a representative of the Ministry of Intelligence of Iran;

Whereas Dr. Esfandiari was interrogated by the Ministry of Intelligence for hours on many days;

Whereas the questioning of the Ministry of Intelligence focused on the Middle East Program at the Wilson Center;

Whereas Dr. Esfandiari answered all questions to the best of her ability, and the Wilson Center also provided extensive information to the Ministry in a good faith effort to aid Dr. Esfandiari;

Whereas the harassment of Dr. Esfandiari increased, with her being awakened while napping to find 3 strange men standing at her bedroom door, one wielding a video camera, and later being pressured to make false confessions against herself and to falsely implicate the Wilson Center in activities in which it had no part;

Whereas Lee Hamilton, former United States Representative and president of the Wilson Center, has written to the President of Iran to call his attention to Dr. Esfandiari's dire situation;

Whereas Mr. Hamilton repeated that the Wilson Center's mission is to provide forums to exchange views and opinions and not to take positions on issues, nor try to influence specific outcomes;

Whereas the lengthy interrogations of Dr. Esfandiari by the Ministry of Intelligence of Iran stopped on February 14, 2007, but she heard nothing for 10 weeks and was denied her passport;

Whereas, on May 8, 2007, Dr. Esfandiari honored a summons to appear at the Ministry of Intelligence, whereby she was taken immediately to Evin prison, where she is currently being held; and

Whereas the Ministry of Intelligence has implicated Dr. Esfandiari and the Wilson Center in advancing the alleged aim of the United States Government of supporting a ''soft revolution'' in Iran: Now, therefore, be it

Resolved, That—

(1) the Senate calls upon the Government of the Islamic Republic of Iran to immediately release Dr. Haleh Esfandiari, replace her lost travel documents, and cease its harassment tactics; and

(2) it is the sense of the Senate that—

(A) the United States Government, through all appropriate diplomatic means and channels, should encourage the Government of Iran to release Dr. Esfandiari and offer her an apology; and

(B) the United States should coordinate its response with its allies throughout the Middle East, other governments, and all appropriate international organizations.

SENATE RESOLUTION 215—DESIGNATING SEPTEMBER 25, 2007, AS ''NATIONAL FIRST RESPONDER APPRECIATION DAY''

Mr. ALLARD (for himself, Mr. MCCAIN, Mr. CASEY, Mr. COCHRAN, Mr. ENZI, Mr. STEVENS, Mr. GRAHAM, Mr. CHAMBLISS, Mr. CRAIG, and Mr. INHOFE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 215

Whereas millions of Americans have benefited from the courageous service of first responders across the Nation;

Whereas the police, fire, emergency medical service, and public health personnel (commonly known as ''first responders'') work devotedly and selflessly on behalf of the people of this Nation, regardless of the peril or hazard to themselves;

Whereas in emergency situations, first responders carry out the critical role of protecting and ensuring public safety;

Whereas the men and women who bravely serve as first responders have found themselves on the front lines of homeland defense in the war against terrorism;

Whereas first responders are called upon in the event of a natural disaster, such as the tornadoes in Florida and the blizzard in Colorado in December 2006, the wildfires in the West in 2007, and the flooding in the Northeast in April 2007;

Whereas the critical role of first responders was witnessed in the aftermath of the mass shooting at the Virginia Polytechnic Institute and State University, when the collaborative effort of police officers, firefighters, and emergency medical technicians to secure the campus, rescue students from danger, treat the injured, and transport victims to local hospitals undoubtedly saved the lives of many students and faculty;

Whereas 670,000 police officers, 1,100,000 firefighters, and 891,000 emergency medical technicians risk their lives every day to make our communities safe;

Whereas these 670,000 sworn police officers from Federal, State, tribal, city, and county law enforcement agencies protect lives and property, detect and prevent crimes, uphold the law, and ensure justice;

Whereas these 1,100,000 firefighters, both volunteer and career, provide fire suppression, emergency medical services, search and rescue, hazardous materials response, response to terrorism, and critical fire prevention and safety education;

Whereas the 891,000 emergency medical professionals in the United States respond to and treat a variety of life-threatening emergencies, from cardiac and respiratory arrest to traumatic injuries;

Whereas these 2,661,000 ''first responders'' make personal sacrifices to protect our communities, as was witnessed on September 11, 2001, and in the aftermath of Hurricane Katrina, and as is witnessed every day in cities and towns across America;

Whereas according to the National Law Enforcement Officers Memorial Fund, a total of 1,649 law enforcement officers died in the line of duty during the past 10 years, an average of 1 death every 53 hours or 165 per year, and 145 law enforcement officers were killed in 2006;

Whereas, according to the United States Fire Administration, from 1996 through 2005 over 1500 firefighters were killed in the line of duty, and tens of thousands were injured;

Whereas 4 in 5 medics are injured on the job, more than 1 in 2 (52 percent) have been assaulted by a patient and 1 in 2 (50 percent) have been exposed to an infectious disease, and emergency medical service personnel in the United States have an estimated fatality rate of 12.7 per 100,000 workers, more than twice the national average;

Whereas most emergency medical service personnel deaths in the line of duty occur in ambulance accidents;

Whereas thousands of first responders have made the ultimate sacrifice;

Whereas, in the aftermath of the terrorist attacks of September 11, 2001, America's firefighters, law enforcement officers, and emergency medical workers were universally recognized for the sacrifices they made on that tragic day, and should be honored each year as these tragic events are remembered;

Whereas there currently exists no national day to honor the brave men and women of the first responder community, who give so much of themselves for the sake of others; and

Whereas these men and women by their patriotic service and their dedicated efforts

have earned the gratitude of Congress: Now, therefore, be it

Resolved, That the Senate designates September 25, 2007, as ''National First Responder Appreciation Day'' to honor and celebrate the contributions and sacrifices made by all first responders in the United States.

Mr. ALLARD. Mr. President, I rise to introduce a resolution today that will designate September 25 as National First Responder Appreciation Day. I am pleased to be joined by my good friends and colleagues, Senators MCCAIN, CASEY, COCHRAN, ENZI, STEVENS, LINDSEY GRAHAM, CRAIG and CHAMBLISS.

The contributions that our Nation's 1.1 million firefighters, 670,000 police officers and over 890,000 emergency medical professionals make in our communities are familiar to us all. We see the results of their efforts every night on our TV screens and read about them everyday in the paper. From recent tornados in the Southeast and wildfires in the West, the tragic events at Virginia Tech, and the wrath of Hurricane Katrina, our ''first responders'' regularly risk their lives to protect property, uphold the law and save the lives of others.

While performing their jobs many first responders have made the ultimate sacrifice. Over 100 firefighters are killed in the line of duty every year. Tragically in 2006, 145 law enforcement officers were killed in the line of duty as well. And though many might not think a career in the emergency medical services, EMS, is dangerous, EMS workers actually have an occupational fatality rate that is comparable with that of firefighters and police officers.

Yet to recognize our first responders only for their sacrifices would be to ignore the everyday contributions that they make in communities throughout America. In addition to battling fires, firefighters perform important fire prevention and public education duties, like teaching our children how to be ''fire safe.'' Police officers don't simply arrest criminals, they actively prevent crime and make our neighborhoods safer and more livable. And if we or our loved ones experience a medical emergency, EMTs are there at a moment's notice to provide life-saving care.

In many ways, our first responders embody the very best of the American spirit. With charity and compassion, these brave men and women regularly put the well-being of others before their own, oftentimes at great personal risk. Through their actions they have become heroes to many. Through their example they are role models to all of us.

While various cities and towns have recognized the contributions made by their local first responders by declaring a ''first responder day,'' there exists no national day to honor and thank these courageous men and women. The time has come to give our first responders the national day of appreciation that they deserve.

Designating September 25th as National First Responder Appreciation day provides an opportunity for this institution, and the people of the United States, to honor first responders for their contributions, sacrifices and dedication to public service.

I hope my colleagues will join me in supporting passage of this worthwhile resolution.

SENATE RESOLUTION 216—RECOGNIZING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE AMERICAN ASSOCIATION FOR CANCER RESEARCH AND DECLARING THE MONTH OF MAY NATIONAL CANCER RESEARCH MONTH

Mrs. FEINSTEIN (for herself and Mr. STEVENS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 216

Whereas the American Association for Cancer Research, the oldest and largest scientific cancer research organization in the United States, was founded on May 7, 1907, at the Willard Hotel in Washington, D.C., by a group of physicians and scientists interested in research to further the investigation into and spread new knowledge about cancer;

Whereas the American Association for Cancer Research is focused on every aspect of high-quality, innovative cancer research and is the authoritative source of information and publications about advances in the causes, diagnosis, treatment, and prevention of cancer;

Whereas, since its founding, the American Association for Cancer Research has accelerated the growth and dissemination of new knowledge about cancer and the complexity of this disease to speed translation of new discoveries for the benefit of cancer patients, and has provided the information needed by elected officials to make informed decisions on public policy and sustained funding for cancer research;

Whereas partnerships with research scientists and the general public, survivors and patient advocates, philanthropic organizations, industry, and government have led to advanced breakthroughs, early detection tools which have increased survival rates, and a better quality of life for cancer survivors;

Whereas our national investment in cancer research has yielded substantial returns in terms of research advances and lives saved, with a scholarly estimate that every 1 percent decline in cancer mortality saves our national economy $500,000,000,000;

Whereas cancer continues to be one of the most pressing public health concerns, killing 1 American every minute, and 12 individuals worldwide every minute;

Whereas the American Association for Cancer Research Annual Meeting on April 14 through 18, 2007, was a large and comprehensive gathering of leading cancer researchers, scientists, and clinicians engaged in all aspects of clinical investigations pertaining to human cancer as well as the scientific disciplines of cellular, molecular, and tumor biology, carcinogenesis, chemistry, developmental biology and stem cells, endocrinology, epidemiology and biostatistics, experimental and molecular therapeutics, immunology, radiobiology and radiation oncology, imaging, prevention, and survivorship research;

Whereas, as part of its centennial celebration, the American Association for Cancer Research has published ''Landmarks in Cancer Research'' citing the events or discoveries after 1907 that have had a profound effect on advancing our knowledge of the causes, mechanisms, diagnosis, treatment, and prevention of cancer;

Whereas these ''Landmarks in Cancer Research'' are intended as an educational, living document, an ever-changing testament to human ingenuity and creativity in the scientific struggle to understand and eliminate the diseases collectively known as cancer;

Whereas, because more than 60 percent of all cancer occurs in people over the age of 65, issues relating to the interface of aging and cancer, ranging from the most basic science questions to epidemiologic relationships and to clinical and health services research issues, are of concern to society;

Whereas the American Association for Cancer Research is proactively addressing these issues paramount to our aging population through a Task Force on Cancer and Aging, special conferences, and other programs which engage the scientific community in response to this demographic imperative: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the American Association for Cancer Research on its 100 year anniversary celebration, ''A Century of Leadership in Science – A Future of Cancer Prevention and Cure'';

(2) recognizes the invaluable contributions made by the American Association for Cancer Research in its quest to prevent and cure cancer and save lives through cancer research;

(3) expresses the gratitude of the people of the United States for the American Association for Cancer Research's contributions toward progress in advancing cancer research; and

(4) declares the month of May as National Cancer Research Month to support the American Association for Cancer Research in its public education efforts to make cancer research a national and international priority, so that one day the disease of cancer will be relegated to history.

SENATE RESOLUTION 217—DESIGNING THE WEEK BEGINNING MAY 20, 2007, AS ''NATIONAL HURRICANE PREPAREDNESS WEEK''

Mr. VITTER (for himself, Mr. SHELBY, Mr. LOTT, Mr. MARTINEZ, Mr. NELSON of Florida, Ms. LANDRIEU, and Mr. DEMINT) submitted the following resolution; which was considered and agreed to:

S. RES. 217

Whereas the President has proclaimed that the week beginning May 20, 2007, shall be known as ''National Hurricane Preparedness Week'', and has called on government agencies, private organizations, schools, and media to share information about hurricane preparedness;

Whereas, as hurricane season approaches, National Hurricane Preparedness Week provides an opportunity to raise awareness of steps that can be taken to help protect citizens, their communities, and property;

Whereas the official Atlantic hurricane season occurs in the period beginning June 1, 2007, and ending November 30, 2007;

Whereas hurricanes are among the most powerful forces of nature, causing destructive winds, tornadoes, floods, and storm surges that can result in numerous fatalities and cost billions of dollars in damage;

Whereas, in 2005, a record-setting Atlantic hurricane season caused 28 storms, including

15 hurricanes, of which 7 were major hurricanes, including Hurricanes Katrina, Rita, and Wilma;

Whereas the National Oceanic and Atmospheric Administration reports that over 50 percent of the population of the United States lives in coastal counties that are vulnerable to the dangers of hurricanes;

Whereas, because the impact from hurricanes extends well beyond coastal areas, it is vital for individuals in hurricane prone areas to prepare in advance of the hurricane season;

Whereas cooperation between individuals and Federal, State, and local officials can help increase preparedness, save lives, reduce the impact of each hurricane, and provide a more effective response to those storms;

Whereas the National Hurricane Center within the National Oceanic and Atmospheric Administration of the Department of Commerce recommends that each at-risk family of the United States develop a family disaster plan, create a disaster supply kit, secure their home, and stay aware of current weather situations to improve preparedness and help save lives; and

Whereas the designation of the week beginning May 20, 2007, as ''National Hurricane Preparedness Week'' will help raise the awareness of the individuals of the United States to assist them in preparing for the upcoming hurricane season: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of the President in proclaiming the week beginning May 20, 2007, as ''National Hurricane Preparedness Week'';

(2) encourages the people of the United States—

(A) to be prepared for the upcoming hurricane season; and

(B) to promote awareness of the dangers of hurricanes to help save lives and protect communities; and

(3) recognizes—

(A) the threats posed by hurricanes; and

(B) the need for the individuals of the United States to learn more about preparedness so that they may minimize the impacts of, and provide a more effective response to, hurricanes.

SENATE RESOLUTION 218—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mrs. FEINSTEIN submitted the following resolution; which was considered and agreed to:

S. RES. 218

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 250 additional copies of such document for the use of the Committee on Rules and Administration.

SENATE RESOLUTION 219—RECOGNIZING THE YEAR 2007 AS THE OFFICIAL 50TH ANNIVERSARY CELEBRATION OF THE BEGINNINGS OF MARINAS, POWER PRODUCTION, RECREATION, AND BOATING ON LAKE SIDNEY LANIER, GEORGIA

Mr. CHAMBLISS (for himself, Mr. PRYOR, and Mr. ISAKSON) submitted the following resolution; which was considered and agreed to:

S. RES. 219

Whereas Congress authorized the creation of Lake Sidney Lanier and the Buford Dam in 1946 for flood control, power production, wildlife preservation, and downstream navigation;

Whereas construction on the Buford Dam project by the Army Corps of Engineers began in 1951;

Whereas the Army Corps of Engineers constructed the dam and lake on the Chattahoochee and Chestatee Rivers at a cost of approximately $45,000,000;

Whereas, in 1956, Jack Beachem and the Army Corps of Engineers signed a lease to create Holiday on Lake Sidney Lanier Marina as the lake's first concessionaire;

Whereas the first power produced through Buford Dam at Lake Sidney Lanier was produced on June 16, 1957;

Whereas Holiday on Lake Sidney Lanier opened on July 4, 1957;

Whereas Buford Dam was officially dedicated on October 9, 1957;

Whereas nearly 225,000 people visited Lake Sidney Lanier to boat, fish, and recreate in 1957;

Whereas today more than 8,000,000 visitors each year enjoy the attributes and assets of Lake Sidney Lanier to boat, fish, swim, camp, and otherwise recreate in the great outdoors;

Whereas Lake Sidney Lanier generates more than $5,000,000,000 in revenues annually, according to a study commissioned by the Marine Trade Association of Metropolitan Atlanta;

Whereas Lake Sidney Lanier has won the prestigious Chief of Engineers Annual Project of the Year Award, the highest recognition from the Army Corps of Engineers for outstanding management, an unprecedented 3 times in 12 years (in 1990, 1997, and 2002);

Whereas Lake Sidney Lanier hosted the paddling and rowing events for the Summer Games of the XXVI Olympiad held in Atlanta, Georgia, in 1996;

Whereas marinas serve as the gateway to recreation for the public on America's waterways;

Whereas Lake Sidney Lanier will join the Nation on Saturday, August 11, in celebration and commemoration of National Marina Day; and

Whereas 2007 marks the 50th anniversary of Lake Sidney Lanier: Now, therefore, be it

Resolved, That the Senate recognizes the 50th anniversary celebration of the beginnings of marinas, power production, recreation, and boating on Lake Sidney Lanier, Georgia.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1190. Mr. MCCAIN (for himself, Mr. GRAHAM, Mr. BURR, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes.

SA 1191. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. Specter)) to the bill S. 1348, supra.

SA 1192. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1193. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1423, to extend tax relief to the residents and businesses of an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or public assistance from the Federal Government under such Act; which was referred to the Committee on Finance.

SA 1194. Mr. MENENDEZ (for himself, Mr. HAGEL, Mr. DURBIN, Mrs. CLINTON, Mr. DODD, Mr. OBAMA, Mr. AKAKA, Mr. LAUTENBERG, and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes.

SA 1195. Mr. ENSIGN (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1196. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1197. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1198. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1199. Mr. DODD (for himself and Mr. MENENDEZ) proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1200. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1201. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1202. Mr. OBAMA (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1203. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1204. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1205. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1206. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1207. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1208. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1209. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1210. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1211. Mr. CORNYN submitted an amendment intended to be proposed by him

to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1212. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1213. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1214. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1215. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1216. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1217. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1218. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1219. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1220. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1221. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1222. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1223. Mr. SANDERS proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1224. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1225. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1226. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1227. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1228. Mr. LEVIN (for himself, Mr. OBAMA, Mr. MENENDEZ, Mr. COLEMAN, Mr. REID, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1229. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1230. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1231. Mr. DURBIN (for himself and Mr. GRASSLEY) proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1232. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1233. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1234. Mr. SESSIONS proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1235. Mr. SESSIONS proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1236. Mr. BAUCUS (for himself and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1237. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1238. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1239. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1240. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1241. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1242. Mr. LIEBERMAN (for himself, Mr. HAGEL, Ms. CANTWELL, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1243. Mr. OBAMA (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1244. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1245. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1246. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1247. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1248. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1249. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, and Mr. HATCH) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1250. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1251. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1252. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1253. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1254. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1190. Mr. MCCAIN (for himself, Mr. GRAHAM, Mr. BURR, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 292 redesignate paragraphs (3) as (4) and (4) as (5).

On page 292, between lines 33 and 34, insert the following:

''(3) PAYMENT OF INCOME TAXES.—

''(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of any applicable Federal tax liability by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been paid; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(B) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

''(C) 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.

''(D) IN GENERAL.—The alien may satisfy such requirement by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been met; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

SA 1191. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the appropriate place, insert the following:

Subtitle ____—Asylum and Detention Safeguards

SEC. ____01. SHORT TITLE.

This subtitle may be cited as the ''Secure and Safe Detention and Asylum Act''.

SEC. ____02. DEFINITIONS.

In this subtitle:

(1) ASYLUM SEEKER.—The term ''asylum seeker'' means an applicant for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or for withholding of removal under section 241(b)(3) of that Act (8 U.S.C. 1231(b)(3)) or an alien who

indicates an intention to apply for relief under either such section and does not include a person with respect to whom a final adjudication denying an application made under either such section has been entered.

(2) CREDIBLE FEAR OF PERSECUTION.—The term ''credible fear of persecution'' has the meaning given that term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)).

(3) DETAINEE.—The term ''detainee'' means an alien in the Department's custody held in a detention facility.

(4) DETENTION FACILITY.—The term ''detention facility'' means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(5) REASONABLE FEAR OF PERSECUTION OR TORTURE.—The term ''reasonable fear of persecution or torture'' has the meaning described in section 208.31 of title 8, Code of Federal Regulations.

(6) STANDARD.—The term ''standard'' means any policy, procedure, or other requirement.

(7) VULNERABLE POPULATIONS.—The term ''vulnerable populations'' means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers.

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 3009–612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment, done at New York, December 10, 1994.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 114 Stat. 1464), including applicants for nonimmigrant status under subparagraph (T) or (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106–386; 114 Stat. 1491).

(G) Unaccompanied alien children (as defined in 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).

SEC. ___03. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by employees of the Department exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(b) FACTORS RELATING TO SWORN STATEMENTS.—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) RECORDINGS.—

(1) IN GENERAL.—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language that the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) FORMAT.—The recording shall be made in video, audio, or other equally reliable format.

(d) EXEMPTION AUTHORITY.—

(1) Subsections (b) and (c) shall not apply to interviews that occur at facilities exempted by the Secretary pursuant to this subsection.

(2) The Secretary or the Secretary's designee may exempt any facility based on a determination by the Secretary or the Secretary's designee that compliance with subsections (b) and (c) at that facility would impair operations or impose undue burdens or costs.

(3) The Secretary or the Secretary's designee shall report annually to Congress on the facilities that have been exempted pursuant to this subsection.

(4) The exercise of the exemption authority granted by this subsection shall not give rise to a private cause of action.

(e) INTERPRETERS.—The Secretary shall ensure that a professional fluent interpreter is used when the interviewing officer does not speak a language understood by the alien and there is no other Federal, State, or local government employee available who is able to interpret effectively, accurately, and impartially.

SEC. ___04. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) by striking ''(c)'' and inserting ''(d)''; and

(iii) in the second sentence by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''Attorney General'' and inserting ''Secretary''; and

(II) by striking ''or'' at the end;

(ii) in subparagraph (B), by striking ''but'' at the end; and

(iii) by inserting after subparagraph (B) the following:

''(C) the alien's own recognizance; or

''(D) a secure alternatives program as provided for in this section; but'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (h), respectively;

(3) by inserting after subsection (a) the following new subsections:

''(b) CUSTODY DECISIONS.—

''(1) IN GENERAL.—In the case of a decision under subsection (a) or (d), the following shall apply:

''(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

''(B) The decision shall be served upon the alien within 72 hours of the alien's detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible fear of persecution or a reasonable fear of persecution or torture in order to proceed in immigration court, within 72 hours of a positive credible fear of persecution or reasonable fear of persecution or torture determination.

''(2) CRITERIA TO BE CONSIDERED.—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

''(A) whether the alien poses a risk to public safety or national security;

''(B) whether the alien is likely to appear for immigration proceedings; and

''(C) any other relevant factors.

''(3) CUSTODY REDETERMINATION.—An alien subject to this section may at any time after being served with the Secretary's decision under subsections (a) or (d) request a redetermination of that decision by an immigration judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an immigration judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

''(c) EXCEPTION FOR MANDATORY DETENTION.—Subsection (b) shall not apply to any alien who is subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who has a final order of removal and has no proceedings pending before the Executive Office for Immigration Review.'';

(4) in subsection (d), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary''; and

(B) by striking ''or parole'' and inserting '', parole, or decision to release;'';

(5) in subsection (e), as redesignated—

(A) by striking ''Attorney General'' and inserting ''Secretary'' each place it appears; and

(B) in paragraph (2), by inserting ''or for humanitarian reasons,'' after ''such an investigation,'';

(6) in subsection (f), as redesignated—

(A) in the matter preceding paragraph (1), by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (1), in subparagraphs (A) and (B), by striking ''Service'' and inserting ''Department of Homeland Security''; and

(C) in paragraph (3), by striking ''Service'' and inserting ''Secretary of Homeland Security'';

(7) by inserting after subsection (f), as redesignated, the following new subparagraph:

''(g) ADMINISTRATIVE REVIEW.—If an immigration judge's custody decision has been stayed by the action of an officer or employee of the Department of Homeland Security, the stay shall expire in 30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.''; and

(8) in subsection (h), as redesignated—

(A) by striking ''Attorney General's'' and inserting ''Secretary of Homeland Security's''; and

(B) by striking ''Attorney General'' and inserting ''Secretary''.

SEC. ___05. LEGAL ORIENTATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered and implemented by the Executive Office for Immigration Review of the Department of Justice.

(b) CONTENT OF PROGRAM.—The legal orientation program developed pursuant to this

section shall be based on the Legal Orientation Program carried out by the Executive Office for Immigration Review on the date of the enactment of this Act.

(c) EXPANSION OF LEGAL ASSISTANCE.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear of persecution interview, as a continuation of existing programs, such as the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. ___06. CONDITIONS OF DETENTION.

(a) IN GENERAL.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) PROCEDURES AND STANDARDS.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as physical abuse, sexual abuse or harassment, or arbitrary punishment.

(2) LIMITATIONS ON SOLITARY CONFINEMENT.—Procedures limiting the use of solitary confinement, shackling, and strip searches of detainees to situations where the use of such techniques is necessitated by security interests or other extraordinary circumstances.

(3) INVESTIGATION OF GRIEVANCES.—Procedures for the prompt and effective investigation of grievances raised by detainees.

(4) ACCESS TO TELEPHONES.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) LOCATION OF FACILITIES.—Location of detention facilities, to the extent practicable, near sources of free or low-cost legal representation with expertise in asylum or immigration law.

(6) PROCEDURES GOVERNING TRANSFERS OF DETAINEES.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) QUALITY OF MEDICAL CARE.—

(A) IN GENERAL.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, and where appropriate, individual and group counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the distinctions between persons with criminal convictions or a history of violent behavior and all other detainees; and

(2) ensure that procedures and conditions of detention are appropriate for a noncriminal, nonviolent population.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where such personnel work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. ___07. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this section referred to as the ''Office'').

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and shall report to, the Secretary.

(3) SCHEDULE.—The Office shall be established and the Administrator of the Office appointed not later than 6 months after the date of enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Administrator of the Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement all findings of a detention facility's noncompliance with detention standards.

(2) INVESTIGATIONS.—The Administrator of the Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department;

(iii) the Office of Civil Rights and Civil Liberties of the Department; or

(iv) any other relevant office or agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Administrator of the Office shall submit to the Secretary, the Committee on the Judiciary and the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary and the Committee on Homeland Security of the House of Representatives an annual report on the Administrator's findings on detention conditions and the results of the investigations carried out by the Administrator.

(B) CONTENTS OF REPORT.—Each report required by subparagraph (A) shall include—

(i) a description of the actions to remedy findings of noncompliance or other problems that are taken by the Secretary or the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement, and each detention facility found to be in noncompliance; and

(ii) information regarding whether such actions were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Administrator of the Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees, or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Administrator of the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department;

(2) the Office of Civil Rights and Civil Liberties of the Department;

(3) the Privacy Officer of the Department;

(4) the Civil Rights Division of the Department of Justice; or

(5) any other relevant office or agency.

SEC. ___08. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program under which an alien who has been detained may be released under enhanced supervision to prevent the alien from absconding and to ensure that the alien makes appearances related to such detention.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing pilot programs such as the Intensive Supervision Appearance Program developed by the Department.

(2) UTILIZATION OF ALTERNATIVES.—The secure alternatives program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(e)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) CONTRACTS.—The Secretary shall enter into contracts with qualified nongovernmental entities to implement the secure alternatives program.

(5) OTHER CONSIDERATIONS.—In designing such program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program.

SEC. ___09. LESS RESTRICTIVE DETENTION FACILITIES.

(a) CONSTRUCTION.—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) CRITERIA.—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department's detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to programs and recreation;

(E) detainees are permitted contact visits with legal representatives and family members; and

(F) special facilities are provided to families with children.

(c) FACILITIES FOR FAMILIES WITH CHILDREN.—For situations where release or secure alternatives programs are not an option, the Secretary shall, to the extent practicable, ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for children under 14 years of age are not physically separated from at least 1 of the child's parents.

(d) PLACEMENT IN NONPUNITIVE FACILITIES.—Among the factors to be considered with respect to placing a detainee in a less restrictive facility is whether the detainee is—

(1) an asylum seeker;

(2) part of a family with minor children;

(3) a member of a vulnerable population; or

(4) a nonviolent, noncriminal detainee.

(e) PROCEDURES AND STANDARDS.—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

SEC. ___10. AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall take effect on the date that is 6 months after the date of enactment of this Act.

SA 1192. Mrs. HUTCHISON submitted an amendment intended to proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. 427. ENHANCED ROLE FOR NON-GOVERNMENTAL ENTITIES.

(a) IN GENERAL.—In carrying out the provisions of this title, or any of the amendments made by this title, the Secretary of Homeland Security, the Secretary of Labor, and the Secretary of State are authorized to enter into contractual agreements with nongovernmental entities—

(1) to assist with the implementation, processing, and operation of the temporary worker programs established under subtitles A and B;

(2) to maximize the effectiveness of such operations; and

(3) to reduce expenditures and increase efficiencies related to such operations.

(b) REQUIRED CONSIDERATIONS.—To the extent that any Secretary acts under the authority granted under subsection (a), that Secretary shall give priority consideration to non-governmental entities with—

(1) experience or competence in the business of evaluation, recruitment, and placement of employees with employers based in the United States;

(2) the ability to ensure the security and placement of its processes and operations; and

(3) the ability to meet other any other requirements determined to be appropriate by that Secretary.

SA 1193. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1423, to extend tax relief to the residents and businesses of an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or public assistance from the Federal Government under such Act; which was referred to the Committee on Finance; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as ''Kansas Disaster Tax Relief Assistance Act''.

SEC. 2. TEMPORARY TAX RELIEF.

(a) IN GENERAL.—Subchapter Y of the Internal Revenue Code of 1986 (relating to short-term regional benefits) is amended by adding at the end the following new part:

''PART III—TAX BENEFITS FOR OTHER DISASTER AREAS

''SEC. 1400U. TAX BENEFITS FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.

''The following provisions of this subchapter shall apply, in addition to the areas described in such provisions, to an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or public assistance from the Federal Government under such Act:

''(1) Suspension of certain limitations on personal casualty losses.—Section 1400S(b)(1), by substituting 'May 4, 2007' for 'August 25, 2005'.

''(2) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 1400L(g), by substituting 'storms on May 4, 2007' for 'terrorist attacks on September 11, 2001'.

''(3) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS.—Section 1400R(a)—

''(A) by substituting 'May 4, 2007' for 'August 28, 2005' each place it appears,

''(B) by substituting 'January 1, 2008' for 'January 1, 2006' both places it appears, and

''(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

''(4) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d)—

''(A) by substituting 'qualified Recovery Assistance property' for 'qualified Gulf Opportunity Zone property' each place it appears,

''(B) by substituting 'May 5, 2007' for 'August 28, 2005' each place it appears,

''(C) by substituting 'December 31, 2008' for 'December 31, 2007' in paragraph (2)(A)(v),

''(D) by substituting 'December 31, 2009' for 'December 31, 2008' paragraph (2)(A)(v),

''(E) by substituting 'May 4, 2007' for 'August 27, 2005' in paragraph (3)(A),

''(F) by substituting 'January 1, 2009' for 'January 1, 2008' in paragraph (3)(B), and

''(G) determined without regard to paragraph (6) thereof.

''(5) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e), by substituting 'qualified section 179 Recovery Assistance property' for 'qualified section 179 Gulf Opportunity Zone property' each place it appears.

''(6) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f)—

''(A) by substituting 'qualified Recovery Assistance clean-up cost' for 'qualified Gulf Opportunity Zone clean-up cost' each place it appears, and

''(B) by substituting 'beginning on May 4, 2007, and ending on December 31, 2009' for 'beginning on August 28, 2005, and ending on December 31, 2007' in paragraph (2) thereof.

''(7) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—Section 1400N(o).

''(8) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k)—

''(A) by substituting 'qualified Recovery Assistance loss' for 'qualified Gulf Opportunity Zone loss' each place it appears,

''(B) by substituting 'after May 3, 2007, and before on January 1, 2010' for 'after August 27, 2005, and before January 1, 2008' each place it appears,

''(C) by substituting 'May 4, 2007' for 'August 28, 2005' in paragraph (2)(B)(ii)(I) thereof,

''(D) by substituting 'qualified Recovery Assistance property' for 'qualified Gulf Opportunity Zone property' in paragraph (2)(B)(iv) thereof, and

''(E) by substituting 'qualified Recovery Assistance casualty loss' for 'qualified Gulf Opportunity Zone casualty loss' each place it appears.

''(9) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RENTAL PROJECT REQUIREMENTS.—Section 1400N(n).

''(10) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q—

''(A) by substituting 'qualified Recovery Assistance distribution' for 'qualified hurricane distribution' each place it appears,

''(B) by substituting 'on or after May 4, 2007, and before January 1, 2009' for 'on or after August 25, 2005, and before January 1, 2007' in subsection (a)(4)(A)(i),

''(C) by substituting 'qualified storm distribution' for 'qualified Katrina distribution' each place it appears,

''(D) by substituting 'after November 4, 2006, and before May 5, 2007' for 'after February 28, 2005, and before August 29, 2005' in subsection (b)(2)(B)(ii),

''(E) by substituting 'beginning on May 4, 2007, and ending on November 5, 2007' for 'beginning on August 25, 2005, and ending on February 28, 2006' in subsection (b)(3)(A),

''(F) by substituting 'qualified storm individual' for 'qualified Hurricane Katrina individual' each place it appears,

''(G) by substituting 'December 31, 2007' for 'December 31, 2006' in subsection (c)(2)(A),

''(H) by substituting 'beginning on June 4, 2007, and ending on December 31, 2007' for 'beginning on September 24, 2005, and ending on December 31, 2006' in subsection (c)(4)(A)(i),

''(I) by substituting 'May 4, 2007' for 'August 25, 2005' in subsection (c)(4)(A)(ii), and

''(J) by substituting 'January 1, 2008' for 'January 1, 2007' in subsection (d)(2)(A)(ii).''.

(b) CLERICAL AMENDMENT.—The table of parts for subchapter Y of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Part III. Tax benefits for other disaster areas.''.

SA 1194. Mr. MENENDEZ (for himself Mr. HAGEL, Mr. DURBIN, Mrs. CLINTON, Mr. DODD, Mr. OBAMA, Mr. AKAKA, Mr. LAUTENBERG, and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

In paragraph (1) of subsection (c) of the quoted matter under section 501(a), strike ''567,000'' and insert ''677,000''.

In the fourth item contained in the second column of the row relating to extended family of the table contained in subparagraph (A) of paragraph (1) of the quoted matter under section 502(b)(1), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (3) of the quoted matter under section 503(c)(3), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (3) of the quoted matter under section 503(c)(3), strike ''440,000'' and insert ''550,000''.

In subparagraph (A) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''70,400'' and insert ''88,000''.

In subparagraph (B) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''110,000'' and insert ''137,500''.

In subparagraph (C) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''70,400'' and insert ''88,000''.

In subparagraph (D) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''189,200'' and insert ''236,500''.

In paragraph (2) of section 503(e), strike ''May 1, 2005'' each place it appears and insert ''January 1, 2007''.

In paragraph (1) of section 503(f), strike ''May 1, 2005'' and insert ''January 1, 2007,''.

In paragraph (6) of the quoted matter under section 508(b), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (5) of section 602(a), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In subparagraph (A) of section 214A(j)(7) of the quoted matter under section 622(b), strike ''May 1, 2005'' and insert ''January 1, 2007''.

SA 1195. Mr. ENSIGN (for himself and Mr. THOMAS) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 607 and insert the following:

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

''(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 1196. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CUSTOMS AND BORDER PATROL MANAGEMENT FLEXIBILITY.

Notwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Patrol may employ, appoint, discipline, terminate, and fix the compensation, terms, and conditions of employment of Federal service for such a number of individuals as the Commissioner determines to be necessary to carry out the functions of the U.S. Customs and Border Patrol. The Commissioner shall establish levels of compensation and other benefits for individuals so employed.

SA 1197. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection (e) of section 601, add the following:

(9) HEALTH COVERAGE.—The alien shall establish that the alien will maintain a minimum level of health coverage through a qualified health care plan (within the meaning of section 223(c) of the Internal Revenue Code of 1986).

SA 1198. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. 427. REPORT ON Y NONIMMIGRANT VISAS.

(a) IN GENERAL.—The Secretary of Homeland Security shall annually report to Congress on the number of Y nonimmigrant visa holders that do not report at a port of departure and return to their foreign residence, as required under section 218A(j)(3) of the Immigration and Nationality Act, as added by section 402 of this Act.

(b) TIMING OF REPORTS.—

(1) INITIAL REPORT.—The initial report required under subsection (a) shall be submitted to Congress not later than 2 years and 2 months after the date on which the Secretary of Homeland Security makes the certification described in section 1(a) of this Act.

(2) SUBSEQUENT REPORTS.—Following the submission of the initial report under paragraph (1), each subsequent report required under subsection (a) shall be submitted to Congress not later than 60 days after the end of each calendar year.

(c) REQUIRED ACTION.—Based upon the findings in the reports required under subsection (a), the Secretary, for the following calendar year, shall reduce the number of available Y nonimmigrant visas by a number which is equal to the number of Y nonimmigrant visa holders who do not return to their foreign residence, as required under section 218A(j)(3) of the Immigration and Nationality Act, as added by section 402 of this Act.

SA 1199. Mr. DODD (for himself and Mr. MENENDEZ) proposed an amendment SA 1150 proposed by Mr. REID (for himself and Mr. SPECTER) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

Beginning on page 270, line 15, strike ''not to exceed 40,000'' and all that follows through ''Y-1 nonimmigrant status terminated.'' on page 280, line 2, and insert the following: ''not to exceed 90,000, plus any visas not required for the classes specified in paragraph (3), or''.

(2) By striking paragraph (2) and inserting the following:

''(2) Spouses or children of an alien lawfully admitted for permanent residence or a national. Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or a noncitizen national of the United States as defined in section 101(a)(22)(B) of this Act who is resident in the United States shall be allocated visas in a number not to exceed 87,000, plus any visas not required for the class specified in paragraph (1).''.

(3) By striking paragraph (3) and inserting the following:

''(3) Family-sponsored immigrants who are beneficiaries of family-based visa petitions filed before May 1, 2005. Immigrant visas totaling 440,000 shall be allotted visas as follows:

''(A) Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas totaling 70,400 immigrant visas, plus any visas not required for the class specified in (D).

''(B) Qualified immigrants who are the unmarried sons or unmarried daughters of an alien lawfully admitted for permanent residence, shall be allocated visas totaling 110,000 immigrant visas, plus any visas not required for the class specified in (A).

''(C) Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated

visas totaling 70,400 immigrant visas, plus any visas not required for the class specified in (A) and (B).

''(D) Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas totaling 189,200 immigrant visas, plus any visas not required for the class specified in (A), (B), and (C).''.

(4) By striking paragraph (4).

(d) PETITION.—Section 204(a)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(i)) is amended by striking '', (3), or (4)'' after ''paragraph (1)''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment.

(2) PENDING AND APPROVED PETITIONS.—Petitions for a family-sponsored visa filed for classification under section 203(a)(1), (2)(B), (3), or (4) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) which were filed before May 1, 2005, regardless of whether the petitions have been approved before May 1, 2005, shall be treated as if such provision remained in effect, and an approved petition may be the basis of an immigrant visa pursuant to section 203(a)(3).

(f) DETERMINATIONS OF NUMBER OF INTENDING LAWFUL PERMANENT RESIDENTS.—

(1) SURVEY OF PENDING AND APPROVED FAMILY-BASED PETITIONS.—The Secretary of Homeland Security may require a submission from petitioners with approved or pending family-based petitions filed for classification under section 203(a)(1), (2)(B), (3), or (4) of the Immigration and Nationality Act (as such provisions existed prior to the enactment of this section) filed on or before May 1, 2005 to determine that the petitioner and the beneficiary have a continuing commitment to the petition for the alien relative under the classification. In the event the Secretary requires a submission pursuant to this section, the Secretary shall take reasonable steps to provide notice of such a requirement. In the event that the petitioner or beneficiary is no longer committed to the beneficiary obtaining an immigrant visa under this classification or if the petitioner does not respond to the request for a submission, the Secretary of Homeland Security may deny the petition if the petition has not been adjudicated or revoke the petition without additional notice pursuant to section 205 if it has been approved.

(2) FIRST SURVEY OF Z NONIMMIGRANTS INTENDING TO ADJUST STATUS.—The Secretary shall establish procedures by which nonimmigrants described in section 101(a)(15)(Z) who seek to become aliens lawfully admitted for permanent residence under the merit-based immigrant system shall establish their eligibility, pay any applicable fees and penalties, and file their petitions. No later than the conclusion of the eighth fiscal year after the effective date of section 218D of the Immigration and Nationality Act, the Secretary will determine the total number of qualified applicants who have followed the procedures set forth in this section. The number calculated pursuant to this paragraph shall be 20 percent of the total number of qualified applicants. The Secretary will calculate the number of visas needed per year.

(3) SECOND SURVEY OF Z NONIMMIGRANTS INTENDING TO ADJUST STATUS.—No later than the conclusion of the thirteenth fiscal year after the effective date of section 218D of the Immigration and Nationality Act, the Secretary will determine the total number of qualified applicants not described in paragraph (2) who have followed the procedures set forth in this section. The number calculated pursuant to this paragraph shall be the lesser of:

(A) the number of qualified applicants, as determined by the Secretary pursuant to this paragraph; and

(B) the number calculated pursuant to paragraph (2).

(g) CONFORMING AMENDMENTS.—

(1) Section 212(d)(12)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(12)(B)) is amended by striking ''201(b)(2)(A)'' and inserting ''201(b)(2)''.

(2) Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)(2)''.

(3) Section 204(a) of the Immigration and Nationality Act (8 U.S.C. 1154(a)) is amended by striking ''201(b)(2)(A)(i)'' each place it appears and inserting ''201(b)(2)''.

(4) Section 214(r)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(r)(3)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)(2)''.

SEC. 504. CREATION OF PROCESS FOR IMMIGRATION OF FAMILY MEMBERS IN HARDSHIP CASES.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by adding a new section 203A reading:

''SEC. 203A. IMMIGRANT VISAS FOR HARDSHIP CASES.

''(a) IN GENERAL.—Immigrant visas under this section may not exceed 5,000 per fiscal year.

''(b) DETERMINATION OF ELIGIBILITY.—The Secretary of Homeland Security may grant an immigrant visa to an applicant who satisfies the following qualifications:

''(1) FAMILY RELATIONSHIP.—Visas under this section will be given to aliens who are:

''(A) the unmarried sons or daughters of citizens of the United States;

''(B) the unmarried sons or the unmarried daughters of aliens lawfully admitted for permanent residence;

''(C) the married sons or married daughters of citizens of the United States; or

''(D) the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age.

''(2) NECESSARY HARDSHIP.—The petitioner must demonstrate to the satisfaction of the Secretary of Homeland Security that the lack of an immigrant visa under this clause would result in extreme hardship to the petitioner or the beneficiary that cannot be relieved by temporary visits as a nonimmigrant.

''(3) INELIGIBILITY TO IMMIGRATE THROUGH OTHER MEANS.—The alien described in clause (1) must be ineligible to immigrate or adjust status through other means, including but not limited to obtaining an immigrant visa filed for classification under section 201(b)(2)(A) or section 203(a) or (b) of this Act, and obtaining cancellation of removal under section 240A(b) of this Act. A determination under this section that an alien is eligible to immigrate through other means does not foreclose or restrict any later determination on the question of eligibility by the Secretary of Homeland Security or the Attorney General.

''(c) PROCESSING OF APPLICATIONS.—

''(1) An alien selected for an immigrant visa pursuant to this section shall remain eligible to receive such visa only if the alien files an application for an immigrant visa or an application for adjustment of status within the fiscal year in which the visa becomes available, or at such reasonable time as the Secretary may specify after the end of the fiscal year for petitions approved in the last quarter of the fiscal year.

''(2) All petitions for an immigrant visa under this section shall automatically terminate if not granted within the fiscal year in which they were filed. The Secretary may in his discretion establish such reasonable application period or other procedures for filing petitions as he may deem necessary in order to ensure their orderly processing within the fiscal year of filing.

''(3) The Secretary may reserve up to 2,500 of the immigrant visas under this section for approval in the period between March 31 and September 30 of a fiscal year.

''(d) Decisions whether an alien qualifies for an immigrant visa under this section are in the unreviewable discretion of the Secretary.''.

SEC. 505. ELIMINATION OF DIVERSITY VISA PROGRAM.

(a) Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting ''and'' at the end of paragraph (1);

(B) by striking ''; and'' at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (e).

(b) Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) in subsection (d), by striking ''(a), (b), or (c),'' and inserting ''(a) or (b),'';

(3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''; and

(5) in subsection (g), by striking ''(a), (b), and (c)'' and inserting ''(a) and (b)''.

(c) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I);

(2) by redesignating subparagraphs (J), (K), and (L) of subsection (a)(1) as subparagraphs (I), (J), and (K), respectively; and

(3) in subsection (e), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''.

(d) REPEAL OF TEMPORARY REDUCTION IN VISAS FOR OTHER WORKERS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act, as amended (Public Law 105–100; 8 U.S.C. 1153 note), is repealed.

(e) EFFECTIVE DATE.—

(1) The amendments made by this section shall take effect on October 1, 2008.

(2) No alien may receive lawful permanent resident status based on the diversity visa program on or after the effective date of this section.

(f) CONFORMING AMENDMENTS.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended by redesignating paragraphs (d), (e), (f), (g), and (h) as paragraphs (c), (d), (e), (f), and (g), respectively.

SEC. 506. FAMILY VISITOR VISAS.

(a) Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is amended to read as follows:

''(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he or she has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure. The requirement that the alien have a residence in a foreign country which the alien has no intention of abandoning shall not apply to an alien described in section 214(s) who is seeking to enter as a temporary visitor for pleasure;''.

(b) Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

''(s) PARENT VISITOR VISAS.—

''(1) IN GENERAL.—The parent of a United States citizen at least 21 years of age, or the spouse or child of an alien in nonimmigrant status under 101(a)(15)(Y)(i), demonstrating satisfaction of the requirements of this subsection may be granted a renewable nonimmigrant visa valid for 3 years for a visit or visits for an aggregate period not in excess of 180 days in any one year period under section 101(a)(15)(B) as a temporary visitor for pleasure.

''(2) REQUIREMENTS.—An alien seeking a nonimmigrant visa under this subsection must demonstrate through presentation of such documentation as the Secretary may by regulations prescribe, that—

''(A) the alien's United States citizen son or daughter who is at least 21 years of age or the alien's spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), is sponsoring the alien's visit to the United States;

''(B) the sponsoring United States citizen, or spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), has, according to such procedures as the Secretary may by regulations prescribe, posted on behalf of the alien a bond in the amount of $1,000, which shall be forfeited if the alien overstays the authorized period of admission (except as provided in subparagraph (5)(B)) or otherwise violates the terms and conditions of his or her nonimmigrant status; and

''(C) the alien, the sponsoring United States citizen son or daughter, or the spouse or parent in nonimmigrant status under 101(a)(15)(Y)(i), possesses the ability and financial means to return the alien to his or her country of residence.

''(3) TERMS AND CONDITIONS.—An alien admitted as a visitor for pleasure under the provisions of this subsection—

''(A) may not stay in the United States for an aggregate period in excess of 180 days within any calendar year unless an extension of stay is granted upon the specific approval of the district director for good cause;

''(B) must, according to such procedures as the Secretary may by regulations prescribe, register with the Secretary upon departure from the United States; and

''(C) may not be issued employment authorization by the Secretary or be employed.

''(4) PERMANENT BARS FOR OVERSTAYS.—

''(A) IN GENERAL.—Any alien admitted as a visitor for pleasure under the terms and conditions of this subsection who remains in the United States beyond his or her authorized period of admission is permanently barred from any future immigration benefits under the immigration laws, except—

''(i) asylum under section 208(a);

''(ii) withholding of removal under section 241(b)(3); or

''(iii) protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(B) EXCEPTION.—Overstay of the authorized period of admission granted to aliens admitted as visitors for pleasure under the terms and conditions of this subsection may be excused in the discretion of the Secretary where it is demonstrated that:

''(i) the period of overstay was due to extraordinary circumstances beyond the control of the applicant, and the Secretary finds the period commensurate with the circumstances; and

''(ii) the alien has not otherwise violated his or her nonimmigrant status.

''(5) BAR ON SPONSOR OF OVERSTAY.—The United States citizen or Y-1 nonimmigrant sponsor of an alien—

''(A) admitted as a visitor for pleasure under the terms and conditions of this subsection, and

''(B) who remains in the United States beyond his or her authorized period of admission, shall be permanently barred from sponsoring that alien for admission as a visitor for pleasure under the terms and conditions of this subsection, and, in the case of a Y–1 nonimmigrant sponsor, shall have his Y–1 nonimmigrant status terminated.

SA 1200. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (c) of section 418 and all that follows through subsection (d) of section 420, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Subsection (h) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

SEC. 419. H–1B STREAMLINING AND SIMPLIFICATION.

(a) H–1B AMENDMENTS.—

(1) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(A) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 150,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 215,000 for any fiscal year; or'';

(B) in paragraph (6), as redesignated by section 409—

(i) in subparagraph (B), by striking ''; or'' and inserting a semicolon;

(ii) in subparagraph (C), by striking ''until the number of aliens who are exempted from such numerical limitation during such fiscal year exceeds 20,000.'' and inserting ''; or''; and

(iii) by adding at the end the following:

''(D) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States.''; and

(C) in paragraph (9), as redesignated by section 409—

(i) in subparagraph (B)—

(I) in clause (iii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(iii) by striking subparagraph (D).

(2) APPLICABILITY.—The amendments made by paragraph (1)(B) shall apply with respect to any petition or visa application pending on the date of the enactment of this Act and to any petition or visa application filed on or after such date of enactment.

(b) REQUIRING A DEGREE.—Paragraph (2) of section 214(i) (8 U.S.C. 1184(i)) is amended—

(1) in subparagraph (A), by striking the comma at the end and inserting ''; and'';

(2) in subparagraph (B), by striking '', or'' and inserting a period; and

(3) by striking subparagraph (C).

(c) PROVISION OF W-2 FORMS.—Section 214(g)(5), as redesignated by section 409, is amended to read as follows:

''(5) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b)—

''(A) the period of authorized admission as such a nonimmigrant may not exceed 6 years (except for a nonimmigrant who has filed a petition for an immigrant visa under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in 1-year increments until such time as a final decision is made on the alien's lawful permanent residence);

''(B) if the alien is granted an initial period of admission less than 6 years, any subsequent application for an extension of stay for such alien shall include the Form W-2 Wage and Tax Statement filed by the employer for such employee, and such other form or information relating to such employment as the Secretary of Homeland Security, in the discretion of the Secretary, may specify, with respect to such nonimmigrant alien employee for the period of admission granted to the alien; and

''(C) notwithstanding section 6103 of the Internal Revenue Code of 1986, or any other law, the Commissioner of Internal Revenue or the Commissioner of the Social Security Administration shall upon request of the Secretary confirm whether the Form W-2 Wage and Tax Statement filed by the employer under subparagraph (B) matches a Form W-2 Wage and Tax Statement filed with the Internal Revenue Service or the Social Security Administration, as the case may be.''.

(d) EXTENSION OF H–1B STATUS FOR MERIT–BASED ADJUSTMENT APPLICANTS.—

(1) IN GENERAL.—Section 214(g)(4), as redesignated by section 409, is amended—

(A) by inserting ''(A)'' after ''(4)'';

(B) by striking ''If an alien'' and inserting the following:

''(B) If an alien''; and

(C) by adding at the end the following:

''(C) Subparagraph (B) shall not apply to such a nonimmigrant who has filed a petition for an immigrant visa accompanied by a qualifying employer recommendation under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in 1-year increments until such time as a final decision is made on the alien's lawful permanent residence.''.

(2) REPEAL.—Section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended by striking subsections (a) and (b).

SEC. 420. H–1B EMPLOYER REQUIREMENTS.

(a) NONDISPLACEMENT REQUIREMENT.—

(1) EXTENDING TIME PERIOD FOR NONDISPLACEMENT.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking ''90 days'' each place it appears and inserting ''180 days''; and

(ii) in subparagraph (F)(ii), by striking ''90 days'' each place it appears and inserting ''180 days''; and

(B) in paragraph (2)(C)(iii), by striking ''90 days'' each place it appears and inserting ''180 days''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall apply to applications filed on or after the date of the enactment of this Act; and

(B) shall not apply to displacements for periods occurring more than 90 days before such date.

(b) H–1B NONIMMIGRANTS NOT ADMITTED FOR JOBS ADVERTISED OR OFFERED ONLY TO

H–1B NONIMMIGRANTS.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(1) by inserting after subparagraph (G) the following:

''(H)(i) The employer has not advertised the available jobs specified in the application in an advertisement that states or indicates that—

''(I) the job or jobs are only available to persons who are or who may become H–1B nonimmigrants; or

''(II) persons who are or who may become H–1B nonimmigrants shall receive priority or a preference in the hiring process.

''(ii) The employer has not only recruited persons who are, or who may become, H–1B nonimmigrants to fill the job or jobs.''; and

(2) in the flush text at the end, by striking ''The employer'' and inserting the following:

''(K) The employer''.

(c) LIMIT ON PERCENTAGE OF H–1B EMPLOYEES.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (b)(1), the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H–1B nonimmigrants.''.

SA 1201. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the end of subtitle A of title VII, insert the following:

SEC. 704. LOSS OF NATIONALITY.

(a) IN GENERAL.—Section 349(a)(3) (8 U.S.C. 1481(a)(3)) is amended to read as follows:

''(3) entering, or serving in, the armed forces of a foreign state if—

''(A) such armed forces are engaged in, or attempt to engage in, hostilities or acts of terrorism against the United States; or

''(B) such person is serving or has served as a general officer in the armed forces of a foreign state; or''.

(b) SPECIAL RULE AND DEFINITIONS.—Such section 349 is amended by adding at the end the following new subsections:

''(c) SPECIAL RULE.—Any person described in subsection (a), who commits an act described in such subsection, shall be presumed to have committed such act with the intention of relinquishing United States nationality, unless such presumption is overcome by a preponderance of evidence.

''(d) DEFINITIONS.—In this section:

''(1) ARMED FORCES OF A FOREIGN STATE.—The term 'armed forces of a foreign state' includes any armed band, militia, organized force, or other group that is engaged in, or attempts to engage in, hostilities against the United States or terrorism.

''(2) FOREIGN STATE.—The term 'foreign state' includes any group or organization (including any recognized or unrecognized quasi-government entity) that is engaged in, or attempts to engage in, hostilities against the United States or terrorism.

''(3) HOSTILITIES AGAINST THE UNITED STATES.—The term 'hostilities against the United States' means the enticing, preparation, or encouragement of armed conflict against United States citizens or businesses or a facility of the United States Government.

''(4) TERRORISM.—The term 'terrorism' has the meaning given that term in section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))''.

SA 1202. Mr. OBAMA (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. 509. TERMINATION.

(a) IN GENERAL.—The amendments described in subsection (b) shall be effective during the 5-year period ending on September 30 of the fifth fiscal year following the fiscal year in which this Act is enacted.

(b) PROVISIONS.—The amendments described in this subsection are the following:

(1) The amendments made by subsections (a) and (b) of section 501.

(2) The amendments made by subsections (b), (c), and (e) of section 502.

(3) The amendments made by subsections (a), (b), (c), (d), and (g) of section 503.

(4) The amendments made by subsection (a) of section 504.

(c) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

(1) TEMPORARY SUPPLEMENTAL ALLOCATION.—Section 201(d) (8 U.S.C. 1151(d)) is amended by adding at the end the follows new paragraphs:

''(3) TEMPORARY SUPPLEMENTAL ALLOCATION.—Notwithstanding paragraphs (1) and (2), there shall be a temporary supplemental allocation of visas as follows:

''(A) For the first 5 fiscal years in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(B) In the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number calculated pursuant to section 503(f)(3) of Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(C) Starting in the seventh fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa, the number equal to the number of aliens described in section 101(a)(15)(Z) who became aliens admitted for permanent residence based on the merit-based evaluation system in the prior fiscal year until no further aliens described in section 101(a)(15)(Z) adjust status.

''(4) TERMINATION OF TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas described in paragraph (3) shall terminate when the number of visas calculated pursuant to paragraph (3)(C) is zero.

''(5) LIMITATION.—The temporary supplemental visas described in paragraph (3) shall not be awarded to any individual other than an individual described in section 101(a)(15)(Z).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on October 1 of the sixth fiscal year following the fiscal year in which this Act is enacted.

SA 1203. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for othr purposes; which was ordered to lie on the table as follows;

At the appropriate place in title II, insert the following:

SEC. 2___. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A) (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) by inserting ''or the Secretary of Homeland Security'' after ''if the Attorney General''; and

(2) by amending clause (v) to read as follows:

''(v) the alien is described in section 212(a)(3)(B)(i) or section 212(a)(3)(F), unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the Secretary of Homeland Security or the Attorney General determines, in the discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or''.

(b) CONFORMING AMENDMENT.—Section 212(a)(3)(B)(ii) (8 U.S.C. 1182(a)(3)(B)(ii)) is amended by striking ''(VII)'' and inserting ''(IX)''.

(c) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended by—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(d) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(e) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) by inserting ''or the Secretary of Homeland Security'' after ''Attorney General'' each place such term appears;

(2) in clause (iii), by striking ''or'' at the end;

(3) in clause (iv), by striking the period at the end and inserting ''; or'';

(4) by inserting after clause (iv) the following:

''(v) the alien is described in section 212(a)(3)(B)(i) or section 212(a)(3)(F), unless, in the case of an alien described in subclause (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in his discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.''; and

(5) in the undesignated matter at the end, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(f) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE FOR CERTAIN ALIENS WHO ENTERED THE UNITED STATES BEFORE JULY 1, 1924 OR JANUARY 1, 1972.

''(a) IN GENERAL.—The Secretary of Homeland Security, in the discretion of the Secretary and under such regulations as the Secretary may prescribe, may enter a record of lawful admission for permanent residence in the case of any alien, if no such record is otherwise available and the alien—

''(1) entered the United States before January 1, 1972;

''(2) has continuously resided in the United States since such entry;

''(3) has been a person of good moral character since such entry;

''(4) is not ineligible for citizenship;

''(5) is not described in section 212(a)(1)(A)(iv), 212(a)(2), 212(a)(3), 212(a)(6)(C), 212(a)(6)(E), or 212(a)(8); and

''(6) did not, at any time, without reasonable cause fail or refuse to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability.

''(b) EFFECTIVE DATE.—A recordation under subsection (a) shall be effective—

''(1) as of the date of approval of the application; or

''(2) if such entry occurred before July 1, 1924, as of the date of such entry.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on the

date of the enactment of this Act. Sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3), and 249 of the Immigration and Nationality Act, as amended by this section, shall apply to—

(1) all aliens in removal, deportation, or exclusion proceedings;

(2) all applications pending on, or filed after, the date of the enactment of this Act; and

(3) with respect to aliens and applications described in paragraph (1) or (2), acts and conditions constituting a ground for inadmissibility, excludability, deportation, or removal occurring or existing before, on, or after the date of the enactment of this Act.

SA 1204. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on th table; as follows:

Strike section 203 and insert the following:

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law, the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law, or in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements, and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense.''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) DEFINITION OF CONVICTION.—Section 101(a)(48) (8 U.S.C. 1101(a)(48)) is amended by adding at the end the following:

''(C) Any reversal, vacatur, expungement, or modification of a conviction, sentence, or conviction record that was granted to ameliorate the consequences of the conviction, sentence, or conviction record, or was granted for rehabilitative purposes, or for failure to advise the alien of the immigration consequences of a guilty plea or a determination of guilt, shall have no effect on the immigration consequences resulting from the original conviction. The alien shall have the burden of demonstrating that any reversal, vacatur, expungement, or modification was not granted to ameliorate the consequences of the conviction, sentence, or conviction record, for rehabilitative purposes, or for failure to advise the alien of the immigration consequences of a guilty plea or a determination of guilt.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act that occurred before, on, or after such date of enactment.

SA 1205. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for the comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In title II, insert after section 203 the following:

SEC. 204. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) one who the Secretary of Homeland Security or the Attorney General determines, in the unreviewable discretion of the Secretary or the Attorney General, to have been at any time an alien described in section 212(a)(3) or 237(a)(4), which determination—

''(A) may be based upon any relevant information or evidence, including classified, sensitive, or national security information; and

''(B) shall be binding upon any court regardless of the applicable standard of review;'';

(2) in paragraph (8), by inserting '', regardless whether the crime was classified as an aggravated felony at the time of conviction, provided that, the Secretary of Homeland Security or Attorney General may in the unreviewable discretion of the Secretary or the Attorney General, determine that this paragraph shall not apply in the case of a single aggravated felony conviction (other than murder, manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a minor) for which completion of the term of imprisonment or the sentence (whichever is later) occurred 10 or more years before the date of application;'' after ''(as defined in subsection (a)(43))'';

(3) by striking the first sentence of the flush language after paragraph (9) and inserting following:

'' ''The fact that any person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good character. The Secretary or the Attorney General shall not be limited to the applicant's conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant's conduct and acts at any time.''.

(b) AGGRAVATED FELONS.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note) is amended by striking ''convictions'' and all that follows and inserting ''convictions occurring before, on or after such date.''.

(c) TECHNICAL CORRECTION TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 5504 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended—

(1) in paragraph (1), by inserting ''immediately preceding the flush language beginning 'The fact that' '' after ''the period at the end of paragraph (8)''; and

(2) in paragraph (2), by striking ''adding at the end'' and inserting ''inserting immediately following paragraph (8) as amended by this section and immediately preceding the flush language beginning ''The fact that' ''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after the date of enactment, and shall apply to any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws pending on or filed after the date of enactment of this Act. The amendments made by subsection (c) shall take effect as if included in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

(e) NATURALIZATION OF PERSONS ENDANGERING NATIONAL SECURITY.—

(1) IN GENERAL.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING NATIONAL SECURITY.—No person may be naturalized if the Secretary of Homeland Security determines, in the discretion of the Secretary, to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and shall be binding upon, and unreviewable by, any court exercising jurisdiction, under the immigration laws of the United States, over any application for naturalization, regardless of the applicable standard of review.''.

(2) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking '': and no application'' and all that follows and inserting the following: ''. No application for naturalization shall be considered by the Secretary of Homeland Security or by any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or in canceling the removal of an alien under this Act shall not be binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established his eligibility for naturalization under this title.''.

(3) PENDING DENATURALIZATION OR REMOVAL PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''No petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(4) CONDITIONAL PERMANENT RESIDENTS.—Section 216(e) and 216A(e) (8 U.S.C. 1186a(e) and 1186b(e)) are amended by inserting '', if the alien has had the conditional basis removed pursuant to this section.'' before the period at the end of each subsection.

(5) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section (as such terms are defined by the Secretary in regulation), the applicant may apply to the district court for the district in which the applicant resides for a hearing on

the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary of Homeland Security for the Secretary's determination on the application.''.

(6) CONFORMING AMENDMENT.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(A) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' before ''seek''; and

(B) by striking the second sentence and inserting the following: ''The burden shall be upon the petitioner to show that the Secretary's denial of the application was not supported by facially legitimate and bona fide reasons. Except in a proceeding under section 340, and notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, whether, for purposes of an application for naturalization, an alien—

''(1) is a person of good moral character;

''(2) understands and is attached to the principles of the Constitution of the United States; or

''(3) is well disposed to the good order and happiness of the United States.''.

(7) EFFECTIVE DATE.—The amendments made by this subsection—

(A) shall take effect on the date of the enactment of this Act;

(B) shall apply to any act that occurred before, on, or after such date of enactment; and

(C) shall apply to any application for naturalization or any other case or matter under the immigration laws of the United States that is pending on, or filed after, such date of enactment.

SA 1206. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (A), by striking ''Justice'' and inserting ''Homeland Security'';

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) the following:

''(C) AUTHORIZED DISCLOSURES.—

''(i) CENSUS PURPOSE.—The Secretary of Homeland Security may provide, in the discretion of the Secretary, or at the request of the Attorney General, information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

''(ii) NATIONAL SECURITY PURPOSE.—The Secretary of Homeland Security may, in the discretion of the Secretary, use, publish, or release information furnished under this section to support any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence, or the national security.''; and

(5) in subparagraph (D), as redesignated, by striking ''Service'' and inserting ''Department of Homeland Security''.

(b) ADJUSTMENT OF STATUS UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended—

(1) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (A), by striking ''Justice'' and inserting ''Homeland Security'';

(3) by amending subparagraph (C) to read as follows:

''(C) AUTHORIZED DISCLOSURES.—

''(i) CENSUS PURPOSE.—The Secretary of Homeland Security may provide, in the discretion of the Secretary, information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

''(ii) NATIONAL SECURITY PURPOSE.—The Secretary of Homeland Security may, in the discretion of the Secretary, use, publish, or release information furnished under this section to support any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence, or the national security.''; and

(4) in subparagraph (D), by striking ''Service'' and inserting ''Department of Homeland Security''.

SA 1207. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEFINITION OF RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended by striking ''section 1542'' and all that follows through ''section 1546 (relating to fraud and misuse of visas, permits, and other documents)'' and inserting ''sections 1541 through 1548 (relating to passport, visa, and immigration fraud)''.

SA 1208. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___ SANCTIONS FOR COUNTRIES THAT DELAY OR PREVENT REPATRIATION OF THEIR NATIONALS.

Sec. 243(d) (8 U.S.C. 1253(d)) is amended to read as follows:

''(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRIES THAT DENY OR DELAY ACCEPTING ALIENS.—Notwithstanding section 221(c), if the Secretary of Homeland Security determines that the government of a foreign country denies or unreasonably delays accepting aliens who are citizens, subjects, nationals, or residents of that country after the Secretary asks whether the government will accept an alien under this section, or after a determination that the alien is inadmissible under paragraph (6) or (7) of section 212(a)—

''(1) the Secretary of State, upon notification from the Secretary of Homeland Security of such denial or delay to accept aliens under circumstances described in this section, shall order consular officers in that foreign country to discontinue granting immigrant visas, nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Secretary of Homeland Security notifies the Secretary of State that the country has accepted the aliens;

''(2) the Secretary of Homeland Security may deny admission to any citizens, subjects, nationals, and residents from that country; and

''(3) the Secretary of Homeland Security may impose limitations, conditions, or additional fees on the issuance of visas or travel from that country and any other sanctions authorized by law.''.

SA 1209. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) LIMITATION ON CIVIL ACTIONS.—No court may certify a class under Rule 23 of the Federal Rules of Civil Procedure in any civil action filed after the date of the enactment of this Act pertaining to the administration or enforcement of the immigration laws of the United States.

(b) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety; and

(D) provide for the expiration of the relief on a specific date, which allows for the minimum practical time needed to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be—

(A) discussed and explained in writing in the order granting prospective relief; and

(B) sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(c) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) AUTOMATIC STAYS DURING REMANDS FROM HIGHER COURTS.—If a higher court remands a decision on a motion subject to this section to a lower court, the order granting prospective relief which is the subject of the motion shall be automatically stayed until the district court enters an order granting or denying the Government's motion.

(E) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(3) PENDING MOTIONS.—

(A) 45 DAYS OR LESS.—Any motion pending for 45 days or less on the date of the enactment of this Act shall be treated as if it had been filed on the date of the enactment of this Act for purposes of this subsection.

(B) MORE THAN 45 DAYS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, which has been pending for more than 45 days on the date of enactment of this Act, and remains pending on the 10th day after such date of enactment, shall result in an automatic stay, without further order of the court, of the prospective relief that is the subject of any such motion. An automatic stay pursuant to this subsection shall continue until the court enters an order granting or denying the Government's motion. No further postponement of any such automatic stay pursuant to this subsection shall be available under subsection (2)(C).

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—Subsection (b) shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(d) ADDITIONAL RULES CONCERNING PROSPECTIVE RELIEF AFFECTING EXPEDITED REMOVAL.—

(1) JUDICIAL REVIEW.—Except as expressly provided under section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) and notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas provision, and sections 1361 and 1651 of such title, no court has jurisdiction to grant or continue an order or part of an order granting prospective relief if the order or part of the order interferes with, affects, or impacts any determination pursuant to, or implementation of, section 235(b)(1) of such Act (8 U.S.C. 1225(b)(1)).

(2) GOVERNMENT MOTION.—Upon the Government's filing of a motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in a civil action identified in subsection (b), the court shall promptly—

(A) decide whether the court continues to have jurisdiction over the matter; and

(B) vacate any order or part of an order granting prospective relief that is not within the jurisdiction of the court.

(3) APPLICABILITY.—Paragraphs (1) and (2) shall not apply to the extent that an order granting prospective relief was entered before the date of the enactment of this Act and such prospective relief is necessary to remedy the violation of a right guaranteed by the United States Constitution.

(e) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (b).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (b) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(f) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(g) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

(h) APPLICATION OF AMENDMENT.—This Act shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(i) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is found to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected by such finding.

SA 1210. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 49, lines 3 and 4, strike '', which is punishable by a sentence of imprisonment of five years or more''.

SA 1211. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS OFFENSES.

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)(i)—

(i) in subclause (I), by striking '', or'' and inserting a semicolon;

(ii) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(iii) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) an offense described in section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification documents, authentication features, and information),''; and

(B) by inserting after subparagraph (J), as redesignated by section 205(b)(A), the following:

''(K) CITIZENSHIP FRAUD.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of, a violation of, or an attempt or a conspiracy to violate, section 1425(a) or (b) of title 18 (relating to the procurement of citizenship or naturalization unlawfully), is inadmissible.

''(L) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the essential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

''(M) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

''(N) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS; CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits having committed or admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. In this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

''(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time is enjoined under

a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. In this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a independent order in another proceeding.''; and

(2) in subsection (h)—

(A) by inserting ''or the Secretary of Homeland Security'' after ''the Attorney General'' each place such term appears;

(B) in the matter preceding paragraph (1), by striking ''The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)'' and inserting ''The Attorney General or the Secretary of Homeland Security may waive the application of subparagraphs (A)(i)(I), (A)(i)(III), (B), (D), (E), (K), and (M) of subsection (a)(2)'';

(C) in the matter following paragraph (2)—

(i) by striking ''torture.'' and inserting ''torture, or has been convicted of an aggravated felony.''; and

(ii) by striking ''if either since the date of such admission the alien has been convicted of an aggravated felony or the alien'' and inserting ''if since the date of such admission the alien''.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(3)(B) (8 U.S.C. 1227(a)(3)(B)) is amended—

(1) in clause (i), by striking the comma at the end and inserting a semicolon;

(2) in clause (ii), by striking '', or'' at the end and inserting a semicolon;

(3) in clause (iii), by striking the comma at the end and inserting ''; or''; and

(4) by inserting after clause (iii) the following:

''(iv) of a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18 (relating to the procurement of citizenship or naturalization unlawfully),''.

(c) DEPORTABILITY; CRIMINAL OFFENSES.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a conspiracy or attempt to violate) an offense described in section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification), is deportable.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any act that occurred before, on, or after the date of the enactment of this Act;

(2) all aliens who are required to establish admissibility on or after such date of enactment; and

(3) all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date of enactment.

(e) CONSTRUCTION.—The amendments made by subsection (a) may not be construed to create eligibility for relief from removal under former section 212(c) of the Immigration and Nationality Act if such eligibility did not exist before such amendments became effective.

SA 1212. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in a proceeding before an immigration judge or in an administrative appeal of such proceeding, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d)(1) Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section—

''(A) shall be the alien's current residential mailing address; and

''(B) may not be a post office box, another nonresidential mailing address, or the address of an attorney, representative, labor organization, or employer.

''(2) The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) An alien who is being detained by the Secretary under this Act—

''(A) is not required to report the alien's current address under this section while the alien remains in detention; and

''(B) shall notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e)(1) Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) Any alien or any parent or legal guardian in the United States of a minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk.

''(3) The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this

section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SA 1213. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

After section 203, insert the following:

SEC. 203A. PRECLUDING REFUGEES AND ASYLEES WHO HAVE BEEN CONVICTED OF AGGRAVATED FELONIES FROM ADJUSTMENT TO LEGAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Section 209(c) (8 U.S.C. 1159(c)) is amended—

(1) by inserting ''(1)'' before ''The provisions''; and

(2) by adding at the end the following:

''(2) An alien who is convicted of an aggravated felony, as defined in section 101(a)(43), is not eligible for a waiver under paragraph (1) or for adjustment of status under this section.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to—

(1) any act that occurred before, on, or after the date of the enactment of this Act;

(2) all aliens who are required to establish admissibility on or after such date of enactment; and

(3) all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date of enactment.

SA 1214. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

After section 305, insert the following:

SEC. 305A. ADDITIONAL CRIMINAL PENALTIES FOR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS.

(a) IN GENERAL.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) by amending paragraph (7) to read as follows:

''(7) for any purpose—

''(A) knowingly possesses or uses a social security account number or social security card knowing that such number or card was obtained from the Commissioner of Social Security by means of fraud or false statement;

''(B) knowingly and falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to the person or to another person, when in fact such number is not the social security account number assigned by the Commissioner of Social Security to such person or to such other person;

''(C) knowingly buys, sells, or possesses with intent to buy or sell a social security account number or a social security card that is or purports to be a number or card issued by the Commissioner of Social Security;

''(D) knowingly alters, counterfeits, forges, or falsely makes a social security account number or a social security card; or

''(E) knowingly possesses, uses, distributes, or transfers a social security account number or a social security card knowing the number or card to be altered, counterfeited, forged, falsely made, or stolen; or'';

(2) in paragraph (8)—

(A) by inserting ''knowingly'' before ''discloses'';

(B) by inserting ''account'' after ''security''; and

(C) by striking the semicolon and inserting ''; or'';

(3) by inserting after paragraph (8) the following:

''(9) without lawful authority, knowingly produces or acquires for any person a social security account number, a social security card, or a number or card that purports to be a social security account number or social security card;''; and

(4) in the flush text, by striking ''five'' and inserting ''10''.

(b) CONSPIRACY AND DISCLOSURE.—Section 208 of the Social Security Act (42 U.S.C. 408) is further amended by adding at the end the following:

''(f) Whoever attempts or conspires to violate any criminal provision under this section shall be punished in the same manner as a person who completes a violation of such provision.

''(g)(1) Notwithstanding any other provision of law and subject to paragraph (3), the Commissioner of Social Security shall disclose to any Federal law enforcement agency the records described in paragraph (2) if such law enforcement agency requests such records for the purpose of investigating a violation of this section or any other felony offense.

''(2) The records described in this paragraph are records of the Social Security Administration concerning—

''(A) the identity, address, location, or financial institution accounts of the holder of a social security account number or social security card;

''(B) the application for and issuance of a social security account number or social security card; and

''(C) the existence or nonexistence of a social security account number or social security card.

''(3) The Commissioner of Social Security may not disclose any tax return or tax return information pursuant to this subsection except as authorized by section 6103 of the Internal Revenue Code of 1986.''.

SA 1215. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. JUDICIAL REVIEW OF VISA REVOCATION.

Section 221(i) (8 U.S.C. 1201) is amended by striking the last sentence and inserting the following: ''Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.''.

SA 1216. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. WITHHOLDING OF REMOVAL.

(a) IN GENERAL.—Section 241(b)(3) (8 U.S.C. 1231(b)(3)) is amended—

(1) in subparagraph (A), by adding at the end the following: ''The alien has the burden of proof to establish that the alien's life or freedom would be threatened in such country, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least 1 central reason for such threat.''; and

(2) in subparagraph (C), by striking ''In determining whether an alien has demonstrated that the alien's life or freedom would be threatened for a reason described in subparagraph (A)'' and inserting ''For purposes of this paragraph''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on May 11, 2005, and shall apply to applications for withholding of removal made on or after such date.

SA 1217. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. JUDICIAL REVIEW OF DISCRETIONARY DETERMINATIONS AND REMOVAL ORDERS RELATING TO CRIMINAL ALIENS.

(a) DENIAL OF RELIEF.—Section 242(a)(2)(B) (8 U.S.C. 1252(a)(2)(B)) is amended to read as follows:

''(B) DENIAL OF DISCRETIONARY RELIEF AND CERTAIN OTHER RELIEF.—Except as provided under subparagraph (D), and notwithstanding any other provision of law, including section 2241 of title 28, any other habeas corpus provision, and sections 1361 and 1651 of such title, and regardless of whether the individual determination, decision, or action is made in removal proceedings, no court shall have jurisdiction to review—

''(i) any individual determination regarding the granting of status or relief under section 212(h), 212(i), 240A, 240B, or 245; or

''(ii) any discretionary decision or action of the Attorney General or the Secretary of Homeland Security under this Act or the regulations promulgated under this Act, other than the granting of relief under section 208(a), regardless of whether such decision or action is guided or informed by standards or guidelines, regulatory, statutory, or otherwise.''.

(b) FINAL ORDER OF REMOVAL.—Section 242(a)(2)(C) (8 U.S.C. 1252(a)(2)(C)) is amended to read as follows:

''(C) Except as provided under subparagraph (D), and notwithstanding any other provision of law, including section 2241 of title 28, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review any final order of removal (regardless of whether relief or protection was denied on the basis of the alien's having committed a criminal offense) against an alien who is removable for committing a criminal offense under section 208(a)(2) or subparagraph (A)(iii), (B), (C), or (D) of section 237(a)(2), or any offense under section 237(a)(2)(A)(ii) for which both predicate offenses are, without regard to their date of commission, described in section 237(a)(2)(A)(i).''.

SA 1218. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ACCESS TO NATIONAL CRIME INFORMATION CENTER'S INTERSTATE IDENTIFICATION INDEX.

(a) CRIMINAL JUSTICE ACTIVITIES.—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended by adding at the end the following:

''(f) CRIMINAL JUSTICE ACTIVITIES.—Notwithstanding any other provision of law, any Department of State personnel with authority to grant or refuse visas or passports may carry out activities that have a criminal justice purpose.''.

(b) LIAISON WITH INTERNAL SECURITY OFFICERS; DATA EXCHANGE.—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting the following:

''(b) ACCESS TO NCIC-IIII.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General and the Director of the Federal Bureau of Investigation shall provide to the Department of Homeland Security and the Department of State access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the National Crime Information Center for the purpose of determining whether an applicant or petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws, or any beneficiary of an application or petition under the immigration laws, has a criminal history record indexed in the file.

''(2) AUTHORIZED ACTIVITIES.—

''(A) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State—

''(i) shall have direct access, without any fee or charge, to the information described in paragraph (1) to conduct name-based searches, file number searches, and any other searches that any criminal justice or other law enforcement officials are entitled to conduct; and

''(ii) may contribute to the records maintained by the National Crime Information Center.

''(B) SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall receive, on request by the Secretary of Homeland Security, access to the information described in paragraph (1) by means of extracts of the records for placement in the appropriate database without any fee or charge.

''(c) CRIMINAL JUSTICE AND LAW ENFORCEMENT PURPOSES.—Notwithstanding any other provision of law, adjudication of eligibility for benefits under the immigration laws and other purposes relating to citizenship and immigration services, shall be considered to be criminal justice or law enforcement purposes with respect to access to or use of any information maintained by the National Crime Information Center or other criminal history information or records.''.

SA 1219. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In subsections (e)(2) and (f)(1) of section 503, strike ''May 1, 2005'' each place it appears and insert ''January 1, 2007''.

SA 1220. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (c) of section 418 and all that follows through subsection (d) of section 420, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Subsection (h) of section 214 of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

SEC. 419. H–1B STREAMLINING AND SIMPLIFICATION.

(a) H–1B AMENDMENTS.—

(1) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(A) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 150,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 215,000 for any fiscal year; or'';

(B) in paragraph (6), as redesignated by section 409—

(i) in subparagraph (B), by striking ''; or'' and inserting a semicolon;

(ii) in subparagraph (C), by striking ''until the number of aliens who are exempted from such numerical limitation during such fiscal year exceeds 20,000.'' and inserting ''; or''; and

(iii) by adding at the end the following:

''(D) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States.''; and

(C) in paragraph (9), as redesignated by section 409—

(i) in subparagraph (B)—

(I) in clause (iii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(iii) by striking subparagraph (D).

(2) APPLICABILITY.—The amendments made by paragraph (1)(B) shall apply with respect to any petition or visa application pending on the date of the enactment of this Act and to any petition or visa application filed on or after such date of enactment.

(b) REQUIRING A DEGREE.—Paragraph (2) of section 214(i) (8 U.S.C. 1184(i)) is amended—

(1) in subparagraph (A), by striking the comma at the end and inserting ''; or'';

(2) in subparagraph (B), by striking '', or'' and inserting a period; and

(3) by striking subparagraph (C).

(c) PROVISION OF W-2 FORMS.—Section 214(g)(5), as redesignated by section 409, is amended to read as follows:

''(5) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b)—

''(A) the period of authorized admission as such a nonimmigrant may not exceed 6 years (except for a nonimmigrant who has filed a petition for an immigrant visa under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in 1-year increments until such time as a final decision is made on the alien's lawful permanent residence);

''(B) if the alien is granted an initial period of admission less than 6 years, any subsequent application for an extension of stay for such alien shall include the Form W-2 Wage and Tax Statement filed by the employer for such employee, and such other form or information relating to such employment as the Secretary of Homeland Security, in the discretion of the Secretary, may specify, with respect to such nonimmigrant alien employee for the period of admission granted to the alien; and

''(C) notwithstanding section 6103 of the Internal Revenue Code of 1986, or any other law, the Commissioner of Internal Revenue or the Commissioner of the Social Security Administration shall upon request of the Secretary confirm whether the Form W-2 Wage and Tax Statement filed by the employer under subparagraph (B) matches a Form W-2 Wage and Tax Statement filed with the Internal Revenue Service or the Social Security Administration, as the case may be.''.

(d) EXTENSION OF H–1B STATUS FOR MERIT–BASED ADJUSTMENT APPLICANTS.—

(1) IN GENERAL.—Section 214(g)(4), as redesignated by section 409, is amended—

(A) by inserting ''(A)'' after ''(4)'';

(B) by striking ''If an alien'' and inserting the following:

''(B) If an alien''; and

(C) by adding at the end the following:

''(C) Subparagraph (B) shall not apply to such a nonimmigrant who has filed a petition for an immigrant visa accompanied by a qualifying employer recommendation under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in 1-year increments until such time as a final decision is made on the alien's lawful permanent residence.''.

(2) REPEAL.—Section 106 of the American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended by striking subsections (a) and (b).

SEC. 420. H–1B EMPLOYER REQUIREMENTS.

(a) NONDISPLACEMENT REQUIREMENT.—

(1) EXTENDING TIME PERIOD FOR NONDISPLACEMENT.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking ''90 days'' each place it appears and inserting ''180 days''; and

(ii) in subparagraph (F)(ii), by striking ''90 days'' each place it appears and inserting ''180 days''; and

(B) in paragraph (2)(C)(iii), by striking ''90 days'' each place it appears and inserting ''180 days''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall apply to applications filed on or after the date of the enactment of this Act; and

(B) shall not apply to displacements for periods occurring more than 90 days before such date.

(b) H–1B NONIMMIGRANTS NOT ADMITTED FOR JOBS ADVERTISED OR OFFERED ONLY TO H–1B NONIMMIGRANTS.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(1) by inserting after subparagraph (G) the following:

''(H)(i) The employer has not advertised the available jobs specified in the application in an advertisement that states or indicates that—

''(I) the job or jobs are only available to persons who are or who may become H–1B nonimmigrants; or

''(II) persons who are or who may become H–1B nonimmigrants shall receive priority or a preference in the hiring process.

''(ii) The employer has not only recruited persons who are, or who may become, H–1B nonimmigrants to fill the job or jobs.''; and

(2) in the flush text at the end, by striking ''The employer'' and inserting the following:

''(K) The employer''.

(c) LIMIT ON PERCENTAGE OF H-1B EMPLOYEES.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (b)(1), the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H–1B nonimmigrants.''.

SA 1221. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. SSI EXTENSION FOR HUMANITARIAN IMMIGRANTS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

''(M) SSI EXTENSION THROUGH FISCAL YEAR 2010.—

''(i) IN GENERAL.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(A), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during the period that begins on the date of enactment of this subparagraph and ends on September 30, 2010.

''(ii) ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS.—

''(I) IN GENERAL.—Beginning on the date of enactment of this subparagraph, any qualified alien rendered ineligible for the specified Federal program described in paragraph (3)(A) during fiscal years prior to the fiscal year in which such subparagraph is enacted solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this subparagraph, if such alien meets all other eligibility factors under title XVI of the Social Security Act.

''(II) PAYMENT OF BENEFITS.—Benefits paid under subclause (I) shall be paid prospectively over the duration of the qualified alien's renewed eligibility.''.

SA 1222. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 604 (relating to mandatory disclosure of information) and insert the following:

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

(1) use the information furnished by the applicant pursuant to an application filed under section 601 and 602, for any purpose, other than to make a determination on the application;

(2) make any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the sworn officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under section 601 and 602, and any other information derived from such furnished information, to—

(1) a law enforcement entity, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested by such entity;

(2) a law enforcement entity, intelligence agency, national security agency, or component of the Department of Homeland Security in connection with a duly authorized investigation of a civil violation, in each instance about an individual suspect or group of suspects, when such information is requested by such entity; or

(3) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(c) INAPPLICABILITY AFTER DENIAL.—The limitations under subsection (a)—

(1) shall apply only until an application filed under section 601 and 602 is denied and all opportunities for administrative appeal of the denial have been exhausted; and

(2) shall not apply to the use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

(d) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this section, information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement and law enforcement purposes.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate information furnished as part of any application filed under sections 601 and 602, any application to extend such status under section 601(k), or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602, then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for status pursuant to sections 601 or 602 to make a determination on any petition or application.

(g) CRIMINAL PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections 601 or 602, 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.

(i) REFERENCES.—References in this section to section 601 or 602 are references to sections 601 and 602 of this Act and the amendments made by those sections.

SA 1223. Mr. SANDERS proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the end of title VII, insert the following:

Subtitle C—American Competitiveness Scholarship Program

SEC. 711. AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this section as the ''Director'') shall award scholarships to eligible individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, health care, or computer science.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a scholarship under this section, an individual shall—

(A) be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), an alien admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), or an alien lawfully admitted to the United States for permanent residence;

(B) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(C) certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, nursing, medicine, or other clinical medical program, or technology, or science program designated by the Director.

(2) ABILITY.—Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(c) AMOUNT OF SCHOLARSHIP; RENEWAL.—

(1) AMOUNT OF SCHOLARSHIP.—The amount of a scholarship awarded under this section shall be $15,000 per year, except that no scholarship shall be greater than the annual cost of tuition and fees at the institution of higher education in which the scholarship recipient is enrolled or will enroll.

(2) RENEWAL.—The Director may renew a scholarship under this section for an eligible individual for not more than 4 years.

(d) FUNDING.—The Director shall carry out this section only with funds made available under section 286(x) of the Immigration and Nationality Act (as added by section 712) (8 U.S.C. 1356).

(e) FEDERAL REGISTER.—Not later than 60 days after the date of enactment of this Act, the Director shall publish in the Federal

Register a list of eligible programs of study for a scholarship under this section.

SEC. 712. SUPPLEMENTAL H-1B NONIMMIGRANT PETITIONER ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) (as amended by this Act) is further amended by inserting after subsection (w) the following:

''(x) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Supplemental H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this Act, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(15).

''(2) USE OF FEES FOR AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—The amounts deposited into the Supplemental H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 711 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 for students enrolled in a program of study leading to a degree in mathematics, engineering, health care, or computer science.''.

SEC. 713. SUPPLEMENTAL FEES.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) In each instance where the Attorney General, the Secretary of Homeland Security, or the Secretary of State is required to impose a fee pursuant to paragraph (9) or (11), the Attorney General, the Secretary of Homeland Security, or the Secretary of State, as appropriate, shall impose a supplemental fee on the employer in addition to any other fee required by such paragraph or any other provision of law, in the amount determined under subparagraph (B).

''(B) The amount of the supplemental fee shall be $8,500, except that the fee shall be ½ that amount for any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).

''(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(x).''.

SA 1224. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Purpose: To prohibit illegal immigrants from receiving welfare.

Section 602(a)(6) is amended by adding at the end the following: ''In no event shall a Z nonimmigrant or an alien granted probationary benefits under section 601(h) be eligible for assistance under the designated Federal program described in section 402(b)(3)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(3)(A)) before the date that is 5 years after the date on which the alien's status is adjusted under this section to that of an alien lawfully admitted for permanent residence.''.

SA 1225. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 601(d)(1), strike subparagraph (I) and insert the following:

(I) The Secretary, in the discretion of the Secretary—

(i) may waive ineligibility under subparagraph (B) or (C) if the alien—

(I) has not been physically removed from the United States; and

(II) demonstrates that the departure of the alien from the United States would result in extreme hardship to the alien or the spouse, parent, or child of the alien; and

(ii) shall, unless the Secretary or the Attorney General determines that a waiver is not in the public interest based on the particular facts of the application for asylum of the alien, waive ineligibility under subparagraph (B) if—

(I) notwithstanding subparagraph (B), the alien is admissible to the United States as an immigrant;

(II) the alien filed an application for asylum before December 31, 2004, which was not found to be frivolous by the Attorney General under section 208(d)(6) of the Immigration and Nationality Act (11 U.S.C. 1158(d)(6));

(III) an immigration judge specifically cited changed country conditions as the basis, in whole or in part, for denying the application of the alien for asylum;

(IV) the alien applies for the adjustment of status;

(V) the alien—

(aa) has been physically present in the United States for at least 3 years; and

(bb) was physically present in the United States on the date the application for the adjustment of status was filed;

(VI) the alien has not returned to the country of nationality or last habitual residence of the alien since the filing of the application for asylum; and

(VII) the alien pays a fee, in an amount determined by the Secretary, for the processing of the application.

SA 1226. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 264, line 15, strike the end quote and final period and insert the following:

''(G) In addition to any merit points awarded pursuant to the evaluation system described in subparagraph (A), an alien shall receive 20 points if the alien—

''(i) is admissible to the United States as an immigrant (except for any provision under paragraphs (4), (5), and (7)(A) of section 212(a) or any other provision of such section waived by the Secretary of Homeland Security or the Attorney General (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (F) of paragraph (3)) with respect to such alien for humanitarian purposes, to assure family unity, or if otherwise in the public interest);

''(ii) filed an application for asylum before December 31, 2004, which was credible, based on the country conditions that existed at the time the application was file;

''(iii) has been physically present in the United States for not less than 3 years; and

''(iv) was physically present in the United States on the date on which the application described in clause (ii) was filed.''.

SA 1227. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ADJUSTMENT OF STATUS FOR ASYLEES.

Section 245 of the Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) ADJUSTMENT OF STATUS FOR ASYLEES.—

''(1) IN GENERAL.—The Secretary of Homeland Security (in this subsection referred to as the 'Secretary') shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

''(A) is admissible to the United States as an immigrant, except as provided under paragraph (2);

''(B) filed an application for asylum before December 31, 2004, which was not found to be frivolous by the Attorney General under section 208(d)(6);

''(C) changed country conditions were specifically cited by an immigration judge as the basis, in whole or in part, for denying the application for asylum;

''(D) applies for such adjustment of status;

''(E) has been physically present in the United States for at least 3 years and was physically present in the United States on the date on which the application for such adjustment was filed;

''(F) has not returned to his or her country of nationality or last habitual residence since the date of filing of the application for asylum; and

''(G) pays a fee, in an amount determined by the Secretary, for the processing of such application.

''(2) APPLICABILITY OF OTHER FEDERAL STATUTORY REQUIREMENTS.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this subsection, and the Secretary or the Attorney General may waive any other provision of such section 212(a) (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (F) of paragraph (3) of that section) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(3) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—The Secretary shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien is the spouse, child, or unmarried son or unmarried daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under paragraph (1).

''(4) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of this Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a motion to reopen, reconsider, or vacate such order. If the Secretary or the Attorney General grants the application, the Attorney General shall cancel the order of removal. If the Secretary or the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable, to the same extent as if the application had not been made.

''(5) STAY OF FINAL ORDER OF EXCLUSION, DEPORTATION, OR REMOVAL.—Filing for adjustment of status, as described in this subsection, shall result in a stay of a final order of exclusion, deportation, or removal.''.

SA 1228. Mr. LEVIN (for himself, Mr. OBAMA, Mr. MENENDEZ, Mr. COLEMAN, Mr. REID, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. VOINOVICH) submitted an amendment intended to be proposed to

amendment SA 1150 proposed by Mr. REID, (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike subsection (c) of section 215 of the amendment and insert the following:

(c) REPORTS ON BACKGROUND AND SECURITY CHECKS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States, in conjunction with the Director of the Federal Bureau of Investigation, shall submit to the appropriate congressional committees a report on the background and security checks conducted by the Federal Bureau of Investigation.

(2) CONTENT.—The report submitted under paragraph (1) shall include—

(A) a description of the background and security check program;

(B) an analysis of resources devoted to the name check program, including personnel and support;

(C) a statistical analysis of the background and security check delays associated with different types of name check requests, such as those requested by the U.S. Citizenship and Immigration Services or the Office of Personnel Management, including—

(i) the number of background checks conducted on behalf of requesting agencies, by agency and type of requests (such as naturalization or adjustment of status); and

(ii) the average time spent on each type of background check described under subparagraph (A), including the time from the submission of the request to completion of the check and the time from the initiation of check processing to the completion of the check;

(D) a statistical analysis of the background and security check delays by the country of origin of the applicant;

(E) a description of the obstacles that impede the timely completion of such background checks;

(F) a discussion of the steps that the Director of the Federal Bureau of Investigation is taking to expedite background and security checks that have been pending for more than 60 days; and

(G) a plan for the automation of all investigative records related to the name check process.

(3) ANNUAL REPORT ON DELAYED BACKGROUND CHECKS.—Not later than the end of each fiscal year, the Attorney General shall submit to the appropriate congressional committees a report containing, with respect to that fiscal year—

(A) a statistical analysis of the number of background checks processed and pending, including check requests in process at the time of the report and check requests received but not yet in process;

(B) the average time taken to complete each type of background check;

(C) a description of efforts made and progress by the Attorney General in addressing any delays in completing such background checks;

(D) a description of progress made in carrying out subsection (d);

(E) a report on the number of name checks extended during the preceding year under subsection (d)(3); and

(F) a description of progress made in automating files used in the name check process, including investigative files of the Federal Bureau of Investigation.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(d) ENHANCED SECURITY THROUGH AN EFFECTIVE NATIONAL NAME CHECK PROGRAM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, subject to paragraph (3), the Director of the Federal Bureau of Investigation shall ensure that all name checks are completed by not later than 180 days after the date of submission.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate congressional committees a report that includes a comprehensive plan to meet the requirements of paragraph (1).

(3) EXCEPTIONAL CIRCUMSTANCES.—Notwithstanding paragraph (1), the Director of the Federal Bureau of Investigation may—

(A) extend the timeframe for completion of a name check for not more than 2 additional 180-day periods, if the Director determines that such an extension is necessary to resolve the name check because the check could not reasonably have been completed in the allotted time through due diligence; or

(B) extend the timeframe as the Director determines to be necessary in any case in which the individual who is the subject of the name check is the subject of an ongoing investigation, the completion of which is necessary for a response to the agency at which the name check request originated.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the following:

(1) The Committee on the Judiciary of the Senate.

(2) The Committee on Homeland Security and Governmental Affairs of the Senate.

(3) The Committee on the Judiciary of the House of Representatives.

(4) The Committee on Homeland Security of the House of Representatives.

SA 1229. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 290, line 18, strike ''by the end of the next business day'' and insert '', by the end of the 72-hour period following the completion of those background checks,''.

On page 291, line 1, strike ''next business day'' and insert ''72-hour period described in paragraph (1)''.

SA 1230. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 601(i)(2)(C) (relating to other documents)—

(1) strike clause (VI) (relating to sworn affidavits);

(2) in clause (V), strike the semicolon at the end and insert a period; and

(3) in clause (IV), add ''and'' at the end.

SA 1231. Mr. DURBIN (for himself and Mr. GRASSLEY) proposed an amendment to amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

In section 218B(b) of the Immigration and Nationality Act, as added by section 403(a), strike ''Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment to which the Y nonimmigrant is sought, each'' and insert ''Each''.

In section 218B(c)(1)(G) of the Immigration and Nationality Act, as added by section 403(a), strike ''Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the Y nonimmigrant is sought—'' and insert ''That—''.

SA 1232. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 218A of the Immigration and Nationality Act, as added by section 402(a), add the following new subsection:

''(y) SOCIAL SECURITY AND MEDICARE.—

''(1) SOCIAL SECURITY PAYROLL TAX.—

''(A) IN GENERAL.—Notwithstanding whether an agreement under section 233 of the Social Security Act is in effect between the United States and the home country of Y nonimmigrant, upon submission of a request at a United States Consulate in the home country of an alien who has ceased to be a Y nonimmigrant as result of termination of employment in the United States, the Secretary of the Treasury shall pay the alien an amount equal to the total tax imposed under section 3101(a) of the Internal Revenue Code of 1986 on the wages received by the alien and 50 percent of the tax imposed under section 1401(a) of such Code on the self-employment income of such alien while the alien was in such nonimmigrant status (without interest). An alien receiving such a payment shall be—

''(i) ineligible for any future admission to the United States under a Y nonimmigrant status; and

''(ii) prohibited from being credited under title II of the Social Security Act for any quarter of coverage on which such payment is based.

''(B) ADMINISTRATION.—Not later than 1 year after the date of the enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary of the Treasury and the Commissioner of Social Security shall each issue regulations establishing procedures for carrying out this paragraph, without regard to the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act).

''(2) MEDICARE PAYROLL TAX.—Not later than 1 year after such date of enactment, the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall issue regulations establishing procedures for transferring amounts collected from the tax imposed under section 3101(b) of the Internal Revenue Code of 1986 on the wages received by Y nonimmigrant and 50 percent of the tax imposed under section 1401(b) of such Code on the self-employment income of such alien while working in the United States to the Secretary of Health and Human Services for the purpose of making payments to eligible providers for the provision of eligible services to aliens in the same manner as payments are made to such providers in accordance with section 1011 of

the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note).

''(3) APPLICATION OF PROHIBITION ON ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.—Nothing in this section shall be construed as affecting the application of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1601 et seq.) to a Y nonimmigrant and in no event shall an alien be considered a qualified alien under such title while granted such status.''.

SA 1233. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike paragraph (2) of section 607(a) and insert the following:

(2) adding at the end the following new subsections:

''(d)(1) Except as provided in paragraphs (2) and (3) and subsection (e), for purposes of this section and for purposes of determining a qualifying quarter of coverage under section 402(b)(2)(B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(B))—

''(A) no quarter of coverage shall be credited if, with respect to any individual who is assigned a social security account number after 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) there shall be a rebuttable presumption that an alien who is granted nonimmigrant status under section 101(a)(15)(Z) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Z)) and who was granted a social security account number prior to 2007, has no qualifying quarters of coverage earned prior to the date that the alien is granted such status.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who satisfies the criterion specified in subsection (c)(2).

''(3) The rebuttable presumption described in paragraph (1)(B) may be overcome with appropriate, verifiable documents proving creditable quarters of coverage during a period—

''(A) prior to the date that the alien is granted nonimmigrant status under section 101(a)(15)(Z); and

''(B) that the alien was present in the United States pursuant to a grant of status under a provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

''(e) Subsection (d) shall not apply with respect to a determination under subsection (a) or (b) for a deceased individual in the case of a child who is a United States citizen and who is applying for child's insurance benefits under section 202(d) based on the wages and self-employment income of such deceased individual.''.

SA 1234. Mr. SESSIONS submitted an amendment to amendment SA 1150 proposed by Mr. REID, (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. LIMITATION ON CLAIMING EARNED INCOME TAX CREDIT.

Any alien who is unlawfully present in the United States, receives adjustment of status under section 601 of this Act (relating to aliens who were illegally present in the United States prior to January 1, 2007), or enters the United States to work on a Y visa under section 402 of this Act, shall not be eligible for the tax credit provided under section 32 of the Internal Revenue Code (relating to earned income) until such alien has his or her status adjusted to legal permanent resident status.

SA 1235. Mr. SESSIONS proposed an amendment to amendment SA 1150 proposed by Mr. REID, (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. 5-YEAR LIMITATION ON CLAIMING EARNED INCOME TAX CREDIT.

Section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) is amended by inserting '', including the tax credit provided under section 32 of the Internal Revenue Code (relating to earned income),'' after ''means-tested public benefit''.

SA 1236. Mr. BAUCUS (for himself and Mr. TESTER) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 3, lines 7 through 9, strike '', biometrics, and/or complies with the requirements for such documentation under the REAL ID Act'' and insert ''and biometrics''.

On page 90, strike lines 22 through 38 and insert the following:

''(i) an individual's driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States if—

On page 92, strike lines 22 through 26.

On page 130, strike line 28 and all that follows through page 133, line 29.

SA 1237. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1150 proposed by Mr. REID, (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 601(f)(2), strike ''12 months'' and insert ''2 years''.

SA 1238. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 26, line 27, strike ''$50,000,000'' and insert ''$100,000,000''.

SA 1239. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VII, strike the section that requires the Secretary of Education to develop an Internet-based English Learning Program.

SA 1240. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 104.

SA 1241. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 123, in the matter preceding paragraph (1), insert ''subject to the availability of appropriations,'' after ''shall,''.

SA 1242. Mr. LIEBERMAN (for himself, Mr. HAGEL, Ms. CANTWELL, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 265, beginning on line 27, strike all through page 266, line 8, and insert the following:

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—

(1) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by striking subparagraphs (E) and (F).

(2) HIGHLY SKILLED WORKERS.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(6)), as redesignated by section 409, is amended—

(A) in subparagraph (C), by striking ''until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.'' and inserting ''or has been awarded a medical specialty certification based on post-doctoral training and experience in the United States; or''; and

(B) by adding at the end the following:

''(D) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect on the first day of the fiscal year subsequent to the fiscal year of enactment, unless such date is less than 270 days after the date of enactment, in which case the amendments shall take effect on the first day of the following fiscal year.

(2) PENDING AND APPROVED PETITIONS AND APPLICATIONS.—

(A) IN GENERAL.—Petitions for an employment-based visa filed for classification under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) (as such provisions existed prior to the enactment of this section) that were filed prior to the date of the introduction of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 and were pending or approved at the time of the effective date of this section, shall be treated as if such provisions remained effective and an approved petition may serve as the basis for issuance of an immigrant visa.

(B) ADJUSTMENT OF STATUS.—The alien with respect to whom a petition was pending or approved as described in subparagraph (A), and any dependent accompanying or following to join such alien, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not

be approved until an immigrant visa becomes available.

(C) LABOR CERTIFICATION.—Aliens with applications for a labor certification pursuant to section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A)) shall preserve the immigrant visa priority date accorded by the date of filing of such labor certification application.

SA 1243. Mr. OBAMA (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, add the following:

SEC. 509. EXPIRATION OF PROVISIONS.

On September 30 of the fifth fiscal year following the fiscal year in which this Act is enacted, the following provisions of this Act (and the amendments made by such provisions) shall be repealed and the Immigration and Nationality Act shall be applied as if such provisions had not been enacted:

(1) Section 501, except that this paragraph shall not apply to paragraphs (2) through (4) of section 201(d) of the Immigration and Nationality Act (as added by section 501(b)).

(2) Subsections (a) through (e) of section 502.

(3) Subsections (a), (b), (c), (d), and (e)(1) of section 503.

(4) Section 504.

SA 1244. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike 601(e)(6)(E)(ii) and insert the following:

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The fees collected under subparagraph (C) shall be deposited in the State Impact Assistance Account established under section 286(x) of the Immigration and Nationality Act, as added by section 402, and used for the purposes described in such section 286(x).

SA 1245. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 148, strike lines 3 through 7, and insert the following:

''(B) STATE IMPACT ASSISTANCE FEE.—An alien making an application for a Y–1 nonimmigrant visa shall pay a State impact assistance fee of $750 and an additional $100 fee for each dependent accompanying or following to join the alien.''.

SA 1246. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 288, strike lines 4 through 9, and insert the following:

(C) STATE IMPACT ASSISTANCE FEE.—In addition to any other amounts required to be paid under this subsection, an alien making an initial application for Z–1 nonimmigrant status shall be required to pay a State impact assistance fee equal to $750 and an additional $100 fee for each dependent accompanying or following to join the alien.

SA 1247. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 148, strike lines 3 through 7, and insert the following:

''(B) STATE IMPACT ASSISTANCE FEE.—An alien making an application for a Y–1 nonimmigrant visa shall pay a State impact assistance fee of $750 and an additional $100 fee for each dependent accompanying or following to join the alien.''.

On page 288, strike lines 4 through 9, and insert the following:

(C) STATE IMPACT ASSISTANCE FEE.—In addition to any other amounts required to be paid under this subsection, an alien making an initial application for Z–1 nonimmigrant status shall be required to pay a State impact assistance fee equal to $750 and an additional $100 fee for each dependent accompanying or following to join the alien.

On page 288, strike lines 22 through 24, and insert the following:

(ii) DEPOSIT OF STATE IMPACT ASSISTANCE FUNDS.—The fees collected under subparagraph (C) shall be deposited in the State Impact Assistance Account established under section 286(x) of the Immigration and Nationality Act, as added by section 402, and used for the purposes described in such section 286(x).

SA 1248. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 292, between lines 33 and 34, strike: ''(D) IN GENERAL.—The alien'' through ''which taxes are owed.'', and insert the following:

''(i) IN GENERAL.—The alien may satisfy such requirement by establishing that—

''(I) no such tax liability exists;

''(II) all outstanding liabilities have been met; or

''(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service and with the department of revenue of each State to which taxes are owed.

''(ii) LIMITATION.—Provided further that an alien required to pay taxes under this subparagraph, or who otherwise satisfies the requirements of clause (i), shall not be allowed to collect any tax refund for any taxable year prior to 2006, or to file any claim for the Earned Income Tax Credit, or any other tax credit otherwise allowable under the tax code, prior to such taxable year.''.

SA 1249. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, and Mr. HATCH) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike lines 15 through 25 on page 265 and insert the following:

''section 204(c).

''(G) Notwithstanding any conflicting provisions of this paragraph, the requirements of this paragraph shall apply only to merit-based, self-sponsored immigrants and not to merit-based, employer-sponsored immigrants described in paragraph (5).

''(H) Notwithstanding any conflicting provisions of this paragraph, any reference in this paragraph to a worldwide level of visas refers to the worldwide level specified in section 201(d)(1).'';

(3) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(4) in paragraph (2) (as redesignated by paragraph (3))—

(A) by striking ''7.1 percent of such worldwide level'' and inserting ''4,200 of the worldwide level specified in section 201(d)(1)''; and

(B) by striking ''5,000'' and inserting ''2,500'';

(5) in paragraph (3) (as redesignated by paragraph (3))—

(A) in subparagraph (A), by striking ''7.1 percent of such worldwide level'' and inserting ''2,800 of the worldwide level specified in section 201(d)(1)''; and

(B) in subparagraph (B)(i), by striking ''3,000'' and inserting ''1,500''; and

(6) by adding at the end the following

''(5) MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—

''(A) PRIORITY WORKERS.—Visas shall first be made available in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), to qualified immigrants who are aliens described in any of clauses (i) through (iii):

''(i) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this clause if—

''(I) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation;

''(II) the alien seeks to enter the United States to continue work in the area of extraordinary ability; and

''(III) the alien's entry into the United States will substantially benefit prospectively the United States.

''(ii) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this clause if—

''(I) the alien is recognized internationally as outstanding in a specific academic area;

''(II) the alien has at least 3 years of experience in teaching or research in the academic area; and

''(III) the alien seeks to enter the United States—

''(aa) for a tenured position (or tenure-track position) within an institution of higher education (as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) to teach in the academic area;

''(bb) for a comparable position with an institution of higher education to conduct research in the area, or

''(cc) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 individuals full-time in research activities and has achieved documented accomplishments in an academic field.

''(iii) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this clause if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this paragraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(B) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

''(i) IN GENERAL.—Visas shall be made available, in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), plus any visas not required for the classes specified in subparagraph (A), to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

''(ii) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under clause (i) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

''(C) PROFESSIONALS.—

''(i) Visas shall be made available, in a number not to exceed 33.3 percent of the worldwide level specified in section 201(d)(5), plus any visas not required for the classes specified in subparagraphs (A) and (B), to qualified immigrants who hold baccalaureate degrees and who are members of the professions and who are not described in subparagraph (B).

''(D) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (B) or (C) until there has been a determination made by the Secretary of Labor that—

''(i) there are not sufficient workers who are able, willing, qualified and available at the time such determination is made and at the place where the alien, or a substitute is to perform such skilled or unskilled labor; and

''(ii) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

An employer may not substitute another qualified alien for the beneficiary of such determination unless an application to do so is made to and approved by the Secretary of Homeland Security.''.

(c) WORLDWIDE LEVEL OF MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)), as amended by section 501(b), is further amended by adding at the end the following:

''(5) WORLDWIDE LEVEL FOR MERIT-BASED EMPLOYER-SPONSORED IMMIGRANTS.—

''(A) IN GENERAL.—The worldwide level of merit-based employer-sponsored immigrants under this paragraph for a fiscal year is equal to—

''(i) 140,000, plus

''(ii) the number computed under subparagraph (B).

''(B) ADDITIONAL NUMBER.—

''(i) FISCAL YEAR 2007.—The number computed under this subparagraph for fiscal year 2007 is zero.

''(ii) FISCAL YEAR 2008.—The number computed under this subparagraph for fiscal year 2008 is the difference (if any) between the worldwide level established under subparagraph (A) for the previous fiscal year and the number of visas issued under section 203(b)(2) during that fiscal year.''.

In section 501, insert after subsection (b) the following:

(c) PROVIDING EXEMPTIONS FROM MERIT-BASED LEVELS FOR VERY HIGHLY SKILLED IMMIGRANTS.—Section 201(b)(1) of the Immigration and Nationality Act (as amended by section 503(a)) (8 U.S.C. 1151(b)(1)) is further amended by inserting after subparagraph (G) the following:

''(H) Aliens who have earned a master's or higher degree from a United States institution of higher education, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

''(I) Aliens who have earned a master's degree or higher degree in science, technology, engineering, or mathematics and have been working in a related field in the United States in a nonimmigrant status during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(J) Aliens who—

''(i) have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation; and

''(ii) seek to enter the United States to continue work in the area of extraordinary ability.

''(K) Aliens who—

''(i) are recognized internationally as outstanding in a specific academic area;

''(ii) have at least 3 years of experience in teaching or research in the academic area; and

''(iii) who seek to enter the United States for—

''(I) a tenured position (or tenure-track position) within an institution of higher education to teach in the academic area;

''(II) a comparable position with an institution of higher education to conduct research in the area; or

''(III) a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

''(L) Aliens who—

''(i) in the 3-year period preceding their application for an immigrant visa under section 203(b), have been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof; and

''(ii) who seek to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

''(M) The immediate relatives of an alien who is admitted as a merit-based employer-sponsored immigrant under subsection 203(b)(2).''.

Strike section 418(c)(1).

Strike section 419(a) and insert the following:

(a) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Section 214(g)(6) (as renumbered by section 409) (8 U.S.C. 21184(g)(6)) is amended—

(A) in subparagraph (B), by striking ''or'' after the semicolon;

(B) in subparagraph (C), by striking '', until the number of aliens who are exempted from such numerical limitation during such year exceeds 20,000.'' and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States.''.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

Strike section 419(b).

Strike section 420(a).

SA 1250. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 601(i)(2)(C) (relating to other documents)—

(1) strike clause (VI) (relating to sworn affidavits);

(2) in clause (V), strike the semicolon at the end and insert a period; and

(3) in clause (IV), add ''and'' at the end.

Strike section 604 (relating to mandatory disclosure of information) and insert the following:

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

(1) use the information furnished by the applicant pursuant to an application filed under section 601 and 602, for any purpose, other than to make a determination on the application;

(2) make any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the sworn officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under section 601 and 602, and any other information derived from such furnished information, to—

(1) a law enforcement entity, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested by such entity;

(2) a law enforcement entity, intelligence agency, national security agency, or component of the Department of Homeland Security in connection with a duly authorized investigation of a civil violation, in each instance about an individual suspect or group of suspects, when such information is requested by such entity; or

(3) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(c) INAPPLICABILITY AFTER DENIAL.—The limitations under subsection (a)—

(1) shall apply only until an application filed under section 601 and 602 is denied and all opportunities for administrative appeal of the denial have been exhausted; and

(2) shall not apply to the use of the information furnished pursuant to such application in any removal proceeding or other criminal or civil case or action relating to an alien whose application has been granted that is based upon any violation of law committed or discovered after such grant.

(d) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this section, information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement and law enforcement purposes.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate

information furnished as part of any application filed under sections 601 and 602, any application to extend such status under section 601(k), or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602, then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for status pursuant to sections 601 or 602 to make a determination on any petition or application.

(g) CRIMINAL PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections 601 or 602, 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.

(i) REFERENCES.—References in this section to section 601 or 602 are references to sections 601 and 602 of this Act and the amendments made by those sections.

SA 1251. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PEACE GARDEN PASS.

(a) AUTHORIZATION.—Notwithstanding section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), the Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the ''Peace Garden Pass'') to allow citizens and nationals of the United States described in subsection (b) to travel to the International Peace Garden on the borders of the State of North Dakota and Manitoba, Canada (and to be readmitted into the United States), without the use of a passport, passport card, or other similar alternative to a passport.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued to, and shall authorize the admittance into the International Peace Garden and readmittance into the United States of, any citizen or national of the United States who enters the International Peace Garden from the United States and exits the International Peace Garden into the United States without having been granted entry into Canada.

(c) IDENTIFICATION.—The Secretary of State, in consultation with the Secretary, shall—

(1) determine what form of identification (other than a passport, passport card, or similar alternative to a passport) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(d) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(e) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(f) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 1252. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 601, add the following:

(s) PERJURY AND FALSE STATEMENTS.—Any person who willfully submits any materially false, fictitious, or fraudulent statement or representation (including any document, attestation, or sworn affidavit for that person or another person) relating to an application for any benefit under the immigration laws (including for Z nonimmigrant status) will be subject to prosecution for perjury under section 1621 of title 18, United States Code, or for making such a statement or representation under section 1001 of that title.

SA 1253. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 281, line 20, strike ''January 1, 2007'' and insert ''May 1, 2005''.

On page 281, line 24, strike ''January 1, 2007'' and insert ''May 1, 2005''.

SA 1254. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 602 and insert the following:

SEC. 602. ADJUSTMENT SHALL BE UNAVAILABLE FOR Z STATUS ALIENS.

Notwithstanding any other provision of this Act (or an amendment made by this Act)—

(1) a Z nonimmigrant shall not be adjusted to the status of a lawful permanent resident; and

(2) nothing in this section shall be construed to limit the number of times that a Z nonimmigrant can renew their status.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, June 5, 2007, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the preparedness of Federal land management agencies for the 2007 wildfire season and to consider recent reports on the agencies' efforts to contain the costs of wildfire management activities.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to rachel_pasternack@energy.senate.gov.

For further information, please contact Scott Miller at 202–224–5488 or Rachel Pasternack at (202) 224–0883.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, June 7, 2007, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on Alternate Energy-Related Uses on the Outer Continental Shelf: Opportunities, Issues and Implementation of Section 388 of the Energy Policy Act of 2005.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to gina__weinstock@energy.senate.gov.

For further information, please contact Patty Beneke at 202–224–5451 or Gina Weinstock at (202) 224–5684.

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on June 6, 2007, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the impacts of climate change on water supply and availability in the United States, and related issues from a water use perspective.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Gina_Weinstock@energy.senate.gov.

For further information, please contact Michael Connor at (202) 224–5479 or Gina Weinstock at (202) 224–5684.

AUTHORITY FOR COMMITTEES TO MEET

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet on Thursday, May 24, 2007, at 3 p.m. for a hearing entitled ''The Road Home? An Examination of the Goals, Costs, Management, and Impediments Facing Louisiana's Road Home Program.''

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

COMMITTEE ON ARMED SERVICES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 24, 2007 at 9:30 a.m. in closed session to mark up the National Defense Authorization Act for fiscal year 2008.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, May 24, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building. The hearing is on the nomination of Mr. Michael E. Baroody to be Commissioner and Chairman of the Consumer Product Safety Commission, and for Charles Darwin Snelling to be a Member of the Board of Directors at the Metropolitan Washington Airports Authority.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, May 24, 2007, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building. The hearing will address opportunities and challenges associated with coal gasification, including coal-to-liquids and industrial gasification.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, May 24, 2007 at 10:30 a.m. in room 406 of the Dirksen Senate Office Building to conduct a hearing entitled ''The Issue of the Potential Impacts of Global Warming on Recreation and the Recreation Industry.''

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

COMMITTEE ON FINANCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, May 24, 2007, at 2 p.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Energy Efficiency: Can Tax Incentives Reduce Consumption?''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 24, 2007, at 11:30 a.m. to hold a business meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 24, 2007, at 10:00 a.m. in Dirksen Room 226.

AGENDA

I. Committee Authorization

Authorization of Subpoenas in Connection with Investigation into Replacement of U.S. Attorneys.

II. Bills

S. 1327, A bill to create and extend certain temporary district court judgeships (Leahy, Brownback, Feinstein).

S. 185, Habeas Corpus Restoration Act of 2007 (Specter, Leahy, Feinstein, Feingold, Whitehouse).

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 24, 2007 at 3:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICE, AND INTERNATIONAL SECURITY

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet on Thursday, May 24, 2007 at 10 a.m. for a hearing entitled, ''Federal Real Property: Real Waste in Need of Real Reform''

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

STAR PRINT—TREATY DOCUMENT 109–20

Mr. DURBIN. Mr. President, I ask unanimous consent that pursuant to the request of the State Department, Executive Communication 110–2046, dated May 24, 2007, Treaty Document 109–20 be star printed to include the exchange of diplomatic notes referred to in that request.

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

DESIGNATING THE WEEK OF MAY 20, 2007, AS ''NATIONAL HURRICANE PREPAREDNESS WEEK''

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 217, 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. 217) designating the week of May 20, 2007, as ''National Hurricane Preparedness Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 217) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 217

Whereas the President has proclaimed that the week beginning May 20, 2007, shall be known as ''National Hurricane Preparedness Week'', and has called on government agencies, private organizations, schools, and media to share information about hurricane preparedness;

Whereas, as hurricane season approaches, National Hurricane Preparedness Week provides an opportunity to raise awareness of steps that can be taken to help protect citizens, their communities, and property;

Whereas the official Atlantic hurricane season occurs in the period beginning June 1, 2007, and ending November 30, 2007;

Whereas hurricanes are among the most powerful forces of nature, causing destructive winds, tornadoes, floods, and storm surges that can result in numerous fatalities and cost billions of dollars in damage;

Whereas, in 2005, a record-setting Atlantic hurricane season caused 28 storms, including 15 hurricanes, of which 7 were major hurricanes, including Hurricanes Katrina, Rita, and Wilma;

Whereas the National Oceanic and Atmospheric Administration reports that over 50 percent of the population of the United States lives in coastal counties that are vulnerable to the dangers of hurricanes;

Whereas, because the impact from hurricanes extends well beyond coastal areas, it is vital for individuals in hurricane prone areas to prepare in advance of the hurricane season;

Whereas cooperation between individuals and Federal, State, and local officials can help increase preparedness, save lives, reduce the impact of each hurricane, and provide a more effective response to those storms;

Whereas the National Hurricane Center within the National Oceanic and Atmospheric Administration of the Department of Commerce recommends that each at-risk family of the United States develop a family

disaster plan, create a disaster supply kit, secure their home, and stay aware of current weather situations to improve preparedness and help save lives; and

Whereas the designation of the week beginning May 20, 2007, as ''National Hurricane Preparedness Week'' will help raise the awareness of the individuals of the United States to assist them in preparing for the upcoming hurricane season: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of the President in proclaiming the week beginning May 20, 2007, as ''National Hurricane Preparedness Week'';

(2) encourages the people of the United States—

(A) to be prepared for the upcoming hurricane season; and

(B) to promote awareness of the dangers of hurricanes to help save lives and protect communities; and

(3) recognizes—

(A) the threats posed by hurricanes; and

(B) the need for the individuals of the United States to learn more about preparedness so that they may minimize the impacts of, and provide a more effective response to, hurricanes.

AUTHORIZING THE PRINTING OF A COLLECTION OF RULES OF COMMITTEES OF THE SENATE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 218, 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. 218) authorizing the printing of a collection of the rules of the committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider 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. 218) was agreed to, as follows:

S. RES. 218

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 250 additional copies of such document for the use of the Committee on Rules and Administration.

OFFICIAL 50TH ANNIVERSARY CELEBRATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 219, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 219) recognizing the year 2007 as the official 50th anniversary celebration of the beginnings of marinas, power production, recreation, and boating on Lake Sidney Lanier, Georgia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to the preamble be agreed, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 219) was agreed to.

The preamble was agreed to.

The resolution, with its preamble reads as follows:

S. RES. 219

Whereas Congress authorized the creation of Lake Sidney Lanier and the Buford Dam in 1946 for flood control, power production, wildlife preservation, and downstream navigation;

Whereas construction on the Buford Dam project by the Army Corps of Engineers began in 1951;

Whereas the Army Corps of Engineers constructed the dam and lake on the Chattahoochee and Chestatee Rivers at a cost of approximately $45,000,000;

Whereas, in 1956, Jack Beachem and the Army Corps of Engineers signed a lease to create Holiday on Lake Sidney Lanier Marina as the lake's first concessionaire;

Whereas the first power produced through Buford Dam at Lake Sidney Lanier was produced on June 16, 1957;

Whereas Holiday on Lake Sidney Lanier opened on July 4, 1957;

Whereas Buford Dam was officially dedicated on October 9, 1957;

Whereas nearly 225,000 people visited Lake Sidney Lanier to boat, fish, and recreate in 1957;

Whereas today more than 8,000,000 visitors each year enjoy the attributes and assets of Lake Sidney Lanier to boat, fish, swim, camp, and otherwise recreate in the great outdoors;

Whereas Lake Sidney Lanier generates more than $5,000,000,000 in revenues annually, according to a study commissioned by the Marine Trade Association of Metropolitan Atlanta;

Whereas Lake Sidney Lanier has won the prestigious Chief of Engineers Annual Project of the Year Award, the highest recognition from the Army Corps of Engineers for outstanding management, an unprecedented 3 times in 12 years (in 1990, 1997, and 2002);

Whereas Lake Sidney Lanier hosted the paddling and rowing events for the Summer Games of the XXVI Olympiad held in Atlanta, Georgia, in 1996;

Whereas marinas serve as the gateway to recreation for the public on America's waterways;

Whereas Lake Sidney Lanier will join the Nation on Saturday, August 11, in celebration and commemoration of National Marina Day; and

Whereas 2007 marks the 50th anniversary of Lake Sidney Lanier: Now, therefore, be it

Resolved, That the Senate recognizes the 50th anniversary celebration of the beginnings of marinas, power production, recreation, and boating on Lake Sidney Lanier, Georgia.

PRESERVATION APPROVAL PROCESS IMPROVEMENT ACT OF 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 151, H.R. 1675.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1675) to suspend the requirements of the Department of Housing and Urban Development regarding electronic filing of previous participation certificates and regarding filing of such certificates with respect to certain low-income housing investors.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. 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, with no intervening action or debate, 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. 1675) was ordered to a third reading, was read the third time, and passed.

NATIVE AMERICAN HOME OWNERSHIP OPPORTUNITY ACT OF 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 152, H.R. 1676.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1676) to reauthorize the program of the Secretary of Housing and Urban Development for loan guarantees for Indian housing.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. 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, with no intervening action or debate, 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. 1676) was ordered to a third reading, was read the third time, and passed.

AUTHORIZING THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 170, S. 231.

The PRESIDING OFFICER. The clerk will report the title of the bill.

The legislative clerk read as follows:

The bill (S. 231) to authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 231) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 231

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

SECTION 1. AUTHORIZATION OF GRANTS.

Section 508 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3758) is amended by striking ''for fiscal year 2006'' through the period and inserting ''for each of the fiscal years 2006 through 2012.''.

EXPRESSING PROFOUND CONCERN REGARDING TRANSGRESSION AGAINST FREEDOM OF THOUGHT AND EXPRESSION IN VENEZUELA

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 178, S. Res. 211.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 211) expressing the profound concern of the Senate regarding the transgression against freedom of thought and expression that is being carried out in Venezuela, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 211) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 211

Whereas, for several months, the President of Venezuela, Hugo Chávez, has been announcing over various media that he will not renew the current concession of the television station ''Radio Caracas Televisión'', also known as RCTV, which is set to expire on May 27, 2007, because of its adherence to an editorial stance different from his way of thinking;

Whereas President Chavez justifies this measure based on the alleged role RCTV played in the unsuccessful unconstitutional attempts in April 2002 to unseat President Chavez, under circumstances where there exists no filed complaint or judicial sentence that would sustain such a charge, nor any legal sanction against RCTV that would prevent the renewal of its concession, as provided for under Venezuelan law;

Whereas the refusal to renew the concession of any television or radio broadcasting station that complies with legal regulations in the matter of telecommunications constitutes a transgression against the freedom of thought and expression, which is prohibited by Article 13 of the American Convention on Human Rights, signed at San Jose, Costa Rica, July 18, 1978, which has been signed by the United States;

Whereas that convention establishes that ''the right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions'';

Whereas the Inter-American Declaration of Principles on Freedom of Expression, approved by the Inter-American Commission on Human Rights, states in Principle 13, ''The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.'';

Whereas, according to the principles of the American Convention on Human Rights and the Inter-American Declaration of Principles on Freedom of Expression, to both of which Venezuela is a party, the decision not to renew the concession of the television station RCTV is an assault against freedom of thought and expression and cannot be accepted by democratic countries, especially by those in North America who are signatories to the American Convention on Human Rights;

Whereas the most paradoxical aspect of the decision by President Chavez is that it strongly conflicts with two principles from the Liberator Simón Bolívar's thinking, principles President Chavez says inspire him, which state that ''[p]ublic opinion is the most sacred of objects, it needs the protection of an enlightened government which knows that opinion is the fountain of the most important of events,'' and that ''[t]he right to express one's thoughts and opinions, by word, by writing or by any other means, is the first and most worthy asset mankind has in society. The law itself will never be able to prohibit it.''; and

Whereas the United States should raise its concerns about these and other serious restrictions on freedoms of thought and expression being imposed by the Government of Venezuela before the Organization of American States: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its profound concern about the transgression against freedom of thought and expression that is being attempted and committed in Venezuela by the refusal of the President of Venezuela, Hugo Chavez, to renew the concession of the television station ''Radio Caracas Televisión'' (RCTV) merely because of its adherence to an editorial and informational stance distinct from the thinking of the Government of Venezuela; and

(2) strongly encourages the Organization of American States to respond appropriately, with full consideration of the necessary institutional instruments, to such transgression.

HONORING 50TH ANNIVERSARY OF STAN HYWET HALL AND GARDENS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration, and the Senate now proceed to consideration of S. Con. Res. 32.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 32) honoring the 50th anniversary of Stan Hywet Hall & Gardens.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 32) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 32

Whereas Stan Hywet Hall was built between 1912 and 1915 by Franklin ''F.A.'' Augustus Seiberling and his wife, Gertrude;

Whereas Franklin Seiberling hired architect Charles S. Schneider of Cleveland to design the home, landscape architect Warren H. Manning of Boston to design the grounds, and Hugo F. Huber of New York City to decorate the interior;

Whereas Stan Hywet Hall is one of the finest examples of Tudor Revival architecture in the United States;

Whereas Alcoholics Anonymous, an organization that continues to help millions of individuals worldwide recover from alcohol addiction, was founded on Mother's Day 1935 following a meeting between Mr. Bill Wilson and Dr. Bob Smith and hosted by Henrietta Seiberling at Stan Hywet Hall;

Whereas, in 1957, in keeping with the Stan Hywet Hall crest motto of ''Non Nobis Solum (Not for Us Alone)'', the Seiberling family donated Stan Hywet Hall to a nonprofit organization, which came to be known as Stan Hywet Hall & Gardens, so that the public could enjoy and experience part of a noteworthy chapter in the history of the United States;

Whereas Stan Hywet Hall & Gardens is identified as a National Historic Landmark by the Department of the Interior, the only location in Akron, Ohio, with such a designation and one of only 2,200 nationwide;

Whereas Stan Hywet Hall & Gardens is one of Ohio's top 10 tourist attractions, is a Save America's Treasures project, and is accredited by the American Association of Museums;

Whereas more than 5,000,000 people from around the world have visited Stan Hywet Hall & Gardens, with the number of visitors annually averaging between 150,000 and 200,000 since 1999;

Whereas Stan Hywet Hall & Gardens contributes over $12,000,000 annually to the greater Akron economy;

Whereas Stan Hywet Hall & Gardens is a recipient of the Trustee Emeritus Award for Excellence in the Stewardship of Historic Sites from the National Trust for Historic Preservation, only the fourth recipient of the Award after George Washington's Mount

Vernon, Thomas Jefferson's Monticello, and Washington, D.C.'s Octagon House; and

Whereas Stan Hywet Hall & Gardens relies on more than 1,300 volunteers to ensure that its doors remain open to the public, including the Women's Auxiliary Board, the Friends of Stan Hywet, the Stan Hywet Gilde, the Stan Hywet Needlework Guild, the Stan Hywet Flower Arrangers, the Stan Hywet Garden Committee, the Carriage House Gift Shop, the Conservatory, Vintage Base Ball, Vintage Explorers, the Akron Garden Club, and the Garden Forum of Greater Akron: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) congratulates Stan Hywet Hall & Gardens on its 50th anniversary;

(2) honors Stan Hywet Hall & Gardens for its commitment to sharing its history, gardens, and art collections with the public; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to Stan Hywet Hall & Gardens.

TO INCREASE THE NUMBER OF IRAQI AND AFGHANI TRANSLATORS AND INTERPRETERS WHO MAY BE ADMITTED TO THE UNITED STATES AS SPECIAL IMMIGRANTS

Mr. DURBIN. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 1104) to increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Strike out all after the enacting clause and insert:

SECTION 1. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS SERVING AS TRANSLATORS OR INTERPRETERS WITH FEDERAL AGENCIES.

(a) INCREASE IN NUMBERS ADMITTED.—Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking ''as a translator'' and inserting '', or under Chief of Mission authority, as a translator or interpreter'';

(B) in subparagraph (C), by inserting ''the Chief of Mission or'' after ''recommendation from''; and

(C) in subparagraph (D), by inserting ''the Chief of Mission or'' after ''as determined by''; and

(2) in subsection (c)(1), by striking ''section during any fiscal year shall not exceed 50.'' and inserting the following: ''section—

''(A) during each of the fiscal years 2007 and 2008, shall not exceed 500; and

''(B) during any other fiscal year shall not exceed 50.''.

(b) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—Section 1059(c)(2) of such Act is amended—

(1) by amending the paragraph designation and heading to read as follows:

''(2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—''; and

(2) by inserting ''and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4))'' before the period at the end.

(c) ADJUSTMENT OF STATUS; NATURALIZATION.—Section 1059 of such Act is further amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

''(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

''(1) was paroled or admitted as a nonimmigrant into the United States; and

''(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act.

''(e) NATURALIZATION.—

''(1) IN GENERAL.—An absence from the United States described in paragraph (2) shall not be considered to break any period for which continuous residence in the United States is required for naturalization under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.).

''(2) ABSENCE DESCRIBED.—An absence described in this paragraph is an absence from the United States due to a person's employment by the Chief of Mission or United States Armed Forces, under contract with the Chief of Mission or United States Armed Forces, or by a firm or corporation under contract with the Chief of Mission or United States Armed Forces, if—

''(A) such employment involved working with the Chief of Mission or United States Armed Forces as a translator or interpreter; and

''(B) the person spent at least a portion of the time outside of the United States working directly with the Chief of Mission or United States Armed Forces as a translator or interpreter in Iraq or Afghanistan.''.

Amend the title so as to read ''An Act to increase the number of Iraqi and Afghani translators and interpreters who may be admitted to the United States as special immigrants, and for other purposes.''.

Mr. DURBIN. I ask unanimous consented that the Senate concur in the House amendments, the motions to reconsider be laid on the table, and any statements be printed in the RECORD.

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

MEASURE READ THE FIRST TIME—S.J. RES. 14

Mr. DURBIN. Mr. President, I understand that S.J. Res. 14, introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the joint resolution by title for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 14) expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people.

Mr. DURBIN. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the joint resolution will receive its second reading on the next legislative day.

CONDITIONAL ADJOURNMENT OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 158, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 158) providing for conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. I ask unanimous consent that the current resolution be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection it is so ordered.

The concurrent resolution (H. Con. Res. 158) was considered and agreed to, as follows:

H. CON. RES. 158

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, May 24, 2007, Friday, May 25, 2007, or Saturday, May 26, 2007, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, June 5, 2007, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Friday, May 25, 2007, Saturday, May 26, 2007, or on any day from Monday, May 28, 2007, through Saturday, June 2, 2007, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 4, 2007, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

ORDERS FOR FRIDAY, MAY 25, 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Friday, May 25; that on Friday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders reserved for their use later in the day; that the Senate then resume consideration of S. 1348, the immigration bill.

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

PROGRAM

Mr. DURBIN. Mr. President, on behalf of the majority leader, I would like to announce that there will be no rollcall votes on Friday. The next rollcall vote will occur Tuesday, June 5, prior to the caucus recess period.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:43 p.m., adjourned until Friday, May 25, 2007, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 24, 2007:

DEPARTMENT OF DEFENSE

PRESTON M. GEREN, OF TEXAS, TO BE SECRETARY OF THE ARMY, VICE FRANCIS J. HARVEY, RESIGNED.

EXPORT-IMPORT BANK OF THE UNITED STATES

DIANE G. FARRELL, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2011, VICE JOSEPH MAX CLELAND, TERM EXPIRED.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE RANDALL L. TOBIAS, RESIGNED.

DEPARTMENT OF STATE

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JAMES W. HOLSINGER, JR., OF KENTUCKY, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS, AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE FOR A TERM OF FOUR YEARS, VICE RICHARD H. CARMONA, TERM EXPIRED.

THE JUDICIARY

WILLIAM J. POWELL, OF WEST VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF WEST VIRGINIA, VICE W. CRAIG BROADWATER, DECEASED.

AMUL R. THAPAR, OF KENTUCKY, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY, VICE JOSEPH M. HOOD, RETIRING.

GOVERNMENT PRINTING OFFICE

ROBERT CHARLES TAPELLA, OF VIRGINIA, TO BE PUBLIC PRINTER, VICE BRUCE R. JAMES, RETIRED.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be rear admiral

JONATHAN W. BAILEY

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be rear admiral

PHILIP M. KENUL