United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, WEDNESDAY, JUNE 6, 2007 No. 90

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Heavenly Father, whose compassion never fails, from Your vantage point of eternity, look afresh into our time. Teach us to love as You love and to touch hurting lives as You do. Remove from us besetting fears about what tomorrow holds as You remind us that our times are in Your hands.

Today, inspire our Senators to honor You. Empower them to treat one another as they themselves desire to be treated and to pray for one another. Calm their anxieties and strengthen their faith in the ultimate triumph of Your purposes. Let Your unfailing love energize them to new levels of excellence and service.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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, June 6, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

IMMIGRATION

Mr. REID. Mr. President, in reading this morning's paper, I was reminded of the times I would read Dr. Seuss to my boys and my girl. In today's New York Times, Tom Friedman quotes Dr. Seuss as follows:

Then he shut the Things
in the box with the hook.
And the cat went away
with a sad kind of look.
''That is good,'' said the fish.
''He has gone away. Yes.
but your mother will come.
She will find this big mess!
And this mess is so big
And so deep and so tall,
we can not pick it up.
There is no way at all!''

Mr. President, some would say that is what we have in the Senate today—a big mess. But if you go back and read Dr. Seuss, the cat manages to clean up the mess. And as big of a mess as we have with immigration in the United States, we have the opportunity to clean up a big mess. If we work on a bipartisan basis in the next couple of days, we can clean up this mess. If we cannot, then we are back with the cat who didn't clean up the mess and the Senate didn't clean up its mess with immigration.

We have known for 3 months the time set for doing immigration. People worked in good faith trying to come up with legislation, and they were a week short. They said: We need more time. So they got more time. They came up with a bipartisan bill. Ten Senators, Democrats and Republicans, came up with an immigration bill. Is it a perfect bill? Of course, not. Is it a good bill? It is not bad at all. It does some things that I think are extremely important, something I have talked about for a long time based on my experience in Smith Valley, NV, with a girl who couldn't go to college. She was Hispanic. Her parents were here illegally, and this young girl couldn't go to college even though she was the best student in her class. So we have in this bill the DREAM Act. It is a dream for many young Americans.

AgJOBS. We have been talking about an AgJOBS bill for years. This bill has one in it.

Border security. We have talked about the need for border security. This bill provides border security.

Employer enforcement, employer sanctions. This legislation has good employer sanction language. Good enough? Well, we will have to see. Some want to improve it. Maybe that is the way to do things.

Pathway to legalization. For millions of people here illegally with improper papers, a path to legalization is a way to bring them out of the shadows. That is in this legislation.

This year's legislation builds on the bill passed by the Senate last year after extensive committee considerations and many floor amendments. This year, there were lengthy bipartisan negotiations involving about 10 Senators and a number of Cabinet officers, in addition to other people from the White House. The negotiators asked for additional time. We talked about that. It was agreed upon.

We started the floor debate the week before Memorial Day recess. During that week, we disposed of more than a dozen amendments and allowed an additional 14 amendments to become pending to the bill. Proponents of the

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

Printed on recycled paper.

bill asked for an additional week of floor debate. I agreed. The minority leader said this time this is a 2-week bill. I agreed with him and scheduled a second week of debate, and that is where we are now.

This week, we have conducted four rollcall votes, adopted four other amendments by voice vote, and we probably would have done more but for the unfortunate death of our colleague and friend, Senator Thomas. Yesterday morning, in memory of our friend, we decided not to work here, and that was the right thing to do. This morning, we have two more votes that are scheduled already on the Cornyn and Kennedy amendments regarding eligibility for the legalization program. We have proposed a unanimous consent agreement. We did that yesterday, and I understand the managers have that fairly well worked out on the 12 pending amendments to have votes on those later today. That was not accepted last evening, but I am hopeful that agreement can be worked out soon.

So it is clear we are working in good faith to process amendments and move forward on this bill. My decision about cloture last night was simply a way to ensure that we finish this bill in a timely manner. By offering to postpone the cloture vote, as I did yesterday, until tomorrow night, I am offering an additional full day of amendments before the cloture vote and, of course, germane amendments are considered postcloture.

I had a meeting in my office just a few minutes ago with a bipartisan group of Senators. I believe there is a good-faith effort being made by a majority of Senators, Democrats and Republicans, to move this bill forward. That is what we are going to try to do.

There are some people, rightly or wrongly—and that is all in the eyes of the beholder—who feel they have not had an opportunity to deal with this legislation. If that is the case, let's see if we can come up with some amendments that will make them happy. We do a lot of business in this body by unanimous consent—in fact, most everything. The cloture vote is scheduled for tomorrow morning, an hour after we come into session. We can change that. It is my hope that we can finish the bill this week. I am very confident we can.

I personally feel an obligation to go to the funeral in Wyoming. Craig Thomas was a Republican with whom I worked very closely on a number of issues, and I had great appreciation and admiration for him. Out of respect for him and Susan, I feel that I need to go to that funeral, and I am sure many others feel the same way. So that is going to change our schedule. It is my understanding that funeral is going to be Saturday. I have notified my caucus, and I have explained to the distinguished Republican leader that we may have to work longer hours this week. But let's try to finish this bill.

There are some, and it is a small number of people, who don't want this bill finished under any circumstances. That happens on a lot of bills, and we have to try to work our way through that.

I hope people understand that I would like to get a bill passed. We have responsibilities as Senators to not only deal with immigration, which is a system, as I have tried to explain with a little vignette from Dr. Seuss, that is badly in need of fixing, but we have a lot of other problems in this country that are badly in need of fixing. So we may have to work hours the Senate hasn't seen very often. We may have to work into the night, tonight and tomorrow night and maybe even Friday and Friday night, and who knows if that will be enough time to get us over the hump.

I hope people will understand that it is not a question of how much time we spend on the bill, it is a question of whether people feel they have had the opportunity to change the provisions that are in the bill. I have gone over most of them: AgJOBS, DREAM Act, employer enforcement, legalization, border security.

I hope we can get this bill done. We can debate this bill all year and end up right back where we are. The American people did not send us here to pontificate; they sent us here to legislate. That is what I am trying to do and most are trying to do.

Recognizing that this immigration system is broken and that we need to fix it, I extend my appreciation to Senators—Democrats and Republicans—who believe this is the time for us to do something important for the country.

I have said on a number of occasions that this bill, when it comes out of this body, is not the last word. We have other ways of working on this bill. We, as Senators, are going to be fully involved in the legislation until it comes out of conference, which is after the House passes a bill which will have the imprint of the White House on it.

So I hope we can move forward in good faith and understand that everything we do in life has deadlines, even our legislation in the Senate.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. I will be happy to yield.

Mr. KENNEDY. Mr. President, I thank our leader, someone who has been interested, along with many others, in the immigration issue, for the leadership he has provided in making sure the Senate was going to take up this issue. He had announced in January of this year that he was going to take a time for the Judiciary Committee to consider this legislation but that he was going to allocate 2 weeks of time, which was basically the time we took on the last bill, but it was a major period of time to consider the people's business regarding this issue. He has been accommodating in terms of working through the Senate's schedule. For all of us who are interested in getting a bill, we thank him for all he has done in terms of encouraging us to reach judgments on these various measures.

As he has mentioned, we have made very important and significant progress, and I think there is a strong mood in the Senate, as there is in the country, that this is an extremely important issue. We are increasingly close to trying to at least make a recommendation to the country about what the Senate's judgment will be on this issue.

I join with him, as others, to say we are eager to move ahead during the day today and tomorrow and to work with the leadership. I know they have full schedules. I do think we are making significant progress and it is being done in a bipartisan spirit with a desire that those who have differing views about this issue can come together and do the Nation's business. When we achieve that, hopefully by the end of this week, both the Senator from Nevada and the Senator from Kentucky will be very much appreciated for their support in helping this legislation move ahead.

RECOGNITION OF THE REPUBLICAN LEADER

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

IMMIGRATION

Mr. MCCONNELL. Mr. President, as I think my good friend, the majority leader, already knows, we are ready to work with the other side to schedule votes on pending amendments. I think the two managers are working together this morning to set up a schedule of votes for this afternoon. All of that is a step in the right direction.

Many of the amendments we hope to schedule, however, for the afternoon are amendments that were offered prior to the recess. My concern with cloture being filed last night is that we do not want to deny Members who have yet to offer—and many of them have been denied the right to offer their amendments this week—and those who have been denied the right to offer their amendments should still get their opportunity prior to being shut out.

Now, I am counting progress on this bill not by calendar days—that is one way of looking at it—but by the ability of Senators to debate and to vote on their respective ideas is the way that I would consider progress on the bill. So I hope we can clear out the amendments that are currently pending and that we will also work together to schedule debate and votes on additional amendments that are going to be offered.

Let me remind everyone again, on the day my conference elected me leader I said that I thought we ought to do two big important things, at least, in this Congress. And one of the issues I mentioned was immigration. So I am among those in the Senate who would

like to see us accomplish something on a very difficult, some days seemingly intractable, issue. Nevertheless, I am in favor of trying to pass an immigration bill. But there is going to be widespread reluctance on this side of the aisle to support cloture and thereby bring the bill to a conclusion unless amendments, a significant number, are being allowed to be considered.

HONORING OUR ARMED FORCES

SERGEANT JAMES W. HARLAN

Mr. MCCONNELL. Mr. President, while I am in my leader time, I rise today to honor the heroic sacrifice of a fellow Kentuckian, a brave soldier who served multiple tours in Iraq. He was also a proud father and grandfather who sought to protect the people and the land he loved.

SGT James W. Harlan was tragically killed on May 14, 2004, when a suicide bomber detonated a car bomb next to his humvee at Camp Anaconda near Balad, Iraq. Sergeant Harlan was a native of Owensboro, KY, and a member of the 660th Transportation Company's 88th Regional Readiness Command in the U.S. Army Reserve. He was 44 years old.

For his heroic service, Sergeant Harlan was awarded the Silver Star and the Purple Heart, among many other awards and medals of distinction.

I mentioned that Sergeant Harlan was brave; let me elaborate on that. When he was 11 years old, his older sister Doris was assigned the daunting task of babysitting young Jimmy. ''Jimmy was mischievous. He was always into something,'' she recalls. Sensing a window of opportunity to display his courage, Jimmy declared that he would jump off the roof of their family's house while his parents were away. At first Doris protested, but realizing that his intentions were probably only to rankle her, she told Jimmy: ''Fine, you go ahead and do it.'' She even went so far as to set out pillows for him to land on. Sure enough, brave young Jimmy jumped off that roof, and to this day Doris is surprised that he escaped without major injury.

Jimmy's love of adventure carried over into his adulthood. He enjoyed the outdoors and would often take his kids fishing and hunting. A compassionate and loving father to his five children, Jimmy always made sure to spend quality time with his family. ''When everyone else was sitting around with their bellies full on Thanksgiving, he would be outside throwing the football,'' his brother Kenny Likens recalls.

One of his favorite things to do was to coach baseball with his brothers. When he spent time indoors, he enjoyed watching old Western movies with his kids.

His sons, James Bryan Harlan, David Shane Harlan and Jacob Alexander Roberts, and his daughters, Tara Strelskey and Amanda Prout, as well as his two stepchildren, Bobby and Brittany Gray, will miss his caring and generous spirit.

Jimmy will also be missed by two girls who might not yet realize the extraordinary sacrifice their grandfather made, but who will learn it as they grow older. He was especially proud of them. Jimmy often said of his granddaughters, Jaidyn Main and Abigail Prout, ''Aren't they just the prettiest things you have ever seen?''

Jimmy's civilian career was partly spent as a truck driver. He enjoyed the opportunity to work on the big rigs and to see different parts of the country. He would often drive with his brother Kenny Likens. Through all that driving across the country, though, the two never did find a place they liked as much as their hometown of Owensboro, KY, where Jimmy was born and raised. When Jimmy left for his final tour in Iraq, he was working for the streets department in Owensboro.

Having served for two decades in the military and Reserves, Jimmy was a seasoned soldier. His patriotism and sense of civic duty compelled him to reenlist after the terrorist attacks of September 11, 2001, and he served two tours in Iraq.

While there, Jimmy supervised truck drivers who transported supplies to the troops at Camp Anaconda. His son James Bryan Harlan offered some perspective when he remarked:

> Nobody wants to see their father die . . . but to have it be while doing something of this significance, we're proud of him.

I would like to take this opportunity to say that not only is his family proud of him, but all of America is proud of Jimmy's heroism and sacrifice.

SGT James W. Harlan drove a rig across the highways of the United States, and he traversed the desert sands of Iraq. He had an adventurous spirit, and his far travels and his exemplary service were a natural fit for that little boy who once jumped off his parents' roof.

Jimmy Harlan left an inspirational example for his children and grandchildren, his brothers, Kenny Likens and DeWayne Likens; his sister, Doris Taylor; his step-brothers, Randall Wingfield, Steve Wingfield, and the late Michael Calloway; his fiancee, Carol Gray; his mother, Doris Marie Gray; and his late father, William Arthur Harlan.

I ask the Senate to keep the family of SGT James W. Harlan in their thoughts and prayers. I know they will be in mine.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1348, which the clerk will report.

The 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.
>
> Cornyn modified amendment No. 1184 (to amendment No. 1150), to establish a permanent bar for gang members, terrorists, and other criminals.
>
> Dodd/Menendez amendment No. 1199 (to amendment No. 1150), 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.
>
> Menendez amendment No. 1194 (to amendment No. 1150), to modify the deadline for the family backlog reduction.
>
> Sessions amendment No. 1234 (to amendment No. 1150), 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 antipoverty 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.
>
> Sessions amendment No. 1235 (to amendment No. 1150), 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 antipoverty 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.
>
> Lieberman amendment No. 1191 (to amendment No. 1150), to provide safeguards against faulty asylum procedures and to improve conditions of detention.
>
> Cornyn amendment No. 1250 (to amendment No. 1150), to address documentation of employment and to make an amendment with respect to mandatory disclosure of information.
>
> Salazar (for Clinton) modified amendment No. 1183 (to amendment No. 1150), to reclassify the spouses and minor children of lawful permanent residents as immediate relatives.
>
> Salazar (for Obama/Menendez) amendment No. 1202 (to amendment No. 1150), to provide a date on which the authority of the section relating to the increasing of American competitiveness through a merit-based evaluation system for immigrants shall be terminated.
>
> DeMint amendment No. 1197 (to amendment No. 1150), to require health care coverage for holders of Z nonimmigrant visas.
>
> Bingaman/Obama modified amendment No. 1267 (to amendment No. 1150), to remove the requirement that Y–1 nonimmigrant visa holders leave the United States before they are able to renew their visa.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate with respect to amendment No. 1184, as modified, offered by the Senator from Texas, Mr. CORNYN; an amendment offered by the Senator from Massachusetts, Mr. KENNEDY, related to the same subject, with time equally divided and controlled between Senator CORNYN and Senator KENNEDY.

Who yields time?

Mr. ALLARD. Mr. President, I am requesting just 30 seconds to make a unanimous consent request.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The Senator is recognized.

Mr. ALLARD. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we call up three amendments, Nos. 1187, 1188, and 1201, and then we be returned back to the pending amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Massachusetts.

Mr. KENNEDY. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. ALLARD. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, just for the benefit of the Members, we have tried to establish a way of moving along today. We are going to consider the Cornyn amendment, and then there is an amendment that I will place at the desk. We will have a 2-hour time allocation equally divided, though I am not sure we will take all the time, and then we will have an opportunity to vote on that measure.

We are trying to set up a series of votes through the morning, through the afternoon, and through the evening. What we are going to try to do is to give Members as much time as possible on these items, rotating back and forth through the course of the day, and we will work with our colleagues to try to accommodate their schedules. We have a rigorous program, and we will announce that.

We have talked with the floor managers, Senator SPECTER, Senator KYL, and others, on these measures, and we will proceed in that way. So Members need to understand that we will have a busy and full day, and we will start off with the amendment of the Senator from Texas, No. 1184, as I understand.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

AMENDMENT NO. 1184

Mr. CORNYN. Mr. President, I yield myself up to 10 minutes.

Mr. President, this amendment we will vote on this morning is an important amendment. It was first filed 2 full weeks ago, and it has taken this long to be able to get a vote on this amendment, for which I am grateful, but I must say that, as the Republican leader indicated this morning, the rate of progress with getting amendments debated and voted on is not promising. And the fact that the majority leader has now filed cloture, potentially cutting off the opportunity for full and fair debate and an adequate number of votes on this bill, again, is not encouraging at all.

I am one of those who would like to see a solution to this problem, but I think it is important that we reflect on what kind of solution we will accomplish if we are successful. To me, the goal is simply to restore law and order to our immigration system. It is important to our national security because we have to know who is coming into our country and why people are here in a post-9/11 world. It is important to public safety because we know the same broken borders that can allow people who are economic migrants to come across can also allow common criminals, drug traffickers, and even terrorists. And it is important to our prosperity in this Nation that we reestablish our heritage as a nation that believes in the rule of law. We simply cannot have people choosing to obey some laws and disobeying others. That is not adherence to the rule of law. That is picking and choosing, cherry-picking what laws you find convenient and what laws you find inconvenient.

To my mind, and based upon my experience with my constituents across the State of Texas last week, this is the cause for so much distrust of the Federal Government when it comes to this issue. The basic objection to this underlying bill is not that people don't believe there is a serious problem, it is not that people are racist or anti-immigrant or nativists or know-nothings or any of the other names that sometimes people are called. It is that the American people believe we have been here before.

In 1986, they gave their trust to the Federal Government to actually fix this problem by granting a one-time amnesty and then providing for an enforcement system that would actually be enforced against employers who hire people who cannot legally work here. They were sold a bill of goods. It didn't work. We got an amnesty, and we got no enforcement. That is why people are so distrustful.

So if we are serious about restoring the rule of law, I believe the first place to start would be by passing this amendment, amendment No. 1184, on the floor of the Senate.

What does this amendment do?

Well, first of all, this amendment would mandate that gang members cannot obtain legal status. It is well documented that members of MS–13 and other gangs, ultra-violet gangs emanating from Central America, have come across our broken borders and committed terrible crimes of violence in the United States. In the underlying bill, the Secretary of Homeland Security could actually grant a waiver that would allow a gang member legal status.

That just cannot be. Congress should draw a line about whom we are willing to allow in and whom we are not, and we shouldn't delegate this to the Secretary of the Department of Homeland Security or the Attorney General or anyone who might hold those positions in the future.

The next thing my amendment would do is it would address the definition of ''good moral character.'' We would allow only people with good moral character, as defined in the bill, to obtain legal status. The underlying bill does not contain a prohibition on those who are affiliated with terrorist organizations. My amendment makes the commonsense change that would bar them. The amendment also requires that those who apply for legalization under the bill must generally show they have good moral character.

Third, my amendment makes the failure of sex offenders to register in high-speed flight crimes grounds of ineligibility for Z visas.

Fourth, my amendment makes repeat DWIs, driving while intoxicated or driving under the influence, an aggravated felony. It is a simple fact of life that repeat DWI offenders are a substantial threat to a community's safety.

They have a proven history of involvement in various serious collisions that kill, maim, and otherwise seriously injure innocent people.

When I was in Texas this last week, I met with representatives of Mothers Against Drunk Driving and told them about the gaps in this underlying bill and received the assurance, at least of that representative, that this was an issue she cared passionately about. I suggest all of us who care passionately about public safety and decreasing the incidence of drunk driving and driving under the influence, that are a threat to public safety, that those who care about decreasing that threat should vote for this amendment. Designating a third DUI offense as an aggravated felony recognizes the acute danger that repeat DUI offenders present to the American people and the strong need to remove from the United States those who repeatedly commit DUI offenses.

The fifth category is the one on which I believe there is the biggest disagreement. This has to do with so-called absconders and identity thieves. This gets to the essence of this bill and whether we are serious about restoring the rule of law to our immigration system and whether we are going to send a message, loudly and clearly, that while we might be willing to consider those who have entered our country without a visa, who are by definition guilty of a misdemeanor, or those who have come in legally and who have overstayed, who are guilty of a status violation under our immigration laws—while we might be willing to consider them for a path to legalization and citizenship under some conditions, we should not allow a path to legalization and citizenship for those who have openly defied our courts, the lawful orders of our courts, and who have shown themselves as having no regard for the rule of law.

What kind of citizens can we expect these individuals to be, individuals who have been ordered deported, who have had their day in court and who simply defied that court order by going on the lam and melting into the American landscape, or those who have been ordered deported and who have actually

been deported but then who have reentered the country? Both of those, going on the lam after you have been ordered deported and reentering after you have been actually deported, are felonies under section 243 of the Immigration and Naturalization Act—a felony.

If we are serious about restoring respect for the rule of law, then we should, at the very least, prohibit felons and repeat offenders from getting the Z visa or path to legal status, including the opportunity to apply for legal permanent residency and citizenship. We should be willing to draw a bright line there.

I have to say, with all due respect, if we do not adopt this amendment, then we might as well retitle that section of this bill, ''No Felon Left Behind.'' It is clear, whether it is gang members, terrorists, sex offenders or repeat drunk drivers, these people have thumbed their noses at the law. While there is some common ground, and I congratulate Senator KENNEDY for moving our way on this issue, it completely omits the category of felons who have shown no regard for our laws and who have shown themselves unwilling to live in peace with Americans in this country. We ought to draw a bright line there. My amendment would do that.

Mr. President, I yield myself 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized.

Mr. CORNYN. I know we have a number of colleagues who not only are Members of the Senate but are also running for the highest office in our land, running for the office of President of the United States. I know there have been a number of debates on the Democratic side and Republican side. I believe this amendment and the vote on this amendment is a defining issue for those who seek the highest office in the land, for them to demonstrate their respect for the rule of law and to demonstrate their desire to return law and order to our immigration system. A ''no'' vote on the Cornyn amendment will demonstrate that we are not serious, that we do not believe the rule of law deserves respect because, unfortunately, under the Kennedy amendment, the alternative is literally a figleaf that has been offered to give people the sense they voted for something so they will have an explanation, even knowing they have not voted to exclude these felons. A failure to vote yes on the Cornyn amendment will indicate we are not serious about restoring the rule of law through our immigration system and will indicate we are willing to allow felons and people who have no desire, based on their experience, to comply with our laws and live in peace in this country, to become part of America. I think we need to send a loud and clear message as to where that line should be drawn.

I reserve the remainder of our time on this side and yield the floor.

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

Mr. CORNYN. I will, Mr. President.

Mr. DURBIN. I would like to ask the Senator about a hypothetical that is not a hypothetical. It is a real case that has come through my office in Chicago. I ask the Senator from Texas if he would consider the facts in this case and tell me how his amendment would apply to the case.

In a family in Chicago, the father is a citizen of the United States and the four children that he and his wife have are all citizens of the United States. The mother is undocumented. The mother came into the United States illegally. She was married, raised a family—and her grandmother died in Mexico. She went back over the border and, when she tried to reenter the United States, produced identification that was false. They caught her. They deported her back to Mexico, but she made it back to the United States. She is now with her family in Chicago.

It is a case that has had a lot of publicity because she was deported 2 days before Mother's Day. She has been allowed to return to the United States on a humanitarian waiver to be with her family.

I would like to ask the Senator from Texas, how would you treat her under your amendment? What would her status be? Would she be characterized as an aggravated felon? Could she, under any circumstances, be given any opportunity to become legal under your amendment?

Mr. CORNYN. Mr. President, I will be glad to try to answer the question. Similar to a lot of hypotheticals, it has a lot of twists and turns. Let me give it a try.

Under this amendment, people who entered the country illegally and who are guilty of illegal entry, or who come in legally and overstay, would not be rendered ineligible, not under the Cornyn amendment. Those who are repeat offenders—in other words, people who have entered illegally, then exited the country and reentered; exited, reentered—are guilty of a more serious offense because they are multiple offenders.

I am not sure, under the hypothetical the Senator asked, whether this individual would be barred. But people who are serial offenders and violators of our immigration laws would be barred under this amendment.

Mr. DURBIN. So if I might ask the Senator from Texas: The Senator from Texas would suggest, then, that this mother of four citizens, married to a citizen of the United States, who has lived here for more than 10 years, should be deported?

Mr. CORNYN. What my amendment would do would not order her deported. What it would do is say she is ineligible for a Z visa.

Mr. DURBIN. I ask the Senator from Texas—let's get down to the reality of the situation. As far as this family is concerned, where the mother has gone through the experience I described, you would say that family has to either break up or leave?

Mr. CORNYN. Mr. President, I disagree with the characterization of the Senator from Illinois. As this hypothetical individual is married to a U.S. citizen, she could get a waiver on that ground because she is married to a U.S. citizen. She would not, under existing law—she could get a waiver and would not be deported necessarily.

Mr. DURBIN. If I might ask one last question, is that a provision in your amendment? Or is that in the underlying bill?

Mr. CORNYN. In response to the question, that is a provision of current law that my amendment does not touch.

Mr. DURBIN. I thank the Senator from Texas.

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

Mr. KENNEDY. Mr. President, I thank the Senator from Illinois for raising that issue. I think our language makes it extremely clear. I think there is a real question. We are looking through the language of the Senator from Texas about whether that would necessarily define that individual as an aggravated felon and therefore would deny the judge the opportunity to make a humanitarian finding on it, but we can come back to that.

AMENDMENT NO. 1333, AS MODIFIED

Mr. President, I call up my amendment No. 1333, as modified.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1333, as modified, to amendment No. 1150.

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

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

The amendment is as follows:

On page 48, strike line 11 and all that follows through page 51, line 37, and insert the following:

SEC. 204. INADMISSIBILITY AND DEPORTABILITY OF GANG MEMBERS.

(a) DEFINITION OF CRIMINAL GANG.—Section 101(a) (8 U.S.C. 1101(a)) is amended by inserting after paragraph (51) the following:

''(52)(A) The term 'criminal gang' 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 subparagraph (B); and

''(ii) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subparagraph (B).

''(B) Offenses described in this subparagraph, whether in violation of Federal or State law or in violation of the law of a foreign country, regardless of whether charged, and regardless of whether the conduct occurred before, on, or after the date of the enactment of this paragraph, 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, including a violation of section

924(c), 924(h), or 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);

''(iv) a felony crime of violence as defined in section 16 of title 18, United States Code, which is punishable by a sentence of imprisonment of 5 years or more, including first degree murder, arson, possession, brandishment, or discharge of firearm in connection with crime of violence or drug trafficking offense, use of a short-barreled or semi-automatic weapons, use of a machine gun, murder of individuals involved in aiding a Federal investigation, kidnapping, bank robbery if death results or a hostage is kidnapped, sexual exploitation and other abuse of children, selling or buying of children, activities relating to material involving the sexual exploitation of a minor, activities relating to material constituting or containing child pornography, or illegal transportation of a minor;

''(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, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 1581 through 1594 of such title (relating to peonage, slavery and trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions in property derived from specified unlawful activity), or sections 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles or stolen property); and

''(vii) a conspiracy to commit an offense described in clause (i) through (vi).''.

(b) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(1) by redesignating subparagraph (F) as subparagraph (L); 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 participated in a criminal gang, knowing or having reason to know that such participation promoted, furthered, aided, or supported the illegal activity of the gang, is inadmissible.''.

(c) DEPORTABILITY.—Section 237(a)(2) (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, knowing or having reason to know that such participation promoted, furthered, aided, or supported the illegal activity of the gang is deportable. The Secretary of Homeland Security or the Attorney General may waive the application of 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)—

(A) in clause (i), by striking '', or'' and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) the alien participates in, or at any time after admission has participated in, knowing or having reason to know that such participation promoted, furthered, aided, or supported the illegal activity of the gang the activities of a criminal gang.''; and

(3) in subsection (d)—

(A) in paragraph (2)—

(i) by striking ''Subject to paragraph (3), such'' and inserting ''Such''; and

(ii) by striking ''(under paragraph (3))'';

(B) by striking paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(D) in paragraph (3), as redesignated, 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) INCREASED PENALTIES BARRING THE ADMISSION OF CONVICTED SEX OFFENDERS FAILING TO REGISTER AND REQUIRING DEPORTATION OF SEX OFFENDERS FAILING TO REGISTER.—

(1) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)), as amended by section 209(a)(3), is further amended—

(A) in subclause (II), by striking ''or'' at the end;

(B) in subclause (III), by striking the comma at the end and inserting a semicolon; and

(C) by inserting after subclause (III) the following:

''(IV) a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender); or''.

(2) DEPORTABILITY.—Section 237(a)(2)(A)(i) (8 U.S.C. 1227(a)(2)(A)(i)) is amended—

(A) in subclause (I), by striking '', and'' and inserting a semicolon;

(B) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(III) a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender).''.

(f) PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF SERIOUS CRIMINAL OFFENSES AND DOMESTIC VIOLENCE, STALKING, CHILD ABUSE AND VIOLATION OF PROTECTION ORDERS.—

(1) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C. 1182) is amended—

(A) in subsection (a)(2), by adding at the end the following:

''(J) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTIVE ORDERS; CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who has been convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment, provided the alien served at least 1 year's imprisonment for the crime or provided the alien was convicted of or admitted to acts constituting more than 1 such crime, not arising out of a single scheme of criminal misconduct, 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 constitutes criminal contempt of 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 an independent order in another proceeding.

''(iii) APPLICABILITY.—This subparagraph shall not apply to an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship, upon a determination by the Attorney General or the Secretary of Homeland Security that—

''(I) the alien was acting in self-defense;

''(II) the alien was found to have violated a protection order intended to protect the alien; or

''(III) the alien committed, was arrested for, was convicted of, or pled guilty to committing a crime that did not result in serious bodily injury.''; and

(B) in subsection (h)—

(i) 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), (B), (D), (E), (F), (J), and (K) of subsection (a)(2)''; and

(ii) by inserting ''or Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any acts that occurred on or after the date of the enactment of this Act.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO DRUNK DRIVING, ILLEGAL ENTRY, PERJURY, AND FIREARMS OFFENSES.

(a) DRUNK DRIVING.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended by inserting after subparagraph (J), as added by section 204(f) the following:

''(K) DRUNK DRIVERS.—Any alien who has been convicted of 1 felony for driving under the influence under Federal or State law, for which the alien was sentenced to more than 1 year imprisonment, is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) DRUNK DRIVERS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who has been convicted of 1 felony for driving under the influence under Federal or State law, for which the alien was sentenced to more than 1 year imprisonment, is deportable.''.

(3) CONFORMING AMENDMENT.—Section 212(h) (8 U.S.C. 1182(h)) is amended—

(A) in the subsection heading, by striking ''SUBSECTION (A)(2)(A)(I)(I), (II), (B), (D), AND (E)'' and inserting ''CERTAIN PROVISIONS IN SUBSECTION (A)(2)''; and

(B) in the matter preceding paragraph (1), by striking ''and (E)'' and inserting ''(E), and (F)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to convictions entered on or after such date.

(b) ILLEGAL ENTRY.—

(1) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—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 and not more than $250 for each such entry, 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.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

(3) EFFECTIVE DATE.—Section 275(a)(4) of the Immigration and Nationality Act, as added by this Act, shall apply only to violations of section 275(a)(1) committed on or after the date of the enactment of this Act.

(c) 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 any person) relating to an application for any benefit under the immigration laws (including for Z non-immigrant 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.

(d) INCREASED PENALTIES RELATING TO FIREARMS OFFENSES.—

(1) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(A) in subsection (a)(1)—

(i) in the matter preceding subparagraph (A), by inserting ''212(a)'' or after ''section''; and

(ii) 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'';

(B) 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

(2) 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—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(ii) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence''; and

(iii) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(B) 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).''.

(3) INADMISSIBILITY FOR FIREARMS OFFENSES.—Section 212(a)(2)(A) (8 U.S.C. 1182(a)(2)(A)), as amended by sections 204(e) and 209(a)(3), is amended—

(A) in clause (i), by inserting after subclause (IV) the following:

''(V) a crime involving the 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), provided the alien was sentenced to at least 1 year for the offense,''; and

(B) in clause (ii), by striking ''Clause (i)(I)'' and inserting ''Subclauses (I), (IV), and (V) of clause (i)''.

Mr. KENNEDY. Mr. President, I will make a comment. I see my friend from Rhode Island. I would like to make a brief comment on the amendment of Senator CORNYN and a brief comment on our amendment. Then I hope the Senator from Rhode Island will speak to it.

It is always interesting to listen, when we are talking about the immigration bill, to those who go back to the 1986 bill. I remember it very clearly. I voted against it. That was an amnesty. That was a real amnesty. We hear a great deal in the public about what is amnesty, what is not amnesty. That was amnesty. This legislation is not amnesty. That effectively said those people who were undocumented, who came here, were forgiven. They followed the basic recommendations of a report by the distinguished president of Notre Dame, the Hessberg Report. I remember it clearly.

There were enforcement provisions in there. They were completely inadequate. I might remind my friend from Texas, from 1986 to 1992, we had a Republican administration, a Republican President, and they didn't enforce it, as they have not enforced the recent legislation. They have had three investigations in terms of investigating undocumented aliens—three. They are the great defenders of the American border? Great defenders about immigration reform?

Please.

We always have to go through the little dance about the 1986 bill and the enforcement. I wish, during that period of time—1986, 1987, 1988, 1989—I wish all during those years we had the enforcement. But we did not. So we are where we are today. The real question is, is this legislation that we have now the downpayment on national security, on security internally? Does it provide the opportunity for those who are here to pay the fine, go to the back of the line, demonstrate a good working relationship and be able to emerge out of the shadows—the AgJOBS bill, the DREAM Act, and other provisions of the temporary worker program?

With regards to the Cornyn amendment, we have an immigration program in this legislation that is strong, practical, and fair. One of the essential elements is to bring the 12 million men, women, and children—hard-working families—out of the shadows into the sunlight of America. We know we are not going to conduct massive roundups and deport 12 million people. We don't have the means to do it. It would disrupt our economy, inflict untold hardships on millions of hard-working people. It is estimated it would cost more than $250 billion. We would have buses all the way from Los Angeles to New York and back to trying to do this, if it were even possible.

But the Cornyn amendment would make vast numbers of these families ineligible for our program. We are trying to deal with a key element of the program and that deals with the families who are here. It would keep them in the shadows, where employers abuse and underpay them. That hurts the immigrants, but it hurts American workers, too, by depressing wages.

That is what we see that is out there now, with undocumented—the 12 million with a work record which is even better, in terms of percentages, than native born Americans, people who are willing to work and want to work hard. But there is exploitation of those individuals because every one of them knows all the boss has to do is go down and call the immigration service.

Work 80 hours a week.

Well, I don't want to.

Well, I'm going to call the immigration service and you're deported.

They do that. That individuals are exploited in this country is well understood. We are trying to free ourselves from that kind of a condition. But the Cornyn amendment would still make vast numbers of these families ineligible for our programs, keep them in the shadows where employers abuse and underpay them, which hurts the immigrants but it hurts American workers, too, by depressing their wages.

The Cornyn amendment does this by classifying an array of common garden variety immigration offenses as crimes that would make them ineligible for the program. For example, the Cornyn amendment says that if you come here, have been ordered out of the country by immigration authorities, but if you fail to leave or you come back, you are ineligible. That is exactly what has been going on with our broken immigration system; people have come to work, employers want them to come, and they have benefitted our economy.

Immigration officers may find them and order them home, but our employers beg them to come back. Our broken borders make that possible.

Cornyn says: If you have used false identification, you may be found inadmissible and may be deported. But in our broken system, the people who have wanted to work have been forced to use the false identification. That is the reality of where we are today. Cornyn says he wants to be tough on gang members, sex offenders, individuals convicted of domestic violence. So do we. We have addressed any provisions not covered by the current law. Our amendment goes even further than the bipartisan compromise bill.

He wants to exclude gang members. Our amendment does that too. Nobody who has engaged in illegal activity as part of a criminal gang will be allowed to enter or stay in this country. He says we should bar sex offenders from coming here. Our amendment does that. Any convicted sex offender who fails to register will not be allowed back in the country; if already here, then those offenders will face deportation.

Cornyn says immigrants who commit acts of domestic violence or endanger their families should be punished. Our amendment does that. He says drunk drivers should be deported. Our amendment does that. Any immigrant with one felony conviction for drunk driving will not be allowed to enter this country. If convicted here, then the drunk driver will be deported.

He says there should be consequences for individuals engaging in fraud. Our amendment does that. Our amendment punishes anyone who commits perjury or makes false statements when seeking immigration benefits. If any person lies on their application, then this individual will be prosecuted and subject to criminal penalties.

He says we should go after immigrants convicted of firearms offenses. Our amendment does that, too. Who are the people we want to apply under our program? Who are the people the Cornyn amendment would condemn to the shadows of abuse? We know that the vast majority of the families who have come over here are hard-working people who care for their children, go to church, and contribute to their communities.

In America, we respect hard work. Hard work built America. So our program says: If your only offense is that you came here to work, you came here to provide for your family, we will proceed in a way that you can atone for that offense and earn the right to stay and work legally. If you are a criminal, then we will arrest you. If you are a threat to our national security, a terrorist, then we will lock you up. If you try to cheat your way into the program through fraud, we will deport you. But if you came here to work and build a life, then you can stay. But first you have to meet the tough requirements: You have to pay the $5,000 fine, show a steady work history, learn English, get to the back of the line to get your green card, behind all those who have been waiting legally to get theirs.

The Cornyn amendment creates harmful barriers for refugees fleeing persecution. In America, we have had a long and proud tradition of providing refuge to people who have faced persecution and oppression in their lands, whose lives are at risk because they stood up for their beliefs.

We took in refugees from Cuba and from Vietnam as they fled communism. We have helped people from Somalia and Bosnia and other areas of conflict and oppression. Now we are beginning to help people whose lives are at risk because they helped our troops in Iraq.

But often these persecuted refugees have no choice but to cooperate with their oppressors in order to save their families' lives and enable their escape. The Cornyn amendment says: If you do that, if you provide what is called material support to these oppressors and terrorist groups, then we are not going to rescue you from the hands of your oppressors. You have to take your chances and hope your oppressors do not persecute you or even kill you or your family.

Consider the case of Helene from Sierra Leone, Revolutionary United Front rebels attacked her home, hacked one of her family members to death with a machete; they set her son on fire, leaving him near dead with severe burns. They held her family captive, raping her and her daughter and forcing them to cook, forcing her to cook and wash their clothes.

The Cornyn amendment would bar legitimate refugees who were forced to assist their oppressors under duress. Under the Cornyn amendment, Helene would be ineligible to come to America as a refugee because she cooked for the rebels and washed their clothes. Under the Cornyn amendment, she and her family are ineligible because they provided material support for a terrorist group.

If that is not bad enough, the Cornyn amendment says she can be excluded based on secret evidence, evidence that neither she nor anyone else outside the Government can see. She may never know why she was excluded. The Cornyn amendment even bars her from going to court to explain her situation and appeal the denial of her case. The decision of the Secretary of Homeland Security or the Attorney General is final.

Helene would never get her day in court to explain the tragic circumstances of her case. The door to freedom in America would be closed shut, end of the discussion, you go back into the hands of your persecutors.

Madam President, surely by now, we have learned that closed proceedings conducted by executive branch officials based on secret evidence without any possibility of court review are inconsistent with American traditions and inconsistent with the search for justice; let's not go down that road again.

The amendment makes all of its changes retroactive. They apply to the past and future conduct. The Cornyn amendment would change the rules in midstream. That is frowned on in American jurisprudence; it is unconstitutional in criminal law and disfavored elsewhere. People whose conduct would not have affected their immigration status at a time it was committed, will suddenly suffer severe consequence. The retroactivity provisions simply bring home the punitive nature of this amendment. It is not designed to contribute to creation of a tough but fair and practical system of immigration, it is designed to be harshly punitive.

This amendment would exclude hundreds of thousands from benefits of this bill and undermine the bipartisan compromise that members of this body worked so long and so hard to produce. We will have an opportunity to vote for an alternative, the amendment I have offered. The amendment expands the

already tough criminal gang provisions contained in the bill.

If you are associated with a gang, and that gang is known to be engaged in violent crimes, drug crimes, crimes involving firearms or explosives, alien smuggling or trafficking, you are not going to qualify for benefits. If you are associated with a gang and the gang has been engaged in crimes of violence, including murder, arson, possession, kidnapping, bank robbery, sexual exploitation, abuse of children, obstruction of justice, witness tampering, burglary, racketeering, among other crimes, you are not going to be entitled to receive lawful status in this country, and you are not going to qualify for benefits.

This amendment expands the already tough grounds of inadmissibility and the criminal penalties in the current immigration law. We target essentially the same provisions as Senator CORNYN but in many instances go further. This amendment bars the admission of sex offenders who don't register as required and makes them subject to deportation as well.

It ensures that wife beaters, child abusers, stalkers, and others who prey on the vulnerable are inadmissible to the United States. It ensures that a drunk driver who is sentenced to 1 year of prison cannot be admitted to the United States and can be removed as well. Our drunk driving provisions, which require only one felony conviction, are even more restrictive than Senator CORNYN's, which requires three convictions before a drunk driver becomes inadmissible. We increase the penalties for illegal entry. We ensure that immigration fraud is subject to perjury charges. We toughen the penalties for firearm offenses. We are tough, but we are practical too. That is where this side by side differs from Senator CORNYN. His provisions are bright-line rules. He turns many of these criminal offenses into aggravated felonies. That is ''immigration speak'' for: You will never, ever be forgiven.

For many offenses, such as murder, that is more than a reasonable consequence. Murderers should not become U.S. citizens. Under the current law, they can never become a citizen. But most immigrants are not murderers, they are people who have entered the United States illegally. Under the Cornyn amendment, they could be aggravated felons too.

As a practical matter, Senator CORNYN does not want us to distinguish between murder and illegal entry; but that is not practical, nor does it reflect our criminal justice system. So it is true that we build in some small but important waivers that in extraordinary circumstances would give someone a second chance, not murderers but someone who had long ago made a mistake.

This week, I received a letter about a young man named Adrian, a former gang member in Massachusetts who has turned his life around. Adrian went from a life of juvenile delinquency to that of a dedicated student; one who works full time now in hopes of going to college. Adrian's principal and his teachers praise him for his hard work, his commitment to family, his newfound motivation to go to college. They want him to have a chance to stay in this country.

The author of the letter then says: ''It is a very, very hard thing to leave the gang life behind. There are other Adrians out there as well who have made the same decision regardless of difficulty. Is the message this country wants to send them, that what they have done is unforgivable regardless of whatever changes they may have courageously made? Wouldn't the country gain by having an incentive in law that might attract young people to leave gang life and move their lives forward a very different way? Wouldn't it be helpful to the country to have a waiver that a person could apply for if they can prove they have left a gang and provided evidence on how they have moved on?''

Every change in our immigration law represents a statement about whom we are as a country. Are we a country that takes individual circumstances into account or are we a country that punishes with no regard for individual circumstances? We can be tough on crime and yet retain a level of discretion in our immigration laws? This is the crux of the difference between what I am suggesting to the Senate and what Senator CORNYN has proposed.

That a measure of discretion is every bit as much a tool of law enforcement as the strictest ban. I see my friend who has been waiting here. I yield time.

The PRESIDING OFFICER (Mrs. MCCASKILL.) The Senator from Texas.

Mr. CORNYN. Madam President, I would ask the distinguished Senator from Massachusetts if we may go back and forth across the aisle. I have a speaker on our side as well who would like to be recognized for 10 minutes. Is that acceptable?

Mr. KENNEDY. Well, I would like to follow that. The good Senator was here even before I was this morning. Is that agreeable?

Mr. WHITEHOUSE. Madam President, I would yield to the request of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. I thank all my colleagues for their courtesies.

Madam President, I rise in strong support of the Cornyn amendment and in opposition to the much weaker, watered-down Democratic alternative.

This amendment illustrates a lot about this debate. The Cornyn amendment is clear. It is necessary. It is common sense. It is absolutely necessary we pass amendments such as this and have the ability to debate and vote on amendments such as this in the important immigration debate.

This amendment is very straightforward. It prevents terrorists, gang members, sex offenders, and other folks who have broken the law in significant ways, committed significant felonies, from receiving immigration benefits and citizenship in the future. How can any of us in the Senate oppose a straightforward and necessary commonsense amendment? How can any of us be comfortable with an underlying bill which has these gaping loopholes? We must address these gaping loopholes. How can we tell families across America that we are going to allow sex offenders and gang members to become legal residents, possibly citizens? The Cornyn amendment would prevent this. It would address all of these significant loopholes.

Again, terrorists, gang members, violent gang members, those who have committed other significant felonies, those who have been detained for coming into the country illegally and have absconded, those who have been deported from the country for coming into the country illegally and have reentered illegally—all of those categories of illegals should be prevented from gaining the benefits of this bill. The Cornyn amendment clearly does that.

The Democratic alternative clearly does not. It has significant omissions from the Cornyn amendment. It allows absconders, those who have been detained and have gone underground, to receive the benefits of the bill. It allows those who have been deported from the country and who came back in illegally to get the benefits of this bill. It allows others who fall into the category of gang members and those who committed serious felonies to gain the benefits of this legislation. That is simply wrong. We must support the commonsense, straightforward Cornyn amendment.

I also want to spend a portion of my time urging my colleagues to not vote for cloture on this bill as it presently rests before us, because we have many important amendments to consider. Two of those are the amendments I will humbly offer to the Senate. They are important issues; they are important amendments. I urge us to pay careful consideration to them and to have an opportunity for debate and vote.

In that spirit, I ask unanimous consent to lay aside the pending amendment and to call up my amendment No. 1338.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. I am sorry to hear that. Let me try my second amendment which is also at the desk. It concerns a significant provision in the bill which we need the opportunity to debate and vote on. That is Vitter amendment No. 1339.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Madam President, unfortunately, this illustrates the point about the inappropriateness of cloture. These are two significant amendments which go to important provisions of the bill. All of us—and more importantly, the American people—deserve to have these matters debated and voted on. Let me explain what these amendments are about. Everybody—certainly the majority side—has been given the amendments.

My first amendment only requires what Congress originally mandated back in 1986; that is, the entry/exit system known today as US–VISIT. We must have that fully operational before all aspects of this bill are allowed to go into effect. It was authorized 10 years ago, but it is not near to fully operational now. We must make sure that it is a part of this bill's enforcement trigger.

Without the US–VISIT system's completion, we can't be sure that we know what individuals are in the country. In fact, we can be sure we will not know because how can we possibly have a grasp of who is in the country and who is not in the country without this system which tracks people as they exit? There are a lot of folks on visas here for a limited period of time. Under that visa, they, of course, need to exit the country before their visa is up. The US–VISIT system allows us to know if they are doing that. How can we possibly be ready for the full implementation of this legislation, how can we possibly say we have the enforcement system we need in place without the US–VISIT system, without knowing who exits the country and when, without knowing whether they have overstayed their visa?

As of 2006, the illegal population included 4 to 5.5 million overstays, people here illegally because they are overstaying the time limits of their visa. The US–VISIT system is absolutely necessary to get to the heart of the problem and to enforce against overstays. How can we say we have adequate enforcement, how can we trigger the other provisions of this bill without making sure we have that in place, functioning, fully operational?

The US–VISIT system is not any part of the triggers now in the bill. It must be. That is what my amendment 1339 goes to.

As I mentioned, I have another amendment, No. 1338, that would correct a provision in the bill which doesn't allow for a catch-and-release program anymore but simply changes that to a catch, pay, and release program. In this legislation, those in this country illegally who are caught and who are not from Mexico don't have to be kept in custody. They can be released on a $5,000 bond. For months, and indeed years, we on the Senate floor and those around the country have decried the catch-and-release program, a program that has been in place where illegals are caught but are released into our country and simply given a piece of paper that says: Show up to court on such-and-such a date. Guess what. They never do. This bill merely changes that to a catch, pay, and release program. It allows catch and release to continue, only with a $5,000 bond.

Why is that a problem? Because many of the folks we are talking about, particularly those who are among the most dangerous, those involved in illegal drug activity, those in other organized crime, can get the $5,000 bond. If they are already paying human smugglers to get them across the border, in many cases thousands and thousands of dollars, one has to assume they can get the resources to pay this bond. Changing catch and release to catch, pay, and release is completely inadequate. Yet that is what the underlying legislation does.

Amendment No. 1338 would close that loophole, would say: No, we are going to end catch and release forever, and we are not going to allow cash, pay, and release. When we catch these folks coming into the country illegally who are not from Mexico, so we can't simply send them back to Mexico at the southern border, we are going to detain them. We are not going to let them into the country on a bond or anything else. We are going to detain them until they are deported, and we are going to work very hard to deport them as quickly as possible.

Again, I believe my two amendments, which have not been allowed to be offered, clearly illustrate why we are not ready for cloture on this bill. This is a significant debate on a massive, 800-page bill. This bill, if enacted, will affect our country in major and significant ways for decades to come. Everybody admits that, no matter what side of the debate they may be on. Yet we have only been allowed to have a modest number of votes on the bill, something on the order of 12. That is ridiculous. We need these sorts of amendments considered and voted on, and we must oppose cloture until that happens.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, we have tried to work out an orderly process as we have proceeded. We are going to have plenty of time to deal with a range of different amendments, as we did with the Vitter amendment previously.

I yield 12 minutes to the Senator from Rhode Island.

How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 39½ minutes remaining.

Mr. KENNEDY. I yield the Senator from Rhode Island 12 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

REMEMBERING SENATOR CRAIG THOMAS

Mr. WHITEHOUSE. Madam President, this is my first time speaking on the floor since the passing of our colleague, Senator Thomas. I know we are all very conscious of the desk draped in black across the way, next to Senator CORNYN. I extend my condolences to his many friends, my many esteemed colleagues who knew and admired Senator Thomas and mourn his loss and know he will be sorely missed by his friends in the Senate and his friends and family in his native State of Wyoming.

AMENDMENT NO. 1184

I rise today to address amendment No. 1184 offered by my friend from Texas, my former attorney general colleague, Senator CORNYN.

I will oppose this amendment. It is not entirely without merit in every one of its many dimensions, but it would undercut the fundamental principles of due process which are a longstanding and vital hallmark of our legal system. I fully support the creation of new grounds for inadmissibility to the United States for convicted sex offenders, gang members, repeat DUI offenders, and for individuals who have been convicted of firearms offenses and domestic violence. I have prosecuted these crimes. I have a firsthand understanding of how dangerous these criminals are. Simply stated, America's doors should not be opened to people who commit such crimes. If Senator CORNYN believes there are loopholes, I am happy to plug them, although I would note that the Secretary of Homeland Security, the Attorney General, the President, and others seem satisfied.

For that reason, I will support the alternative amendment offered by Senator KENNEDY which would add these offenses and others to the grounds for inadmissibility.

There is a right way to ensure dangerous criminals don't enter the country and there is a wrong way. Unfortunately, the amendment we are debating goes about it the wrong way. Let me explain.

Under the Immigration and Nationality Act, good moral character is a prerequisite for a variety of benefits and privileges, the most important being naturalization. Therefore, the law lists a series of characteristics which exclude a person from the definition of ''good moral character'': for example, a person whose income is derived principally from gambling or one who has given false testimony for the purpose of obtaining benefits or one who has been convicted of an aggravated felony. This, of course, makes perfect sense. These individuals as a general rule should not get on a path to naturalization.

But this amendment would change the definition of ''good moral character'' in a very novel and unsettling way: It would exclude from that definition 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). These sections list a series of security-related grounds under which

an alien is excludable or deportable. Those grounds, sensibly enough, include espionage, sabotage, terrorist activity, and any other unlawful activity. Anyone convicted of such offenses or even indicted for such offenses should be, of course, excludable. But that is not what this amendment says. This amendment would give the Secretary of Homeland Security and the Attorney General unreviewable discretion to make a determination as to good moral character.

First, as I have previously said, I am not inclined to expand the powers of the current Attorney General in any substantive way, much less to expand his power to make important unreviewable decisions. Setting aside my grave hesitation about this particular Attorney General, as a general rule, I don't believe we ought to prevent judges from reviewing important decisions which can affect life, liberty, and property. This would violate one of the most fundamental principles of American democracy—judicial review, a principle we have honored for centuries.

The second issue is even more unsettling. That is, under the proposed amendment, a person could be determined to lack ''good moral character'' if the unreviewable decision is made that he or she is ''described in'' these two specific sections of the immigration code.

''Described in,'' what exactly does it mean to be ''described in'' a statute? Not ''convicted'' under a statute, not ''in violation'' of a statute, not ''indicted'' under a statute but merely ''described in'' it.

Who knows what it means? I have found no precedent for this formulation. Is it consistent with American values to grant the Attorney General and the Secretary of Homeland Security the unreviewable discretion to say that a person is ''described in'' those statutes; the unreviewable power to say that somebody is engaged in ''unlawful activity''; and the unreviewable power to then deny them the benefits and privileges of American law?

That is not my experience as a prosecutor. I found due process to be important and valuable.

The amendment does not stop there. It would allow this unreviewable discretion to be based on evidence which the accused would never have the opportunity to confront.

Madam President, like you, I have spent my professional life in the American legal system, a good deal of it I spent as a U.S. attorney and as an attorney general. My experience is that our American system of law stands on some fundamental principles, among them that people can be aware of the charges brought against them, that people have an opportunity to confront the evidence used against them, that the prosecution and the judge are not rolled into one, and that we have judicial review of important decisions affecting people's rights and privileges. These are basic principles, and they represent core American values.

I do not know why we have to keep getting up to defend this. This is bedrock stuff. From the suspension of habeas corpus, to the administration's legal defense of torture, to ''extraordinary rendition,'' and so on, we have seen relentless efforts to chip away at bedrock principles of American law. With this amendment, there they go again.

Of course, we must do everything proper and necessary to protect our borders and keep Americans safe. But to throw out the separation between prosecution and judge, to throw out the opportunity to understand and explain evidence used against you, to throw out our ancient principle of judicial review, to allow Government officials to take away rights and privileges without answering to anyone? I do not think so.

These principles are too dear to be thrown away so lightly. Our country has been through a lot over the years, and these principles have survived and flourished, to lie today in our hands, in our stewardship, to protect and to pass on, as they were passed on to us.

I do not think this immigration issue is so terrifying that we need to throw these principles away now over immigration. We are made of sterner stuff than that.

I ask my colleagues to oppose Senator CORNYN's amendment No. 1184.

I thank Senator KENNEDY, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. CORNYN. Madam President, I yield the Senator from Alabama 10 minutes from our allotted time.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. SESSIONS. Madam President, I appreciate the Senator's comments about American law and principles. As a former U.S. attorney and attorney general, I share the general view. He mentions the historic privileges we have in America. But let me tell you, no one has a right to enter the United States of America. We decide who comes in and who does not.

That is a core principle of sovereignty. Every Nation in the world makes those decisions, if they are a functioning state, and you then allow people to enter on your terms, on whatever conditions they may be. The condition may be, you can enter as long as you are enrolled in a college, you can enter for a certain period of time, you can enter on a tourist visa to do a certain number of things.

But those conditions are not such that if you say someone cannot come here you violated the laws of America. If you say you can come to America but not if you have a history of being a sexual predator, what right does that violate? What principle of American law does that violate? I suggest none. We have every right to insist and ensure the immigration system of the United States serves the national interest. The national interest means you do not allow people to continue to stay in our country or to come to our country who have repeat DUIs or who sell drugs or who are associated with terrorists. How basic is that? Nobody has a constitutional legal right to demand entry into the United States of America. How much more basic can it be than that?

So that is where we are confused. It amazes me the lack of understanding and comprehension of what it is all about. We set the standards. We have the most generous immigration laws of almost any country in the world. It has been a big part of our heritage. We are not going to end immigration. Nobody wants to do that, or to act irrationally, and so forth.

But to set reasonable standards, as Senator CORNYN is attempting to do with his amendment, only makes common sense. For example, I have mentioned some of the loopholes. He fixes them. I give him every bit of credit for this: for standing firm, for insisting on this vote, after he has been objected to and objected to and blocked from getting his vote. But he stood firm on this issue. He is going to fix a number of the problems I wish to briefly mention.

Some aggravated felons who have sexually abused a minor are eligible for amnesty under this bill. They have no entitlement to amnesty. Nobody has entitlement to amnesty, whether they are perfectly wonderful citizens and all that. They are not entitled to that. This is a gift we give. So why would you want to give that to somebody who sexually abused a minor?

Well, the child molester who committed the crime, before this bill is enacted, is not barred from getting amnesty if their conviction document omitted the age of the victim. If the conviction document did not put the age down, then they are to be admitted under this bill. After there was some objection to it, they fixed that language for the future but did not fix it for the past or current convictions. So I think Senator CORNYN is correct. I support that portion of his amendment very strongly.

Another provision is that aliens with terrorism connections under this legislation are not barred from getting amnesty. They do not have a right to stay here. If we have any suggestion that someone in this country, now here, or someone who wants to come here is connected to terrorists, they do not have to be admitted. What kind of right do they have to demand to be admitted? If our State Department, in some country around the world, has information that a person is connected to terrorism, they do not have any right to demand to come here. They come at our pleasure, our sufferance.

So one of the things this bill, as written, does is it says an illegal alien seeking most of the immigration benefits must show good character. But last

year's bill—let me say this on the terrorism question—specifically barred aliens with terrorism connections from having the required good moral character to enter the United States. That is one of the things we say. You cannot come here unless you have good moral character. You cannot come here if you are a felon, a thief, a drug dealer or a child molester. Surely, that would make sense. So this bill eliminated that.

Another example, surprisingly, of this bill being weaker even than last year's fatally flawed bill: The bill's drafters have ignored the Bush administration's request that changes be made to the asylum, cancellation of removal, and withholding of removal statutes in order to prevent aliens with terrorist connections from receiving relief. The bill drafters were told about this by the Bush administration and were urged to put different language in, and they refused to do so, for reasons I cannot fathom.

But it begins to show a certain mindset. I think that mindset is we are somehow here to represent people who want to come into our country and stay in our country instead of representing the American people and the interests of the United States.

Last year, we had good moral character as a requirement. Good moral character involved not being connected to terrorists. But according to current law, an alien cannot have good moral character if they are a habitual drunkard, a majority of their income comes from illegal gambling, giving false testimony for immigration benefit purposes, they have been in jail for 180 days, they have been convicted of an aggravated felony or they have engaged in genocide, torture, or extrajudicial killings. That is current law we have. But this year's bill is completely missing these new terrorism bars that were in last year's bill, and the bill no longer requires good moral character. That is a matter that leaves us at greater risk than we need to be. It concerns me.

Another example. Instead of ensuring that members of violent gangs, such as MS–13, are deported, the bill will allow violent gang members to get amnesty as long as they renounce their gang membership on their application. That is the current law. Under the bill, being in a violent gang is not going to prevent you from qualifying for amnesty. The bill requires amnesty applicants to list—to list—you are required to list that gang membership on your application. Then you get a blank that says ''renunciation of gang affiliation.'' So if you check that blank and say you renounce it, then you get to stay in, perhaps.

So why don't we allow this: If an illegal alien has been a member of a violent international gang, such as Mara Salvatrucha 13, MS–13, why don't we say that blocks him or her from being eligible for the amnesty in the bill? Loyalty to the United States should be the requirement, not loyalty to some outside gang that is violent.

The night before last, I happened to turn on C–SPAN and catch a National Press Club conference by a series of law enforcement officers involved in the Border Patrol, the former chairman of the Border Patrol. They were ferocious in their criticism of this bill. I was surprised how strongly they felt about it.

Hugh Brien, himself an immigrant, was Chief of the Border Patrol from 1986 to 1989. He called the bill a sellout, a complete betrayal of the Nation, a slap in the face to millions of Americans who have come here legally like he had done. In 1986, he recalled: ''Our masters, our mandarins promised it would work.'' Of course, the 1986 bill did not. He also said, based on his experience in many years with the Border Patrol: ''It's a disaster.''

Kent Lundgren, the national chairman of the Association of Former Border Patrol Officers, said this: ''There are no meaningful criminal or terrorist checks'' in the legislation. He noted that the ''screening will not happen.'' He added Congress is lying about it.

The PRESIDING OFFICER. The Senator has used his time.

Mr. SESSIONS. Madam President, I thank the Chair and support the Cornyn amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, how much time do I have?

The PRESIDING OFFICER. Thirty-one minutes.

Mr. KENNEDY. Madam President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. SCHUMER. Thank you, Madam President.

First, I salute my colleague from Massachusetts for his undaunted, courageous, and effective leadership on this issue, which is one of the most difficult issues we face. I think he has the respect of everybody in this body for that—the Senator from Massachusetts does—whether they agree or disagree with the bill.

Now, I rise in opposition to the Cornyn amendment and in support of the Kennedy alternative amendment No. 1333. There certainly are attractive parts of the Cornyn amendment, but the good parts of the amendment are buried in complicated language that strikes at the heart of the comprehensive immigration bill many of us are working hard to pass. At a minimum, my colleague's amendment would have the effect of stripping the path to citizenship, one of the mainstays of the compromise—one of the two mainstays of the compromise—out of the bill altogether. This body has already rejected that approach outright. It ought not do it now by stealth. It is a Trojan horse—nothing short of an attempt to kill the whole bill in the guise of tough enforcement.

My colleagues know when it comes to tough enforcement, whether it is on immigrants, citizens, or anyone else, I don't yield to anybody. I am a tough-on-crime guy. I come from an area that was ravaged by crime, and the works of the Federal Government, State government, and city government helped make the communities I represent much safer.

What we do in the Kennedy amendment is keep the tough enforcement without killing the bill. Let me repeat that. What we do in this amendment is keep the tough enforcement—it is all there—but we don't kill the bill. We don't eliminate the path to citizenship which is, of course, what the Cornyn amendment does and may well be intended to do.

If we are serious about passing the best possible bill and passing a bill that makes good sense, we should support the Kennedy amendment and not throw out the baby with the bathwater. We all want a bill that is tough on people who have broken the law, and we all want a bill that keeps people who should not be let into the United States in the first place from coming here.

Senator KENNEDY's amendment is both tough and smart. It changes the law to prevent the worst criminals from getting into the country and kicks out people who shouldn't be here, and it picks out the best parts of the Cornyn amendment and leaves out the worst.

Like Senator CORNYN's amendment, Senator KENNEDY's amendment says any new immigrant who has participated in a criminal gang in any way, shape, or form can't come live in the United States, period. It doesn't wait for a felony conviction or anything else. If you are in a gang, you can't come in, and you can't become a citizen. Any immigrant in the United States who has been a member of a gang can be deported. That is how it should be. Also, Senator KENNEDY's amendment cracks down on gang members who violate our gun laws.

Under Senator KENNEDY's amendment, aliens who have committed the horrible crimes of domestic violence—stalking, child abuse, child neglect, or child abandonment, and who have been sent to jail for a year—are barred from moving to the country or from attempting to naturalize as citizens. The amendment provides that sex offenders who don't register can't immigrate or come work here, and convicted sex offenders who don't register get deported.

The amendment would keep drunk drivers from immigrating to the United States. Just one felony conviction for drunk driving and you are out. People who try to sneak into the country, illegally cross the border, or lie to immigration agents will face steep fines and jail time, as the bill provides, as this body ratified last week.

The amendment has tough penalties for repeat offenders. An alien who tries

to enter the country after being convicted of a serious penalty can face up to 20 years in jail under the amendment.

So this is one tough amendment. But, again, it doesn't seek by stealth, as the Cornyn amendment does, to eliminate the bill altogether. Some of the things in this amendment are exactly like the language in Senator CORNYN's amendment. Senator KENNEDY's amendment takes the best of the Cornyn amendment and leaves out the parts that will gut or decapitate the bill. A vote for the Kennedy alternative is a vote for tough enforcement but also smart policy.

Madam President, I yield back the remaining time to my colleague and friend from Massachusetts.

The PRESIDING OFFICER. Who yields time? The Senator from Texas is recognized.

Mr. SPECTER. Madam President, customarily, as a manager of the bill, I control time, but I think now the time is in whose hands? I ask for 12 minutes of time, Madam President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, may I inquire whether the Senator intends to speak for or against the—

Mr. KENNEDY. Madam President, I yield 12 minutes to the Senator from Pennsylvania.

Mr. CORNYN. I think that takes care of it. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I was about to say some nice things about the Senator from Texas, and I still will. He has been a very active and constructive participant in the consideration of immigration reform. In the 109th Congress he was very much involved and contributed greatly. We didn't always agree on a number of items, but he is very sincere, very studious, very thoughtful, and very constructive, and he continues in that role, although as is evident, there are some differences as to our approach. But I commend the Senator from Texas for what he has done and for what he continues to do here.

I am in favor of the alternative to the Cornyn amendment. I say that because we have structured the bill with a great many compromises. While I might be inclined to agree with the Senator from Texas on some of the specifics that he has enumerated which would be a bar to citizenship, there was a tremendous amount of give-and-take in the structuring of this bill so that I am standing with the committee bill—strike that. We don't have a committee bill. I wish we did. But I am supporting the bill which came out of the lengthy consultation with about a dozen principal Senators participating. There are a number of specifics, in the amendment which is side by side, which I think are preferable to the amendment by the Senator from Texas.

Illustrative of this preference is that the Senator from Texas makes a third conviction for drunk driving a crime of violence. Well, it may be a crime of violence, or it may not be a crime of violence. The alternative which has been proposed would make drunk driving a grounds for inadmissibility and deportability, providing the alien serves at least a year in prison. From my days as district attorney, I have seen quite a number of cases involving drunk driving, for example, and while I don't condone multiple convictions, I think it is a more appropriate ground that there be inadmissibility or deportability where the drunk driving was serious enough to call for a year in jail.

The amendment offered by the Senator from Texas also strips judicial review of findings that an alien is barred on national security grounds. From what we have seen about this issue in many contexts, there needs to be judicial review, although in a different context. In the last few days we have seen the Military Commission conclude that it had no jurisdiction because of problems with the indicting procedure with respect to whether one is an enemy alien or an unlawful enemy alien. This points to the necessity for judicial review, which would be excluded by the Cornyn amendment.

The Cornyn amendment also would deport or prevent citizenship for someone who has ever violated a protective order. Well, it is a good bit more complicated than that. The alternative amendment provides that there would be an analysis. It would exclude people convicted of a felony domestic violation, but there would be a consideration about whether, on a protective order, the alien was acting in self-defense, along with other considerations, in fact. Most fundamentally, the Cornyn amendment would strip the authority of the Departments, the Department of Homeland Security and the Department of Justice, to waive certain grounds which would warrant deportation or inadmissibility. That discretion, which is lodged in the alternative, enables a fuller review of the facts. It gives a chance to really look beyond some of the technical categorizations which might appear ominous on their face, but which, after there is a detailed review of what has happened on the underlying factors, might reveal there ought not to be inadmissibility or deportation. That discretion ought to remain with responsible officials in the Department of Homeland Security and the Department of Justice.

It is for those reasons, but fundamentally because the pending legislation was crafted with a great many compromises, that I favor the substitute and oppose the Cornyn amendment.

I would like to address something which is more fundamental and very serious, as we have had a statement by the majority leader that if cloture is not invoked tomorrow at 6 o'clock, he will take down this bill.

I think that would be grossly erroneous. I think that would be very bad procedure. If you compare what was done last year in the 109th Congress with what we have done in this Congress, you would see there was much more consideration in the last Congress than has been afforded this bill at this time.

For example, in the 109th Congress, we worked the bill through the committee. We did not work this bill through the committee. That was a leadership decision. I have stated on the Senate floor on several occasions the concern of not having gone through committee; that it was probably a mistake. Well, if this bill is taken down because we haven't made sufficient progress in the eyes of the majority leader, there is no doubt it would be a mistake because had we gone through committee, we would have worked through so many of these issues which we have had to legislate on the floor.

In the 109th Congress, the Judiciary Committee, which I chaired, had 6 days of committee markups. They were tough and laborious days, and we dealt with 59 amendments. We returned one Monday after a recess when the majority leader said he would proceed with the substitute bill, and a Monday back after a recess is a very tough day. But on March 27, 2006, the committee made a special effort to reconvene. We had a quorum, believe it or not, by 10 o'clock in the morning, and we worked through, laboriously, until the evening when we reported out a bill. That is what happened during the markup, 6 days of markup in the committee where, as I say, we considered some 59 amendments.

Then, when we moved to the floor of the Senate, we had 12 days on the bill. We had 4 days before cloture failed, and then we came back with 8 days more and considered in excess of 50 total votes—some rollcall, some voice votes—in passing the bill out of the U.S. Senate.

Now, contrast that with what we have had up to the present time. We have been on the bill 8 days, and 3 of those days were Mondays or Fridays pro forma without voting. We have only had 5 days where we have been involved in voting. Even on those days, they have not been as productive as voting days were on the bill in the 109th Congress because we have been in quorum calls. We have been negotiating. We have been trying to work through issues that, had this bill gone through committee, would have been resolved some time ago.

So you have a comparison of, really, 5 days, plus 3 days of pro forma, 8 at the most, contrasted with 12 days before. It is more accurately a comparison of 12 to 5—12 in the last Congress where we legislated and where we passed the bill. Here, where we have voted on only 21 amendments, contrasted with more than 50 we voted on in the last Congress.

We have also had a tremendous amount of Senators' time and time of the Secretary of Commerce and the

Secretary of Homeland Security. We met for 2 hours on Tuesdays, Wednesdays, and Thursdays, and sometimes on Mondays and Fridays as well, over a 10-week period.

It is hard to calculate how many hours were put in by Senators, but I think it goes into the thousands. It is hard to calculate how much time was put in by the two secretaries, but I think that goes into the hundreds. If you talk about staff time, it is incalculable. The staff director, Mike O'Neill, worked for about 20 days solid, including weekends, and that was sort of par for the course.

So to pull this bill tomorrow at 6 o'clock—I think it would be hard to find the right word that is appropriate in strength and not overboard. But I think ''outrageous'' would be a modest comment; it would be outrageous to pull this bill tomorrow.

One of my staffers said this bill has been the result of blood, sweat, and fears—paraphrasing Churchill's blood, sweat, and tears—and maybe more fears than blood and sweat. But we have come a long way. We have already seen a lot of finger pointing on this floor. We seem to be a lot better in the Senate at finger pointing than at legislating. But if this bill is pulled down, then you may even see toe pointing, because 10 fingers won't be sufficient for Republicans blaming Democrats and the majority leader for pulling down the bill, and Democrats blaming Republicans for a lot of dilatory amendments.

The majority leader has said these amendments are designed to kill the bill, that the people offering the amendments don't have any intention of voting for the bill. Senators who offer amendments don't have to have intentions of voting for the bill. Senators can offer amendments because they are Senators and because they think their amendments may pass, and because, who knows, they may even think their amendments could improve the bill. I think Senator CORNYN sincerely believes his amendment will improve the bill.

I ask unanimous consent for 3 more minutes.

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

Mr. SPECTER. Madam President, I ordinarily keep better track of time, but I am a little wound up and concerned about where all of the work we have done may end up if this bill is pulled and, more importantly, after the work that has been done, where it would leave the immigration mess in the United States. We have 12 million undocumented immigrants; we don't know where they are or what risks they face. We cannot deport them all. We have a porous border. If we don't have comprehensive immigration reform, we are not going to put up all the fencing, the barriers, and stop the additional people. The administration has made commitments, and there will be more about how the funds will be spent. We are not going to go through with employer verification. We are not going to spend the money on foolproof identification so employers can see who is legal and who is not legal, so that we have the basis for imposing tough sanctions, including jail. We are not going to eliminate the magnet to bring more people in. It will be a colossal failure.

I think it is safe to say the Senate would be the laughingstock of the country, after all of the hyperbole and publicity and all of the proposals and objections, if we are not able to finish this bill. It doesn't have to be finished this week. There is next week. We are not known for necessarily using the full week. We vote very infrequently on Mondays, almost never on Fridays. The evening session is not really practiced around here. When I came to the Senate with Howard Baker, we used to have a lot of all-night sessions. One night in 1982 or 1983—I ask for 4 more minutes.

Mr. KENNEDY. I yield 4 more minutes to the Senator. How much time will I have remaining?

The PRESIDING OFFICER. The Senator will have 6½ minutes.

Mr. KENNEDY. I thank the Chair.

Mr. SPECTER. Madam President, we had a tax bill on the Senate floor, and it was 11:45. Howard Baker, the majority leader, was consulting with the Finance chairman, Senator DOLE. There were 63 amendments pending. Senator Baker said we are going to work through the night. He said amendments, like mushrooms, grow overnight. So we worked through the night. There were some amendments taken, some amendments withdrawn, and some voted upon. It is amazing how much shorter the debate is at 3 a.m. It is also amazing how many more Senators there are on the floor at 3 a.m. There were a lot of people on cots in the cloakroom, but a lot of Senators were on the floor. The insomniacs outnumbered the sleepers by 2 to 1. We had a lot of comments like you heard in Parliament. Someone would be making an argument and there would be cries of ''vote, vote.'' At 3 a.m. the cries of ''vote'' and the lack of decorum carried the day.

The point is that a few more days in the Senate will not impede the action of this body. Some of the items that are coming up on the agenda may not merit the kind of time and attention the immigration bill does.

The American people are obviously sick and tired of the bickering in the Congress and in the Senate, sick and tired of the kind of finger pointing, and there will be an awful lot of it if we fail to legislate on this matter. The bill may be voted down. I think the bill will pass if we stick with it. Certainly, we ought to carry it through to conclusion.

I thank my colleague from Massachusetts for yielding me the extra time.

I yield the floor.

Mr. WEBB. Madam President, I rise today to discuss amendment No. 1313, an amendment that I will offer to the immigration reform bill, which will address what I believe are two crucial flaws in this legislation. The first flaw relates to what some people may call amnesty, wherein the bill legalizes almost everyone who entered this country by the beginning of this year. The second flaw relates to an unworkable set of procedures applicable to those who are properly offered legal status. It is important to the health and practicality of our system that these two flaws be addressed.

My amendment would achieve three critically important goals: it creates a fair and workable path to legalization for those who have truly put down roots in America; it protects the legitimate interests of all working Americans; and it accords honor and dignity to the concept of true American justice.

If one accepts the premises of these three goals, then I strongly believe that this amendment is the best way forward.

As a general matter, I agree with my colleagues that the time has come for fair and balanced reform of our broken immigration system. When I say ''fairness,'' I mean a system of laws that is fair to everyone here in the United States and especially our wage earners.

I strongly support the provisions in this immigration bill that strengthen our Nation's borders. Our porous borders are a threat to our national security, and we have waited far too long to fix this problem.

I also support the sections of the bill that create tough civil and criminal penalties for employers who unfairly hire illegal immigrants, creating both a second-class population and undercutting American workers. The bill's employment verification system will help ensure that illegal workers cannot get employment in the United States and would therefore face little choice but to return to their homelands.

As a point of reference, I do not support this bill's creation of a massive new temporary worker program. Two weeks ago, I voted to support Senator DORGAN's two amendments to strike and sunset that program, and I find it regrettable that the Senate did not adopt those amendments.

We have seen a good bit of analysis on the Senate floor in recent days to the effect that the temporary worker program will be largely unworkable. To the extent that it would work, it would create a wage-based underclass and a bureaucratic nightmare. Furthermore, as I stated on the floor 2 weeks ago, I believe that guest worker programs—aside from purely temporary, seasonal work—drive down the wages of hard-working Americans and of those who came here by following the law.

With those points in mind, I now turn to my amendment, which regards the other major component of this bill—the legalization program.

My amendment reflects a proposal that I have been discussing with Virginians ever since I began my campaign for the Senate. I have always supported tough border security and cracking down on large employers who hire illegal workers. I also have always supported a path to legalization for those who came here during a time of extremely lax immigration laws but who have laid down strong roots in their communities. I do not, however, favor this path to citizenship for all undocumented persons.

Under the provisions of the immigration bill we are debating, virtually all undocumented persons currently living in the United States would be eligible to legalize their status and ultimately become U.S. citizens. Estimates are that this number totals 12 million to 20 million people. This is legislative overkill. It is one of the reasons that this bill has aroused the passions of ordinary Americans who have no opposition to reasonable immigration policies but who see this as an issue that goes against the grain of basic fairness, which is the very foundation of our society.

By contrast, my amendment would allow a smaller percentage of undocumented persons to remain in the United States and legalize their status, based on the depth of a person's roots in their community.

Under my proposal, undocumented persons who have lived in the United States at least 4 years prior to enactment of the bill could apply to legalize their status. I note that this 4-year period is even more generous than the 5-year threshold that was contained in several bills in the past few Congresses—bills that were supported by Senators from both parties and by immigrants' rights groups.

After receiving the application, the Department of Homeland Security would evaluate a list of objective, measurable criteria to determine whether the applicant should receive a Z visa and thus be allowed to get on the path to citizenship.

The statutory criteria to be considered would be work history, payment of Federal or State income taxes, property ownership and business ownership in the United States, knowledge of English, attendance at U.S. schools, immediate family members in the United States, whether the applicant has a criminal record, and whether the applicant wants to become a U.S. citizen.

Like the underlying bill, applicants would be given probationary status while the DHS considers their Z visa application and could lawfully work during this probationary status period.

I believe these provisions are fair to our immigrant population and also that they will help us avoid the mistakes this Congress made in 1986 with the Simpson-Mazzoli amnesty bill, which resulted in a tidal wave of illegal immigration.

My amendment would also make the underlying bill more practical.

It strikes the bill's unrealistic ''touchback'' requirement. Few immigrants would have the money or the ability to return to their home countries on other continents. Most of these persons would lose their U.S. jobs, leaving their families in turmoil and placing further strain on our communities. Basic fairness dictates that these persons be allowed to apply for a green card from within the United States.

I believe that my amendment sets forth an equitable system that not only recognizes the contributions of immigrants to our society but also introduces practical measures that will help us avoid the same mistakes our country made in 1986 with the Simpson-Mazzoli amnesty bill.

I have heard loud and clear from Virginians, and I have talked with people on all sides of this issue. What I hear over and over again is that Congress should find a fair system that both protects American workers and respects the rule of law. This amendment represents the fairest method I know to do so and to do so realistically.

I ask you all to support amendment No. 1313 when it comes for a vote in the Senate.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas is recognized.

Mr. CORNYN. Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 22 minutes.

Mr. KENNEDY. Will the Senator yield as a point of interest?

Mr. CORNYN. Yes.

Mr. KENNEDY. I think I have 6½ minutes.

The PRESIDING OFFICER. The Senator has 8½ minutes.

Mr. KENNEDY. I am trying to get some information to the Senators who will follow along. Does the Senator plan to use the remainder of his time? I am not trying to hurry him; it is only for information purposes.

Mr. CORNYN. Madam President, I agree it is a good idea to try to give our colleagues notice as to when a vote will occur. I am happy to agree we can have the vote at 11:45. I probably will not use all of my time, but it depends on how wound up I get.

Mr. KENNEDY. Why don't we sort of move along but indicate to our colleagues that we are reaching a conclusion and we expect votes fairly soon. Then we will have follow-on amendments with Senator DEMINT and, hopefully, Senator BINGAMAN. If we can work those out in the next 20 minutes or so, we can get stacked votes; otherwise, we plan to have these two votes reasonably soon.

The PRESIDING OFFICER. For the information of Senators, the vote will occur at approximately 11:55 if some time is not yielded back.

The Senator from Texas is recognized.

Mr. CORNYN. Madam President, we have a number of speakers who have commented. I appreciate the wise comments of the Senator from Pennsylvania, and I am not talking about the part where he was complimentary of me; I am talking about his comments on the process and the difficulty, since this bill came to the floor without going through committee, of providing an adequate opportunity for debate and amendments. We have all tried to work our way through this.

I do concur it is a terrible mistake in judgment to seek to close off debate on this bill before an adequate opportunity for votes occurs. We have had, by my count—and I could be off one or two—nine rollcall votes on this bill. By way of comparison, when the McCain-Kennedy bill, which later became the Hagel-Martinez bill, was on the floor last year, we had 32 rollcall votes, I believe. We need to have an adequate opportunity to flesh this out. As we have seen here, some of these details get very technical, but they have a profound consequence in terms of the outcome.

Let me speak to some of the specific items that have been raised here. As we pointed out, first, there will be a vote on the Kennedy amendment, and then there will be a vote on the Cornyn amendment. With all due respect, I call the first one a watered-down version of the second one. I will point out the differences now, in part.

The Kennedy amendment would still allow waivers to allow members of gangs to become legalized under the provisions of this bill. The Kennedy bill would still allow sex offenders to not be barred if they were sentenced to less than 6 months. The Kennedy bill would still allow waivers for firearms offenses; that is, allow people who have been convicted of firearms offenses to get a waiver and to be allowed legal status.

My amendment covers those who are associated with terrorist organizations. Those innocents referred to under the material support provisions are covered by a waiver executed by the Department of State and Department of Homeland Security.

As we can see, this gets exceedingly technical. Let me focus on sex offenders, by way of example, to point out why these differences are important. My amendment would bar those who have failed to register as sex offenders from becoming eligible for a Z visa and legal permanent residency status and a path to American citizenship. We have spoken in Congress on this issue through such legislation as the Adam Walsh Act. We have made it clear we will monitor and lock up those sex offenders who don't follow the rules and bar sex offenders from bringing individuals into the country whom they may also harm.

Yet the amendment offered by the distinguished Senator from Massachusetts, Senator KENNEDY, would still give those sex offenders who fail to register a loophole to exploit if they can plea bargain their case to less than 6

months. The maximum penalty for the underlying offense is no more than 1 year. All of us who have had experience in the legal system, particularly with the criminal law system, understand plea bargains are a way of life and it may well be a very serious sex offender will have plea bargained an indictment against him or her to less than 6 months, and still be allowed entry into the United States under the Kennedy amendment.

Here is what the Kennedy amendment does. On page 20 of the amendment, it modifies the exceptions to the criminal bars admissibility by adding failure to register as a sex offender and firearm offenses to the list of offenses excepted from the criminal bars to accessibility.

Why would we allow this loophole? We just got this amendment last night, of course. We have not been able to survey the sex offender registry laws of all 50 States. We know there is at least one State—New York—where first-time failure to register a conviction is a class A misdemeanor, punishable by up to 1 year.

My simple question is: Why would we want to employ a loophole for sex offenders and allow them to gain the benefits under this bill by being eligible for a Z visa, with a path to legal permanent residency, potentially, and American citizenship?

My amendment makes clear—unlike the Kennedy amendment—that all these loopholes are closed and this is not possible. I cannot imagine that the American people would feel, among the many other people who are arguably worthy of gaining benefits under this bill, we would want to demean what we are doing here by providing these benefits to people who so clearly have shown themselves unworthy of getting those benefits.

I will point out that I know we have had a big debate in this country and in the Senate about what constitutes amnesty. I think the problem is the American people—many of them—don't feel we are serious about restoring the rule of law when it comes to our broken immigration system. I don't mean for a minute to impugn the good faith of Senators who have labored long and hard to try to bring this bill to the floor, and those of us who are trying to improve it, to make it better. But by way of example, these are the sorts of offenses that ordinarily would be punishable under our laws but which are completely ignored when it comes to applicants for a Z visa—and that is the 12 million or so who are here—who have committed these acts.

Anyone who has entered the country without being inspected or admitted; that is, who came across the border before January 1, 2007, this bill would make eligible for a Z visa.

Any alien who failed to show up for his or her removal proceeding without just cause would be eligible for legal status under this bill.

Any alien; that is, any noncitizen, who, through fraud or willful misrepresentation, got a visa or other document or admitted to the United States would be eligible for a Z visa.

Any individual who makes a false claim to U.S. citizenship—this is an independent offense against our criminal laws—would be eligible for a Z visa.

Any noncitizen who was a stowaway who made their way into the United States, anyone who is the subject of a civil penalty for document fraud would be eligible under this bill for legalization and a Z visa.

Any alien who, when trying to enter the country, did not have the proper documents, visa, passport, border-crossing card, et cetera; any alien who remained unlawfully in the United States for less than a year, left the United States before removal, and then tried to reenter in a 3-year period would be eligible for a Z visa under this bill, or was in the United States unlawfully continuously for more than a year, then tried to reenter the United States within 10 years after leaving or being removed from the United States. It gets a little convoluted, but that person would be eligible for a Z visa or legalization and potentially a path to legal permanent residency and American citizenship.

Under this bill, any alien who, after previously violating immigration laws, for example, crossed the border multiple times and remained unlawfully in the United States for an aggregate of a year or more under this bill would be eligible for legalization under a Z visa, potentially eligible for legal permanent residency and American citizenship.

Any alien who came with another alien who is not admissible to the United States who is certified as helpless due to sickness, disease, and disability and requires the protection or guardianship of an alien. That is one more example of the kind of offenses which ordinarily we would punish under our laws which are waived and not considered when it comes to eligibility of the Z visa.

I don't think it is particularly productive on the floor of the Senate to talk about what is amnesty and what is not, but let me talk about the more basic consideration and one reason I think my constituents in Texas have expressed such strong concerns about it. It is really exemplified in the debate we are having on the Cornyn and Kennedy amendments. Are we serious about restoring respect for the law or are we going to simply turn a blind eye to violations in the future?

What we are being told by the proponents of this bill—and I believe they in good faith believe this, but it is unfortunate that the bill language itself does not appear to bear out that optimism and hope when it comes to the enforceability—is that this is, as in 1986, the last time we are going to do this. If we deal with the 12 million people who have come into the country without a visa or who have entered legally and who have overstayed their visa, if we give them an opportunity to get a Z visa, this is it, last time, it will never happen again. That sounds ominously similar to what the American people were told in 1986 when there were 3 million people in that category. Now we have 12 million in that category.

So the question people have, logically—these are not racists, these are not bigots, they are not nativists, they are not anti-immigrants; these are American citizens who are concerned about their country and about being a country that respects the rule of law—they want to know: Is this going to work? Will it be enforced? Are we serious about restoring the rule of law to our country?

I have to say that the sort of fine and requirement that is being required with the Z visa is looked at with great skepticism. Last week, I had a constituent who said: Well, Senator, are you telling me that we are going to allow people who have not respected our immigration laws to pay $5,000, in effect, to buy legal status and then potentially apply for legal permanent residency and then become an American citizen? Who wouldn't go for that kind of deal? That caused me a lot of concern because I, frankly, had not thought about it in those terms.

But what causes me even greater concern is the concept that is missing from this legislation that is so important; that is, when it comes to our laws, we believe in the role of deterrence. In other words, when we provide a penalty to somebody for violating the law, one of the considerations is, will it deter people from acting in a similar capacity in the future?

I am afraid, when I look at this legislation, it completely omits any consideration of what will deter people from violating our immigration laws in the future. In fact, I am afraid what happens, as pointed out by my constituent, is that it is really viewed as an incentive. If all you have to do is to get into the country any way you can and then wait for the next bill to pass Congress which will allow you to pay a fine and then become legally here and on a path to legal permanent residency and citizenship, that is no deterrent. That is a powerful magnet which will continue to attract people to our country.

I say this not in any spirit except to say we have to find a way to fix this. I have been one who wants to try to fix this legislation. The amendments I have offered are in that spirit. But I have to say that we are going to continue to be viewed as nonserious about workability, about enforcement, about restoring respect for the rule of law unless we vote to exclude those who have shown nothing but defiance for our laws by absconding, by going underground even after having their day in court and refusing an order of deportation, or those who have been deported following a day in court, following all the rights our country provides for judicial review and administrative review and who simply left to only reenter again illegally.

As I mentioned at the outset, the Immigration and Naturalization Act makes both those categories of individuals felons—felons. This is not a misdemeanor. This is not an inadvertency. These are not people, frankly, who are entitled to the generosity of the American people when it comes to dealing with their legal status. These are people who showed they have nothing but contempt for our laws, for restoring the rule of law, and I just cannot imagine why any Member of the Senate would vote to give these individuals a path to legal residence and a path to potentially American citizenship.

If we are going to regain that lost credibility—and I think this is really where the rubber meets the road because, frankly, people across this country don't really believe we are serious about making this work. They are used to a history of being overpromised and undersold when it comes to fixing our broken immigration system. But I believe there is going to be a high price to pay for those of us who are still around in the coming years if, in fact, we pass this law knowing that it has these huge, gaping loopholes that excuse unlawful conduct, which is basically thumbing their noses at the rule of law. If we are not serious about making sure people who go through background checks are actually not criminals or terrorists, if we are not serious about making this work, there is going to be a high price to pay for those who support this legislation only in the coming years to find that it was another scam pulled on the American people.

That is why it is so absolutely critical that we continue this debate, and I implore the majority leader to allow us to continue the debate, to allow us to have amendments offered. I understand and we all understand in this country that you win some and you lose some, majorities rule, but that is what we ought to be doing on this bill to make it as good as we possibly can to try to regain the respect and the trust of the American people because, frankly, we don't have it now. That is the reason for the outcry we have heard in my State and around the country when it comes to this legislation.

We can fix it. I am an optimist, but we cannot fix it if there is not an opportunity for a full and fair debate and if the majority leader is determined to cut off the opportunity to provide votes on amendments and is going to insist on ''my way or the highway''; in other words, you are either going to have to agree to not let your amendments be heard and to let this bill go to a final vote or the majority leader is going to pull it down and deny us the opportunity to fix this problem.

I don't know anyone in the Senate who doesn't want to fix this problem. It is enormously complicated because this problem has festered for 20 years or more without a solution. That is no excuse for not trying, and that is why I have tried, along with my colleagues, to come up with an acceptable solution. I would say 90 percent of it we agree with. There is no light separating us. It is in the 10 percent we talked about that is the subject of important amendments which need to be heard and voted on where we can regain that trust.

Let me say in conclusion—and I may reserve a little bit of time—let me say before I sit down, Mr. President, that a ''no'' vote on the Cornyn amendment and a ''yes'' vote on the Kennedy amendment will, in essence, could retitle this section of this bill ''No Felon Left Behind'' because while we have excluded many categories of felons, we have, for some reason, left this big, gaping hole when it comes to those who show nothing but contempt for our laws. We need to fix this bill, we need to make it better, not make it worse, and we have an uphill climb to regain credibility of the American people to show we are serious and we want to restore our reputation as a nation that believes in the rule of law. A ''no'' vote on the Cornyn amendment will do nothing to help it; indeed, I think it will confirm the worst suspicions of the American people—that we really are not serious about fixing this problem.

Mr. President, I yield the floor but reserve the remainder of our time.

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

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

The PRESIDING OFFICER. The Senator has 8½ minutes remaining.

Mr. KENNEDY. Mr. President, I listened carefully to the Senator's presentation. I have come to a different conclusion. The Senator said a ''no'' vote means we are really not for dealing with this issue. We have a bipartisan group that has worked long and hard. The Senator from Texas was involved in a lot of the discussions. As we pointed out previously, we wanted to have tough law enforcement internally. We wanted recognition that those 12.5 million people here were going to be able to be secure, they weren't going to be deported, they were going to go to the end of the line, they would have to go through the earned legalization program, bring families together again, set up a program in terms of a temporary worker program. I don't know what 90 percent the Senator agrees with because I haven't heard much.

What is important is what his amendment does and what its impact would be.

We ought to come back at the conclusion of this debate to the point that was raised at the beginning because after all the rhetoric, after all is said and done, listen to the example that was given by my friend from Illinois.

Senator DURBIN describes a mother of four U.S. citizens, married to a U.S. citizen, who is herself undocumented. She left the country to visit her sick mother. She was apprehended after she snuck back in. That means she has reentered the United States at least twice, and under the Cornyn amendment on page 2, she could be convicted of illegal reentry. That would make her an aggregated felon. Even if she is not convicted, the Cornyn amendment makes her ineligible for the Z program.

On page 10 of the amendment, he eliminates the waiver for final orders available in the bill. This is a waiver for hardship to family, and he eliminates it. No harm, the Senator says, because she can get a different waiver as the wife of a U.S. citizen. That didn't stop DHS from deporting her.

So why should people come out of the shadows? Why should they come out of the shadows if they are here with false papers, undocumented? Why should they come out of the shadows when they have seen what has happened to a mother of four citizens married to an American citizen? That is what we are basically talking about. That is undermining the basic core because we are talking about 12½ million people who are here, who came here to work in order to provide for their families, and they have been trying to do that for their families. More often than not, they probably went back to their countries of origin and came back in again. Probably more often than not they had false papers in order to be able to get their jobs. That in and of itself, under the Cornyn amendment, would effectively exclude them from participating in this program and would subject them to deportation. End of story. End of story because that undermines, obviously, the essential aspect of this legislation.

The rest of the Cornyn amendment—which I mentioned earlier with the list of the amendments that we have put through—covers the bars, the criminal gang members, including the new provisions of gang members engaged in gun crimes. Sex offenders are covered by the comprehensive Adam Walsh Act. The sex offenders are not going to get Z visas.

The Senator from Texas can say, under our language, under his interpretation, they will, but they would not. End of story. They would not.

On the provisions regarding drunk-driving convictions and individuals convicted of domestic violence, stalking, child abuse, and other serious crimes, we increase the penalties for perjury, fraud, and firearm offenses.

It is important that after all is said and done—and we gave the illustration earlier about the questions of material support—the terrorists are out.

One thing about managing a bill, for those of us who have been here, we understand it; that there is always the possibility and the likelihood people will misrepresent what is in the bill and then differ with it. It is an old technique. I have even used it myself. But we ought to understand when we see it that it is just a technique that is being used.

So with all respect to my friend and colleague, and I have a good deal of respect for him, the effect of the underlying Cornyn amendment would effectively exclude from the Z visa program any immigrant who had been or will be convicted of using false documents. That is the problem today. Because of our broken immigration system, almost every hard-working immigrant in the country has been forced at one time or another to use false documents to get a job. These people have come here to work. They have been lured by the employers offering work. They are the very people this program is designed to bring out of the shadows. The Cornyn amendment will ensure they cannot come forward. Indeed, if they did come forward, they could be subject to prosecution and mandatory deportation for using a fake Social Security card.

I believe we have addressed many of the concerns the Members have had on dealing with some of these other issues and questions with the Kennedy amendment, and I would hope the Members would vote in favor of that and against the Cornyn amendment.

Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. May I inquire how much time remains on my side, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes 45 seconds.

Mr. CORNYN. Mr. President, let me assure my colleague, Senator KENNEDY, that only those who have actually been convicted of document fraud would be excluded under my amendment.

According to recent statistics, roughly 10 million Americans fell victim to identity theft last year, at an estimated cost of $50 billion to U.S. taxpayers, and victims spent an average of $1,500 and 175 hours to actually recover their good name and their good credit after identity theft. This is not a trivial matter, and it is only people who have actually been convicted, not those who have presented false documents to work in the country who have not been convicted.

As far as the woman with four American children and married to an American spouse, my amendment does not touch her rights under current law. For example, we don't touch current law waivers for consent to reapply for admission. We don't touch the Secretary's ability to grant humanitarian parole. And we don't touch the waivers under current law that cover an immigrant who is the spouse of a U.S. citizen.

I thought Mr. DURBIN, the Senator from Illinois, was satisfied with that answer earlier, but I point that out to my colleagues just so they can be satisfied that there are exceptions for extraordinary circumstances.

What this amendment does is it broadly says felons will not be given the benefits of legalization and a path to American citizenship. They have had their chance, they blew their chance, and they have shown themselves unworthy of the trust and confidence of the American people when it comes to living among us in compliance with our laws and respecting the fact that, yes, we are a nation of immigrants, and proudly so, but we are also a nation of laws. Those laws keep us safe, they keep us secure, and they assure our prosperity, and the prosperity of generations yet to come. We cannot, once again, turn a blind eye to the laws that protect all of us, including those immigrants who have come here to become part of our great country and to seek opportunity for their future.

I hope my colleagues will support the Cornyn amendment, that they will vote against the Kennedy amendment as a dilution and watered-down figleaf of the Cornyn amendment.

With that, Mr. President, I yield the remainder of my time.

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

Mr. KENNEDY. Mr. President, with regard to Senator DURBIN, he could come back and speak to this issue, this was a mother of four U.S. citizens, herself undocumented, who left the country to visit her sick mother and was apprehended after she snuck back in. She had entered and reentered the U.S. twice. She had false documents, and she has been effectively deported.

The Senator says, well, she had rights to appeal, rights to do this and to do that. This is the real impact. This is the real impact of the Cornyn amendment. This is what the Cornyn amendment is all about. We know the people who have come in here. Why do they come in here? They come to work. Why do they come to work? Because the job is there. They are devoted to their families, devoted to their work and faith, in many instances devoted to this country—with 70,000 of them working in the Armed Forces of the United States. But in order to be able to do that, somewhere along the way they get the false papers. That is what the facts are. The great majority have them.

Under the Cornyn amendment, it says those individuals are subject to deportation. He thinks all 12½ million people are all going to volunteer and come out and say, well, by the way, Senator CORNYN gave us assurance that somebody down there in DHS can give me a waiver and let me stay. Come on. Come on. We believe that? That is going to be sufficient assurance to get these people to come out of the shadows so that they are not going to continue to be exploited? I don't believe that.

I have a lot of respect for my friend. I know what he is attempting to do in order to deal with some of these other issues, and we have attempted to address that. But the fact remains his amendment undermines the basic core of this—recognizing that people here are undocumented, and the ones who are undocumented, by and large, have these false papers. That is a part of the reality.

The question is: Are we going to say to those individuals: Look, you came here and are undocumented. You are going to pay a fine, and you are going to have to demonstrate that you are going to work, and you are going to show that you are going to be a good citizen. And in 8 years, after all the other people who have been waiting in line, after all of that period, when you are able to pay the fine, demonstrate that you have worked all that time, and have been a good citizen trying to make a difference in terms of going into the country, that then you will be able to at least start—start—on the potential road to citizenship.

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

Mr. KENNEDY. Mr. President, does the Senator desire the yeas and nays?

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to consider the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there objection to the request for the yeas and nays on both amendments?

The chair hears none, and it is so ordered.

Is there sufficient second on both amendments?

There appears to be a sufficient second. The yeas and nays are ordered on both amendments.

Mr. KENNEDY. Parliamentary inquiry, Mr. President: There are going to be two back-to-back votes. The first one will be on the Kennedy amendment and the second one is on the Cornyn amendment; is that correct?

The PRESIDING OFFICER. The Kennedy amendment is the first vote.

Mr. KENNEDY. And the second vote is the Cornyn amendment. I thank the Chair.

To continue, Mr. President, it is our hope that we will move toward the DeMint amendment. We had good debate on that yesterday, and the Bingaman amendment, and then have votes on those fairly soon after. I thank all our Members for their cooperation.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1333, as modified, offered by the Senator from Massachusetts.

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) is necessarily absent.

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

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—66

Akaka	Feinstein	Murkowski
Baucus	Graham	Murray
Bayh	Hagel	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Kennedy	Pryor
Brown	Kerry	Reed
Byrd	Klobuchar	Reid
Cantwell	Kohl	Rockefeller
Cardin	Kyl	Salazar
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Clinton	Leahy	Snowe
Coleman	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Stevens
Craig	Lugar	Tester
Dodd	Martinez	Voinovich
Domenici	McCain	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden

NAYS—32

Alexander	Cornyn	Isakson
Allard	Crapo	Lott
Bennett	DeMint	McConnell
Bond	Dole	Roberts
Brownback	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Grassley	Smith
Chambliss	Gregg	Sununu
Coburn	Hatch	Thune
Cochran	Hutchison	Vitter
Corker	Inhofe	

NOT VOTING—1

Johnson

The amendment (No. 1333), as modified, was agreed to.

AMENDMENT NO. 1184

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 1184 offered by the Senator from Texas, Mr. CORNYN.

Who yields time? The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I would ask my colleagues for a ''yea'' vote on this amendment. If you voted for the Kennedy amendment, you made an incremental improvement over the current law when it comes to banning criminals from getting the benefit of our immigration system. But in order to exclude felons, people who have shown their contempt and defiance of American law, and unless it is your intent to reward felons who have shown their contempt for the American legal system, to reward them with the most precious gift this country can offer, which is legal status, potentially legal permanent residency and a path to citizenship, you should vote yes on this amendment. I would urge my colleagues to do so.

The PRESIDING OFFICER. Who yields time? The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, make no mistake about it, with many good intentions which were covered in the Kennedy amendment, this guts the bill because it not only eliminates—it not only says that felons should not become citizens, and we agree with that, it says that anyone who has filed an illegal paper should not become a citizen. That is every immigrant who would be on the path to citizenship. This body voted against eliminating that provision overtly a few weeks ago. Now they are trying to do the same thing covertly because if you vote for this amendment, you will say no one will have a path to citizenship, no one who works, because everyone who has worked had to file a Social Security paper or something like that.

Anyone who wants to keep this bill going at the moment should vote against the Cornyn amendment. The Kennedy amendment dealt with felons. This is a stealth, Trojan horse amendment to kill the bill by saying no one—no one—who has ever worked shall have the path to citizenship.

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

The Senator from Texas.

Mr. CORNYN. Mr. President, with all due respect, the Senator should read the amendment. It does not affect people who have committed identity theft unless they have actually been convicted of that. It would have no effect on people who have entered without a visa or who have come in on a legal visa and overstayed. This is no gutting of the bill; it is only to protect the American people from felons.

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

Mr. SCHUMER. Mr. President, I ask unanimous consent for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Objection.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to amendment No. 1184, as modified, offered by the Senator from Texas.

The yeas and nays were previously ordered. 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 Senator is necessarily absent: the Senator from Oklahoma (Mr. COBURN).

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

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—46

Alexander	Crapo	Nelson (FL)
Allard	DeMint	Nelson (NE)
Baucus	Dole	Roberts
Bennett	Dorgan	Rockefeller
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Grassley	Smith
Burr	Gregg	Snowe
Byrd	Hatch	Stevens
Chambliss	Hutchison	Sununu
Cochran	Inhofe	Tester
Coleman	Isakson	Thune
Collins	Landrieu	Vitter
Conrad	Lott	Warner
Corker	McConnell	
Cornyn	Murkowski	

NAYS—51

Akaka	Brown	Clinton
Bayh	Cantwell	Craig
Biden	Cardin	Dodd
Bingaman	Carper	Domenici
Boxer	Casey	Durbin
Feingold	Leahy	Pryor
Feinstein	Levin	Reed
Graham	Lieberman	Reid
Hagel	Lincoln	Salazar
Harkin	Lugar	Sanders
Inouye	Martinez	Schumer
Kennedy	McCain	Specter
Kerry	McCaskill	Stabenow
Klobuchar	Menendez	Voinovich
Kohl	Mikulski	Webb
Kyl	Murray	Whitehouse
Lautenberg	Obama	Wyden

NOT VOTING—2

Coburn Johnson

The amendment (No. 1884), as modified, was rejected.

Mr. REID. 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.

Mr. REID. Mr. President, I ask unanimous consent that the time until 2 p.m. today be for debate prior to a vote in relation to the following amendments; that the time until then be equally divided and controlled between the two leaders or their designees, with the time to run concurrently; that no amendments be in order to any of the amendments covered in this agreement; that at 2 p.m., the Senate proceed to vote in relation to the amendments in the order listed; that there be 2 minutes of debate equally divided prior to each vote, with the vote after the first being 10 minutes in duration, with no amendments in order to the amendments prior to the vote: DeMint No. 1197, Bingaman No. 1267, as modified.

I designate Senator KENNEDY to have my time.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are making some good progress. The Senator from South Carolina, Mr. DEMINT, had a good discussion last evening, as well as Senator BINGAMAN. We are grateful to them. We will have a good discussion prior to 2 o'clock on these issues.

We are hopeful, then, we will be moving along. Senator CORNYN had an amendment on confidentiality. We have Senator DODD. There are a number of those where we are trying to go back one side to the other. We hope those Senators who have amendments who are ready, particularly those who would like to enter into a time agreement, will let us know as quickly as possible. We will be in touch with others during this luncheon period and continue to move along. But we are thankful for all the help and cooperation we have received.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, staff has been working hard to set up votes on the amendments that have been called up. We ran into a little problem; that is, we had too many Democratic amendments. But we think at this stage they are now working on setting up side by side, in some instances, Republican amendments. We need to clear

off the amendments that have been called up.

Now, as I have just indicated, if we have offsets for the Democratic amendments, we will go ahead and allow those to be called up or have side-by-sides. Once we get this done, I have been assured by both Senator KENNEDY and Senator KYL and others that we can have a list of amendments people need a vote on—not they want a vote on but need a vote on. We hope both cloakrooms have hotlined this and Senators are working on a personal basis with individual Senators.

Hopefully, we can get, by the 2 o'clock time, permission to do away with—I should not say ''do away with''—to dispose of the amendments that have been called up. Then, hopefully, we can shortly thereafter find out what amendments people wish to have votes on. If we can do that, it would really move this ball down the court a long ways.

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

As I understand, 1 o'clock today is the deadline for the filing of amendments.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. A number of Senators have spoken to me about having their amendments filed. Many of them I have given the insurances that we would. The Senator from Texas, Mrs. HUTCHISON, had asked that 2 days ago, and we are working with the Finance Committee. I see her in the Chamber. I think Senator THUNE was here last evening. I objected to those individuals proceeding. It would appear to me, out of fairness we ought to make sure they are not excluded. Is our policy to make sure they are at least within—if they have indicated to the floor managers, they want to be in, we have them meet the deadline?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, all first-degree amendments would have to be filed by 1 o'clock. As we have indicated, we are going to try to be fair to everybody. If there are amendments that have been up at the desk, we will certainly do our best to get to those. I think what we need to do is find out, as I have indicated, what needs to be voted on. Some Senators on our side, for example, have been contacted this morning, and they have decided not to offer amendments. The same will happen over there. If people have been waiting around and feel aggrieved they have not been allowed to offer their amendments, of course, we will consider that. But I do not think we need to do anything right now as far as a unanimous consent request in that regard.

We will do everything we can—everybody is working in good faith—to have people feel they have the opportunity to offer their amendments. I know the Senator from Texas—she is gone—she just walked in. I do not know what her amendment is about. I think it is Social Security. I am not too certain. She has been around here a lot. She is entitled, if for no other reason than having the endurance to hang around as long as she has, to have her amendment offered. We will work with everybody, both Democrats and Republicans, to see if we can work something out to have all these amendments offered and a time set to vote on them.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, all they have to do is be filed by this time.

The PRESIDING OFFICER. That is correct.

Mr. REID. That is correct.

Mr. KENNEDY. So for those who are back in their offices, they do not have to be called up. They just have to be filed. So they have until 1 o'clock for the filing of amendments. We urge those who want to have amendments filed to make sure they understand that. They do not have to call them up. They are protected in that way.

The PRESIDING OFFICER. The Senator from Arizona.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to be allowed to speak up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that following me, the Senator from Maine be allowed to speak for up to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, let me add another part to that unanimous consent request: that the Senator from Florida be allowed to speak for up to 10 minutes, following the Senator from Maine.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Georgia.

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

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, under the rules, the filing time was set for 1 o'clock, and the leader has indicated for filing any amendments that we extend that. I ask unanimous consent that the filing time be extended until 2 o'clock.

The PRESIDING OFFICER. Is there objection?

The majority leader.

Mr. REID. Mr. President, if I could just say this—I would say this mostly to the staffs: We do not need a big rush over here as to filing amendments. It does not give anybody any benefit anyway. Just show some discretion on who has to file amendments, and then we will work our way through those and find out how we are going to dispose of them. So I think this is the right thing to do. There is no magic to the next 5 minutes. So we will wait for the next 65 minutes. If people have trouble making that deadline, let us know.

I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, if I might just add a word, we thank the majority leader and the Senator from Massachusetts for extending the time. That should ease substantial pressure on this side of the aisle.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maine.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 1554 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Florida is recognized.

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

Mr. MARTINEZ. Mr. President, I note the absence of a quorum, and I ask that the time be equally charged.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from South Dakota is recognized.

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

Mr. THUNE. Mr. President, I yield the floor and suggest the absence of a quorum and ask unanimous consent that the time be charged equally between both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1183, AS FURTHER MODIFIED

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Clinton amendment No. 1183 be further modified with the changes that are at the desk.

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

The amendment (No. 1183), as further modified, is as follows:

On page 260, line 13, strike ''567,000'' and insert ''480,000''.

On page 260, line 19, strike ''127,000'' and insert ''40,000''.

On page 269, line 18, insert ''or the child or spouse of an alien lawfully admitted for permanent residence'' after ''United States''.

On page 269, line 21, insert ''or lawful permanent resident'' after ''citizen''.

On page 269, line 22, insert ''or lawful permanent resident'' after ''citizen''.

On page 269, line 23, insert ''or lawful permanent resident'' after ''citizen''.

On page 269, line 23, insert ''or lawful permanent resident's'' after ''citizen's''.

On page 269, line 24, insert ''or lawful permanent resident'' after ''citizen''.

On page 269, line 25, insert ''or lawful permanent resident's'' after ''citizen's''.

On page 269, line 26, insert ''or lawful permanent resident's'' after ''citizen's''.

On page 269, line 32, insert ''or lawful permanent resident's'' after ''citizen's''.

On page 269, line 41, insert ''or lawful permanent resident'' after ''citizen''.

On page 269, line 42, insert ''or lawful permanent resident status'' after ''citizenship''.

On page 270, strike lines 18 through 29, and insert:

(2) by striking paragraphs (2) and (3) and inserting the following:

On page 270, line 31, strike ''(3)'' and insert ''(2)''.

On page 271, line 17, strike ''(4)'' the first place it appears and insert ''(3)''.

On page 273, between lines 15 and 16, insert the following:

(5) Section 201(f) (8 U.S.C. 1151(f)) is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3),'' and inserting ''paragraph (2),''; and

(ii) by striking ''(b)(2)(A)(i)'' and inserting ''(b)(2)'';

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking ''(b)(2)(A)'' and inserting ''(b)(2)''.

(6) Section 202 (8 U.S.C. 1152) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(7) Section 203(h) (8 U.S.C. 1153(h)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)'';

(ii) in subparagraph (A), by striking ''becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent)'', and inserting ''became available for the alien's parent,''; and

(iii) in subparagraph (B), by striking ''applicable'';

(B) in paragraph (2), by striking ''The petition'' and all that follows through the period and inserting ''The petition described in this paragraph is a petition filed under section 204 for classification of the alien parent under subsection (a) or (b).''; and

(C) in paragraph (3), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)''.

(8) Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in clause (iii)—

(aa) by inserting ''or legal permanent resident'' after ''citizen'' each place that term appears; and

(bb) in subclause (II)(aa)(CC)(bbb), by inserting ''or legal permanent resident'' after ''citizenship'';

(II) in clause (iv)—

(aa) by inserting ''or legal permanent resident'' after ''citizen'' each place that term appears; and

(bb) by inserting ''or legal permanent resident'' after ''citizenship'';

(III) in clause (v)(I), by inserting ''or legal permanent resident'' after ''citizen''; and

(IV) in clause (vi)—

(aa) by inserting ''or legal permanent resident status'' after ''renunciation of citizenship''; and

(bb) by inserting ''or legal permanent resident'' after ''abuser's citizenship'';

(ii) by striking subparagraph (B);

(iii) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively;

(iv) in subparagraph (B), as so redesignated, by striking ''subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii)'' and inserting ''clause (iii) or (iv) of subparagraph (A)''; and

(v) in subparagraph (I), as so redesignated—

(I) by striking ''or clause (ii) or (iii) of subparagraph (B)''; and

(II) by striking ''under subparagraphs (C) and (D)'' and inserting ''under subparagraphs (B) and (C)'';

(B) by striking subsection (a)(2);

(C) in subsection (h), by striking ''or a petition filed under subsection (a)(1)(B)(ii)''; and

(D) in subsection (j), by striking ''subsection (a)(1)(D)'' and inserting ''subsection (a)(1)(C)''.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that 5 minutes of the remaining time be reserved for Senator DEMINT.

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

AMENDMENT NO. 1267

Mr. BINGAMAN. Mr. President, I want to first speak on behalf of an amendment I offered with Senator OBAMA. It is one of the two amendments that will be voted on in the sequence at 2 o'clock. The amendment is aimed at addressing what I believe is a very shortsighted provision in this draft immigration bill.

My amendment applies only to this new guest worker program we are creating under the bill, the so-called Y–1 program. It doesn't impact the Y–2 program, which is the seasonal and nonagricultural program that is based on the existing H–2B program, or the H–2A program, which is the agricultural temporary worker program.

Under this immigration bill as it now stands, Y–1 workers—guest workers, which is how we refer to them—would be able to work in the United States for three 2-year work periods. But before they could renew their visas for the second and the third of those 2-year work periods, they would have to leave the country for at least a year. This is the so-called 2–1-2–1-2 provision. Work for 2 years, leave for 1 year, work for 2 years, leave for 1 year, work for 2 years, and then leave for good. The total number of work years in the United States would be limited to 6 years, but the work pattern would be interrupted twice each time by a 1-year absence requirement.

The amendment I have offered, and that we will be voting on in a few minutes, simply removes the requirement these guest workers leave the country before they renew their visas. It would leave in place the term of the visa, which is 2 years, and it would not alter the 6-year total work limit that is provided for in the bill. In addition, it would modify the requirement that Y–1 workers meet all of the relevant requirements under the program each time they apply to renew their visas.

Over the last 2 days, I have come to the floor to discuss this provision a couple of times. I strongly believe it does not make any sense from a policy standpoint and, ultimately, we are going to be judged by how much sense this legislation makes. As I have pointed out, this provision is bad for employers; it harms American workers; it will be difficult and costly to implement; and it will likely encourage these workers, whom we are bringing here as so-called guest workers, to overstay their visas.

For these reasons, my amendment has the broad support of labor groups, such as the Service Employees International Union; business organizations, such as the National Association of Home Builders and the Associated Builders and Contractors; and immigration and religious groups, such as the U.S. Conference of Catholic Bishops, the American Association of Immigration Lawyers, and the National Immigration Forum. The coalition of organizations supporting this amendment is indicative of how harmful the 1-year absence requirement would be from a variety of different perspectives.

I ask unanimous consent that following my remarks, the following material be printed in the RECORD: the statement that was issued by the U.S. Conference of Catholic Bishops, a letter by the Associated Builders and Contractors Organization, a letter by the National Association of Home Builders, and a statement by the SEIU, the Service Employees International Union.

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

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, with regard to the employer, it would be extremely costly to require businesses to retrain and rehire new workers every 2 years. No employer I am aware of would think it satisfactory for an employee to take a 1-year so-called break every couple of years. Each of us in the Senate employs people in our offices, here in the Capitol and our home States. This would be an unacceptable condition for us, and I am sure it would be for any employer. Businesses would have to hire other workers to take over for the leaving guest worker, would have to invest time and money in retraining additional staff. This would be extremely burdensome, particularly on small businesses.

From an economic standpoint, I believe it generally does not make sense

to enact laws that cause instability in the workforce and create requirements that unnecessarily impose significant costs on our small businesses. I am not an economist, but this does not seem to be a sensible way for us to do business.

Let me take a moment to read a portion of a letter I received from the National Association of Homebuilders on this issue. The letter says:

> This system essentially makes the entire program in title IV unworkable for the construction industry. In the residential construction industry, employers spend much time and resources training employees. To arbitrarily lose valued employees at the end of 2 years, as they are forced to return home for a full year, creates unnecessary amounts of instability in our workplaces, and wastes scarce employer resources.

The construction industry is not the only sector of the economy that would be adversely impacted by this provision. The new guest worker program is not limited in the respect that existing temporary worker programs are in terms of the work being seasonal or within certain industries, such as in agriculture. These are, in fact, permanent jobs we are talking about, and they are scattered throughout our economy and will be affected if we leave this provision unchanged.

The 1-year absence requirement is also harmful to American workers. Kicking workers out of the country every 2 years ensures that there will always be guest workers who will be coming in to be paid at the low end of the pay scale, and this will result in a depression of wages for all workers, not just those guest workers but for the American workers who are competing for those jobs as well.

According to a letter of support I have asked to be printed in the RECORD that I received from the Service Employees International Union, they say the following:

> Employers will be less likely to invest in worker training or other benefits and wages to retain workers. . . . The 2–1–2–1–2 is a recipe for wage depression, job turnover and increased illegal workers.

The structure of the new guest worker program will also result in a substantial number of these workers overstaying their visas so they don't have to leave the country for an extended period of time. The Government has not done a great job in the past of ensuring that individuals leave the country at the expiration of their visas, and I have no reason to believe—I don't think any of us have any reason to believe—that the Department of Homeland Security will be able to do a substantially better job in the near future.

In December of last year, after the Government Accountability Office issued a report regarding the US–VISIT Program, which is a mechanism by which Government is supposed to be able to track the entry and the exit of foreign visitors, the Department of Homeland Security scrapped its plans to implement the exit portion of that program for U.S. land ports of entry.

In essence, the GAO report found it could take up to 10 years to develop the technology required to fully implement the program and that the cost of doing so could be in the tens of billions of dollars. There is nothing in the immigration bill that indicates that this capability is within our reach.

In section 130 of the bill, the Federal Government is required to come up with a schedule for deploying the exit component of the US–VISIT system. However, we have already been told by the GAO that this will not be a reality for a very long period of time.

In crafting this immigration bill, there has been a lot of attention given to trying to bring together individuals with a wide variety of political views. In my opinion, we have not focused enough on the practical aspects of how this bill is going to be implemented. Compromises need to be made as part of any legislative package, but we cannot lose sight of the need to craft legislation that makes sense from a policy standpoint and that actually can be implemented and can work.

It is my belief the new guest worker program is currently structured in a manner that has more to do with the politics of getting a compromise among those who drafted the legislation than it does with sound policy. As I have discussed, the requirement that these guest workers leave every 2 years before renewing their visas is bad for employers, it is harmful to American workers, it is difficult to enforce, and it will likely result in a larger population of undocumented workers in this country in the future.

For those reasons, I urge my colleagues to support my amendment and to help make this bill more workable and better public policy.

Mr. President, I yield the floor.

EXHIBIT 1

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS,
Washington, DC, June 6, 2007.

U.S. CATHOLIC BISHOPS URGE SENATE TO SUPPORT AMENDMENTS PROTECTING ASYLUM SEEKERS AND GUEST WORKERS IN THE COMPREHENSIVE IMMIGRATION BILL

The U.S Conference of Catholic Bishops urges Senators to vote for the following amendments to S. 1348, the Comprehensive Immigration Reform Act of 2007:

The Lieberman Safe and Secure Detention Amendment. Lieberman amendment #1191 would maintain U.S. obligations to international human rights by providing safe and secure detention for victims of torture and persecution seeking asylum protection in this country. While awaiting judgment on their cases, persons claiming persecution or fear of persecution in their home countries often are subjected to prison-like conditions in U.S. detention facilities without proper health, nutritional, physical or spiritual care. This amendment makes major improvements to the U.S. detention system by reinforcing the country's rich heritage and tradition of assisting especially vulnerable persons.

The Bingaman Guest-Worker Workability Amendment. Bingaman amendment #1267 would eliminate the requirement for the "years out" for guest workers who are renewing their temporary Y-visas. By requiring workers to leave the country after two years, only to return one year later, the underlying legislation would create a highly-bureaucratic and unstable system for guest workers to come in to the country. It is likely that many guest workers would overstay their visas, knowing that they are to return in just a year, and many government resources would likely be devoted to seeking out and punishing individuals who are providing valuable and much-needed work. The Bingaman amendment provides a significant step toward creating a worker program that is more humane, workable, and desirous for both guest workers and employers alike.

ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
June 6, 2007.

THE U.S. SENATE,
Washington DC.

DEAR MEMBERS OF THE UNITED STATES SENATE: On behalf of Associated Builders and Contractors (ABC) and its more than 24,000 general contractors, subcontractors, material suppliers and construction related firms across the United States, I urge you to vote YES on an amendment (#1267) being offered by Senator Bingaman and Senator Obama to S. 1348, the "Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007," which would remove the requirement that Y–1 temporary workers leave the country before renewing their visas.

Currently, the immigration bill allows Y–1 guest workers to work in the U.S. for 2-year periods (up to 6 years). However, it requires the workers to leave the U.S. for at least 1 year before renewing their visas. Requiring these workers to leave the country for a lengthy period of time between each work period is harmful for employers; extremely difficult and costly to enforce; harms American workers; and increases the likelihood that individuals will overstay their visas. Moreover, the construction industry, more so than many other industries, relies on highly trained workers to fill their labor force. Having a temporary worker on the job for only a two year time frame makes the current Y–1 visa program outlined in S. 1348 virtually useless for our industry. This is due to the fact that in most cases it takes two to four years to properly train workers in the construction industry.

The Bingaman/Obama amendment (#1267) would allow Y–1 temporary workers to stay in the United States for the entire duration of their work visa. This would give ample time for the employee to become fully trained in the construction industry and it would make the new Y–1 temporary visa beneficial to our ever expanding industry. It is imperative that America's construction industry be allowed the time needed to properly train their employees so that accidents on jobsites can be avoided at all costs.

ABC supports the Bingaman/Obama amendment (#1267) that would remove the mandatory requirement that Y–1 temporary workers leave the country before renewing their visa and ask you to vote "YES" on this important amendment.

Respectfully Submitted,
WILLIAM B. SPENCER,
Vice President, Government Affairs.

NATIONAL ASSOCIATION OF HOME BUILDERS,
June 5, 2007.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: On behalf of the 235,000 member firms of the National Association of Home Builders (NAHB), we urge

you (NAHB), we urge you to vote in support of the amendment being offered by Senators Jeff Bingaman (D–NM) and Barack Obama (D–IL), AMDT 1267, that would eliminate the mandatory one year cooling off periods in the proposed 2–1–2–1–2 future flow (''temporary worker'') program contained in Title IV of S. 1348, the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007. Because of the importance of this issue to our members, and the overall workability of comprehensive immigration reform, NAHB will be key voting in support of this amendment.

The future flow program in Title IV of S. 1348 will create a legal process by which immigrants can enter the United States in future years to work in industries that have established labor shortages. Under the current proposed legislation, the bill would require a worker to return to their home country for a full year every two years. This system essentially makes the entire program in Title IV unworkable for the construction industry. In the residential construction industry, employers spend much time and resources training employees. To arbitrarily lose valued employees at the end of two years, as they are forced to return home for a full year, creates unnecessary amounts of instability in our workplaces, and wastes scarce employer resources.

The Bingaman/Obama amendment will eliminate the mandatory one-year ''cooling off'' periods in the current bill, and replace it with a two-year visa, that can be renewed two additional times for a total of six years—equal to the six years that are ultimately allowed under the program in S. 1348 now. Removing the cooling off periods will create a much more usable program for employers, and we urge you to support this effort to improve the bill.

NAHB believes that a workable future flow immigrant program is essential to comprehensive immigration reform because without it, it is likely to lead to a situation that will encourage more illegal immigration in the future.

Again, NAHB will be key voting in support of the vote on the Bingaman/Obama amendment, AMDT 1267.

Sincerely,

JOSEPH M. STANTON,
Chief Lobbyist.

SEIU strongly support the removal of the requirement that Y–1 temporary workers leave the U.S. for at least 1 year before renewing their visas. While we are willing to accept a temporary worker program in exchange for legalization of the 12 million undocumented living among us, we are very disappointed with the guest worker program contained in the ''Grand Bargain''. This is why the Bingaman/Obama amendment is critical and would improve workers ability to stay employed during the entire period of their Y visa. When temporary workers are working in year round jobs it is more difficult for all workers to raise their wages and improve their working conditions. The Y–1 visa program as it is currently drafted will ensure wage depression for all workers, because it will ensure workers leave their jobs every two years. Employers will be less likely to invest in worker training or offer benefits and wages to retain workers. Removing the 1 year return requirement will help all workers raise the wages, gain job experience and receive valuable training to improve the job skills. The 2–1–2–1–1 is a recipe for wage depression, job turnover and increased illegal workers, as history has demonstrated—guest workers will overstay their visas, when they have no legal channel to remain in the country.

We thank Senator Bingaman and Senator Obama for their continued leadership on comprehensive immigration reform. SEIU urges all Senators to vote for this improving amendment.

ALISON REARDON,
Director of Legislation, Service Employees International Union (SEIU).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the Senator from New Mexico and I have worked on a great many matters since he was elected in 1982. If I may have the attention of the Senator from New Mexico, I am about to compliment him. I don't like to compliment him behind his back. The Senator from New Mexico and I have worked on a great many matters since he was elected to the Senate in 1982. I came at about the same time after the 1980 election. I am especially interested in his amendment and the criticism of the bill because it is the politics of compromise and not based on sound public policy.

The Senator from New Mexico and I are now working on a bill called the Bingaman-Specter bill on global warming. I am pleased to hear there has been no compromise in that bill that is based upon sound public policy. But in a very serious way, I suggest that is what we do. This place would be run a lot better if I ran it unilaterally. The Senator from New Jersey, who is presiding, smiles at that. I think more in humor than in disagreement. But we have 100 Members of this body with 200 different ideas. Each of us has two ideas on the same subject at a minimum. I know the Senator from New Mexico has a full plate on many items. He chairs the Energy Committee. He has been working on the global warming issue. He is not on Judiciary, and he doesn't have a special concern—well, for whatever reason, he did not elect to become part of the group of Senators who worked on the bill, for good and sufficient reason. I am not suggesting he should have. He attended the sessions, as did the Senator from New Jersey who is presiding, and saw what we were doing. We were so compromised that people on opposite ends of the political spectrum left us. They wouldn't stay with us because we couldn't satisfy everybody, and understandably so. We simply could not satisfy everybody.

The question is whether we would have satisfied anybody. We will know when we move along and try to get this bill to final passage. But when you take what happened to us last year—we passed a bill in the Senate, they passed one in the House, and we couldn't even conference it, wouldn't even conference it. There are people who just want a tight border and to deport 12 million undocumented immigrants. That is what they want to do.

As we work through the compromises, I would consider it a compliment to be a party to the politics of compromise, and I would accept the term ''politician'' with grace and appreciation. I remember hearing Adlai Stevenson speak in the early fifties. Perhaps it was when he first ran for President in 1952. He said: Do you know the definition of a statesman? The definition of a statesman, Mr. President, is a dead politician. That is why I much prefer being a politician, at least for the moment. I much prefer being a politician.

On this specific amendment, we hassled about this a long time. We had 6 years in mind. Should it be 3 and 3 or should it be 2 and back and 2 and back for a year and back? We finally accepted this compromise to try to make the workers temporary, that they would not get roots here and not return to their home country; that when we are working within the structure of the immigration laws, we have to accommodate the 12 million because we cannot deport them. We would like to identify those who are criminals, who are not contributing, who do not have roots and deport them, if we can identify them in numbers that we can handle.

Then there was the issue of trying hard to avoid the characterization of amnesty. Amnesty is a lot like Shakespeare's famous definition of a rose:

> That which we call a rose by any other name would smell as sweet.

If we could find more ways to make these 12 million people earn citizenship, we would. We have the fine. Maybe it is too high, maybe it is too low. We have back taxes. Maybe we can find that out and maybe we cannot. The requirement of English I think everybody agrees with. Having roots in this country, yes. Being a contributor to this country, yes. If we could shake the title of amnesty, we would like to do it, if somebody could tell us how to do it.

There are many people who are so opposed to what we are trying to do, they will call anything amnesty. I am not going to say it is not amnesty—although I believe it is not amnesty because they are earning their way—because if you get involved in name calling, it all disintegrates. People are angry at President Bush for saying it is not amnesty when they are sure it is amnesty.

I compliment the President for the leadership he has shown on this issue. He sent us Secretary of Commerce Gutierrez and Secretary of Homeland Security Chertoff. For hours, days, weeks, months they worked on it. There was a commitment by the administration.

The President has spoken out on this issue loudly, plainly, and clearly. He has taken a lot of brickbats for it, but he is working hard on it. On the Senate floor a few weeks ago, I made a comment that it was either amnesty or anarchy. Anarchy is what we have here; that is, if it is amnesty—and, again, I say I think it is not, but I am not going to get into a name-calling contest with people who want to call names.

Lou Dobbs of CNN has been one of the most vocal critics of the plan. He

has a right to do that, and I have been on his program and discussed it with him, debated it with him. But I was interested to see him comment about my characterization of anarchy. That struck a chord. Lou Dobbs doesn't like anarchy—nobody likes anarchy—but in a sense that is the choice we have.

So I urge my colleagues to vote against the amendment of the Senator from New Mexico, although I have great respect, and I know this is very thoughtful, very well presented, all except for his criticism of the politics of compromise.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I first thank my colleague and congratulate him for his leadership on this bill. I know he has worked long and hard to bring this bill to the floor and is making the best out of a very awkward, difficult situation in trying to get all the interested parties under the same tent.

I am reminded of when I was attorney general of my State of New Mexico. One of the duties of the attorney general in New Mexico is to issue what are called attorneys general opinions about different legal points that come up. Sometimes those opinions are followed by various State agencies and then they are challenged in court. I remember in one of the cases where it was challenged in our State supreme court, a friend of mine on the State supreme court, who was a very wise man, wrote an opinion essentially saying that the opinion I had issued, the attorney general opinion, was wrong. He said attorneys general opinions are entitled to great weight, except when they are wrong.

That is sort of the way I feel about the bill that has been brought to the floor. I have great respect for those who have put it together, and it is entitled to great weight and deference, except where it clearly is wrong. That is what we are trying to do with this amendment, is to correct an area of the bill that clearly is wrong. I hope my colleagues will see it the same way and support my amendment. But I compliment the Senator from Pennsylvania for his leadership on this important issue.

AMENDMENT NO. 1177

I wish to speak very briefly about another amendment, unless the Senator from Pennsylvania wishes to say something, and then I would defer to him. I gather he does not need to at this point.

Let me speak briefly about another amendment I have filed. It is amendment No. 1177. It provides forestry workers with Y visas some of the same rights to ensure that the terms of their guest worker contracts are honored the same way other guest workers in the agricultural sector can have their contracts honored.

This is an amendment that is eminently reasonable. It was adopted by unanimous consent during the debate as part of the immigration bill we passed out of the Senate in the last Congress. I hope we can get agreement from the managers of the legislation to include it this year as well. So I wished to briefly allude to that amendment and urge every consideration of it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

AMENDMENT NO. 1197

Mr. KENNEDY. Mr. President, I expect that Senator DEMINT will come to the floor to address his amendment, but in the next 5 minutes that we have before he does so, I would say his amendment is basically saying there will be no adjustment in status unless all these individuals are going to be able to buy into the high-deductible HSAs, health savings accounts, and that because of the fact that immigrants are a burden on the health care system, that they should be required to do this additional kind of work to meet their responsibilities under this legislation.

There are a couple factors I wish to mention. First of all, if you take the fact that you have 12 million of these individuals, the 12 million who are the undocumentable, they are going to, as part of their fine, pay $500 per individual. That comes to some $6 billion—$6 billion—that can go for support for various health care offsets into local communities. That is not an insignificant amount of resources. We anticipated this possibility, No. 1.

No. 2, we ought to make an examination of what happens to these undocumented individuals. What is the utilization by the undocumented? We know they are basically healthier, they are younger, and the various information and statistics we see says there is not an overutilization of the health services.

I have statistics for undocumented immigrants in one of the border States, this is in Texas, and I will read this and include the appropriate part in the RECORD. The Comptroller's office estimates the absence of the estimated 1.4 million undocumented immigrants in Texas would have been a loss to their gross State product of $17 billion. Also, the Comptroller's office estimates State revenues collected from undocumented immigrants exceed what the State spends on services, with the difference being $424 million. That is today, one State—Texas—in the utilization of services.

So we find this population where there has not been an overutilization of services, and we have provisions in the current legislation to deal with this problem and deal with it generously. But the Senator from South Carolina wants to insist on a high-deductible program.

Let us look at the average high-deductible program. The average annual deductible for a high-deductible plan required under the DeMint amendment is $1,900 for an individual and $4,000 for a family. The average annual premium for the plan: $2,700 for an individual and $7,900 for a family. The total average cost for an individual would be $4,600 and $11,000 for a family. That is for the average individual and family. This includes the fees and also the deductibility.

We have the various studies that have been done, the reports, and this information is from the Los Angeles Times. It points out that plans with high deductibles of $1,000 or higher monthly premiums that can be less than $100, as Senator DEMINT provides, are a good fit for healthy people with some financial resources. The median annual income of those using the high-deductible plans is $75,000. This is a fit for $75,000. Although the lower premiums make plans attractive, cash-strapped families run the risk of being unable to afford the deductibles.

Those are the facts. So the effect of the DeMint amendment is another way of denying the 12 million undocumented from being able to participate in the other provisions of the legislation, which we have very carefully crafted. They have to pay a high fine, they have to pay the State a set-aside, they are going to have to pay the fees as they move along. These are not insignificant. We are talking about thousands and thousands of dollars which have been worked out carefully and considered.

This kind of additional burden will say to men and women whose average income may be $10,000 or $11,000 that they are not going to be able to do it. Take those individual Americans who are making $10,000 and $11,000 and look at how many of them are able to afford health insurance. Virtually none. We know about that in Massachusetts because Massachusetts has passed a very effective program to bring those individuals in and to help and assist those individuals.

So the idea that we are going to put this in as a requirement is another way of saying to those individuals, look, we might like other provisions of the legislation, but this is a way of effectively barring you from being able to participate in this program. That undermines the object of a very important aspect of this whole endeavor. Therefore, I hope the amendment will be defeated.

As I understand from the Chair, the last several minutes are supposed to be for the Senator from South Carolina; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I don't see him in the Chamber. I think we ought to reserve that time for the Senator. As I understand, under the previous agreement,

we have agreed to vote at 2 p.m.; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I would like to speak on my amendment that is up for a vote.

The ACTING PRESIDENT pro tempore. At the present time, all time has expired.

Mr. DEMINT. I ask unanimous consent that I have 2 minutes to speak on my amendment.

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

Mr. DEMINT. Mr. President, I appreciate the opportunity to speak on this amendment. I think all of us would agree that we would like to design an immigration program that benefited America, that actually brightened the future for Americans, for our children, and that we do not want an immigration system that is going to invite people from all over the world who will come here and be a burden to the American taxpayers.

Unfortunately, the way this bill is written, the Z visas we offer all the illegal immigrants in this country do not require that these illegals have health insurance before they are given these legal passes. That means they will continue to be a heavy burden on the American health care system.

Senator KENNEDY has said the $500 one-time fee they have to pay is enough to cover these costs. I know every American wishes they could pay $500 and have free health insurance for life but, unfortunately, it is more expensive than that. Also, Senator KENNEDY has said these types of minimum policies cost well over $2,000 a year, which is, frankly, not true. Many of us have policies that cost less than $1,000 a year for a high-deductible policy, which is the minimum level we ask for.

The least we can ask of these immigrants we are granting permanent legal status in this country is not to be a burden on Americans for their health care. To have a minimum level of health insurance is the least we can ask. This amendment would require Z visa holders to have that minimum level, and I ask all of my colleagues to support it.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the DeMint amendment No. 1197.

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

The ACTING PRESIDENT pro tempore. 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.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—43

Alexander	Crapo	Murkowski
Allard	DeMint	Nelson (NE)
Bennett	Dole	Roberts
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Grassley	Smith
Burr	Gregg	Snowe
Byrd	Hatch	Stevens
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Coleman	Lott	Voinovich
Corker	Martinez	Warner
Cornyn	McCaskill	
Craig	McConnell	

NAYS—55

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

NOT VOTING—1

Johnson

The amendment (No. 1197) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote, and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator from New Mexico has an important amendment. He was over here yesterday afternoon and evening and spoke well about it. He came over here during the lunch hour. It is a very important amendment. He deserves to be heard.

AMENDMENT NO. 1267

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 2 minutes of debate equally divided on the Bingaman amendment No. 1267, as modified.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Senator LANDRIEU be added as a cosponsor to amendment 1267.

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

Mr. BINGAMAN. Mr. President, this amendment tries to eliminate the 2–1–2–1–2 provisions in this bill. The underlying bill says if a guest worker comes here, they can work for 2 years, they are kicked out for a year, they can come back, work for two more, they are kicked out for a year, they can come back work for two more, then they are kicked out for good.

What my amendment does is to say: Let's bring them here for 2 years, allow them to renew their visa twice, so that they would be here a maximum of 6 years. This makes a lot more sense for employers, for American workers who are competing for these jobs, for the guest workers themselves.

This has the support of the business community, the unions, the Catholic bishops. Everybody interested in this bill supports this. This is commonsense legislation. I urge my colleagues to support the amendment.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, earlier this afternoon the Senator from New Mexico criticized the bill as being the ''politics of compromise,'' as opposed to sound public policy. I told him, had he participated in the negotiations, he would have seen quintessential politics of compromise. You could not begin to make any progress at all on this legislation unless it was the politics of compromise. I suggest that is an art form frequently practiced in this body. I reminded the Senator from New Mexico of our cosponsorship of global warming. I am glad to hear there is nothing in the bill which he is the principal sponsor of that is a factor of the politics of compromise. I am glad our bill is pure.

I have not seen the bill, in the short time I have been in the Senate, that doesn't have compromise in it. If it did not have any compromise, it would not have gotten here. If it did get here, it would not be passed.

The principle of this bill is to make it temporary so people do not establish roots. If you dealt with Senator KYL on this matter, you would understand how important he is to this bill and how important this provision is to his continued support.

Mr. OBAMA. Mr. President, I come to the floor today to speak in favor of the Bingaman-Obama Y–1 guest worker amendment.

The Bingaman-Obama amendment removes the requirement that Y–1 visa holders under the new guest worker program leave the United States for at least 1 year before renewing their visas. Designing a worker program where people are supposed to come to the U.S. for 2 years, leave for a year, return for 2 years, leave for a year, and then return for 2 years is a recipe for creating a new undocumented population.

Our amendment does not modify the overall number of permissible work years, which would still be limited to a total of 6 years, and it doesn't change the term of the visa, which would still be 2 years. In order to renew their visa, applicants would still have to demonstrate that they are eligible to meet the requirements of the program. The amendment maintains the general structure of the program, but revises it in a manner that makes the program more workable.

We need to pass this amendment because the process in the underlying bill

is costly and burdensome on employers, especially small businesses. Requiring employers to rehire and retrain workers every 2 years imposes unnecessary costs and creates instability in the workforce.

The underlying language is also harmful to American workers. The 1-year absence requirement would ensure that guest workers are always at the lowest end of the pay scale, which would depress overall wages. And the system as now designed provides an additional incentive for guest workers to overstay the term of their visas. Rather than returning to their home countries after their 2-year visas expire, many workers will just remain in the United States and become undocumented immigrants.

In short, the temporary worker design in the bill is unworkable and difficult to enforce. It is unlikely that the government will be able to sufficiently track the entry and exit of these workers to ensure that they comply with the 1-year absence requirement. By removing the 1-year requirement to leave the country between renewals we would at least be making the program workable.

Our amendment has the support of a variety of labor, business, immigration, and religious groups. Specifically, the Service Employees Union International, SEIU, the National Association of Homebuilders, NAHB, the Associated Builders and Contractors, ABC, the U.S. Conference of Catholic Bishops, USCCB, the American Immigration Lawyers Association, AILA, U.S. Hispanic Chamber of Commerce, and the National Immigration Forum, NIF, have voiced their strong support of this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 1267.

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

The ACTING PRESIDENT pro tempore. 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.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—41

Akaka	Conrad	Leahy
Baucus	Dodd	Lieberman
Bayh	Durbin	Lincoln
Biden	Feingold	Menendez
Bingaman	Hagel	Mikulski
Boxer	Harkin	Murray
Brown	Hutchison	Nelson (FL)
Cantwell	Inouye	Obama
Cardin	Kerry	Pryor
Carper	Kohl	Reed
Casey	Landrieu	Reid
Coburn	Lautenberg	
Sanders	Shelby	Whitehouse
Schumer	Tester	Wyden

NAYS—57

Alexander	Domenici	McCaskill
Allard	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Feinstein	Roberts
Bunning	Graham	Rockefeller
Burr	Grassley	Salazar
Byrd	Gregg	Sessions
Chambliss	Hatch	Smith
Clinton	Inhofe	Snowe
Cochran	Isakson	Specter
Coleman	Kennedy	Stabenow
Collins	Klobuchar	Stevens
Corker	Kyl	Sununu
Cornyn	Levin	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner
Dole	McCain	Webb

NOT VOTING—1

Johnson

The amendment (No. 1267), as modified, was rejected.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the time until 6:45 p.m. today be for debate prior to a vote in relation to the following amendments; and that the time until then be equally divided and controlled between the two leaders or their designees, with the time to run concurrently; that no amendments be in order to any of the amendments covered in this agreement prior to the vote; that at 6:45 the Senate proceed to vote in relation to the amendments in the order listed; and that there be 2 minutes of debate equally divided prior to each vote, with the votes after the first being 10 minutes in duration; that if an amendment on this list is not pending, it is to be called up now. These amendments are Cornyn, No. 1250; Reid, No. 1331; Sessions, No. 1234; Menendez, No. 1194; Kyl, No. 1460; Lieberman, No. 1191; and that a half hour of the minority's time on these amendments be allocated to Senator SESSIONS, and another half hour allocated to Senator CORNYN.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous consent request?

Mr. STEVENS. Mr. President, reserving the right to object, is this an exclusive list?

Mr. REID. No.

Mr. STEVENS. No objection.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, and I shall not object, I wish to inquire of the majority leader: I have an amendment that is a change in the amendment by which we proposed to sunset the guest worker provision. That amendment failed by one vote. I have made a modification to that amendment and would intend to reoffer the amendment and have another debate on it and a vote on that amendment. I wonder if I could inquire of the Senator——

Mr. REID. Mr. President, I say to my friend, at this time tentatively there are three Democratic amendments pending. There are no Republican amendments to match those. When we finish this tranche of votes, we are going to try to complete tonight at least these six more. I understand the Senator has or will refile his amendment, and we will be happy to take that into consideration as we try to move this bill along.

Mr. DORGAN. Mr. President, I have no objection.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. THUNE. Mr. President, reserving the right to object, could the leader tell us when amendments can be called up which were not on the list he just read, that have not been allowed to be called up today?

Mr. REID. We are working on that now. We are making progress. There are going to be three called up as soon as we get this vote started. That will be the next agreement we will enter into, and there will be three Republican amendments. So if you have something you care about, work with your colleagues over there to see if that can be one of the next three.

Mr. THUNE. Mr. President, I thank the Senator.

The ACTING PRESIDENT pro tempore. The Chair hears no objection, and it is so ordered.

AMENDMENTS NOS. 1331 AND 1460 TO AMENDMENT NO. 1150

The ACTING PRESIDENT pro tempore. The clerk will report two amendments.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1331 to amendment No. 1150.

The amendment is as follows:

(Purpose: To clarify the application of the earned income tax credit)

At the end of subtitle F of title VII, add the following:

SEC. _____. EARNED INCOME TAX CREDIT.

Nothing is this Act, or the amendments made by this Act, may be construed to modify any provision of the Internal Revenue Code of 1986 which prohibits illegal aliens from qualifying for the earned income tax credit under section 32 of such Code.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KYL, for himself and Mr. SPECTER, proposes an amendment numbered 1460 to amendment No. 1150.

The amendment is as follows:

(Purpose: To modify the allocation of visas with respect to the backlog of family-based visa petitions)

Beginning on page 270, strike lines 31 and 32, and insert the following:

''(3) FAMILY-BASED VISA PETITIONS FILED BEFORE JANUARY 1, 2007, FOR WHICH VISAS WILL BE AVAILABLE BEFORE JANUARY 1, 2027.—

''(A) IN GENERAL.—The allocation of immigrant visas described in paragraph (4) shall apply to an alien for whom—

''(i) a family-based visa petition was filed on or before January 1, 2007; and

''(ii) as of January 1, 2007, the Secretary of Homeland Security calculates under subparagraph (B) that a visa can reasonably be

expected to become available before January 1, 2027.

''(B) REASONABLE EXPECTATION OF AVAILABLITY OF VISAS.—In calculating the date on which a family-based visa can reasonably be expected to become available for an alien described in subparagraph (A), the Secretary of Homeland Security shall take into account—

''(i) the number of visas allocated annually for the family preference class under which the alien's petition was filed;

''(ii) the effect of any per country ceilings applicable to the alien's petition;

''(iii) the number of petitions filed before the alien's petition was filed that were filed under the same family preference class; and

''(iv) the rate at which visas made available in the family preference class under which the alien's petition was filed were unclaimed in previous years.

''(4) ALLOCATION OF FAMILY-BASED IMMIGRANT VISAS.—''.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Virginia.

Mr. WEBB. Mr. President, I ask unanimous consent to speak as in morning business and the time to be charged to the majority side.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing no objection, it is so ordered.

The Senator from Virginia is recognized.

AMENDMENT NO. 1313

Mr. WEBB. Mr. President, I wish to discuss amendment No. 1313, an amendment I will offer to the immigration reform bill, which will address what I believe are two important, crucial flaws in this legislation. The first flaw relates to what many are calling amnesty, wherein the bill legalizes almost everyone who entered this country by the beginning of this year. The second flaw relates to an unworkable set of procedures that is applicable to those who are properly being offered legal status. It is important to the health and practicality of our system, in my view, that these two flaws be addressed.

My amendment would achieve three critically important goals. It creates a fair and workable path to legalization for those who have truly put roots down in America; it protects the legitimate interests of all working Americans; and it accords honor and dignity to the concept of true American justice. If one accepts the premises of these three goals, then I strongly believe this amendment is the best way forward for our country.

As a general matter, I agree with my colleagues that the time has come for fair and balanced reform of our broken immigration system. When I say ''fairness,'' I mean a system of laws that is fair to everyone in the United States, and especially our wage earners.

I strongly support the provisions in this immigration bill that strengthen our Nation's borders. Our porous borders are a threat to our national security, and we have wasted far too long to fix this problem.

I also support the sections of the bill that create tough civil and criminal penalties for employers who unfairly hire illegal immigrants, creating both a second-class population and undercutting American workers. This bill's employment verification system will help ensure that illegal workers cannot get employment in the United States and would, therefore, face no choice but to return to their homelands.

As a point of reference, I did not support this bill's creation of a massive new temporary worker program. Two weeks ago, I supported Senator DORGAN's two amendments to strike and sunset that program, and I find it regrettable the Senate did not adopt those amendments. We have seen a good bit of analysis on the Senate floor in recent days to the effect that the temporary worker program will be largely unworkable. To the extent it would work, it would create a wage-based underclass and a bureaucratic nightmare. Furthermore, as I stated on the floor 2 weeks ago, I believe guest worker programs—aside from purely temporary, seasonal work—drive down the wages of hard-working Americans, and of those who came here by following the law.

With those points in mind, I wish to now turn to my amendment, which regards the other major component of this bill: the legalization program.

My amendment reflects a proposal I have been discussing with Virginians ever since I began my campaign for the Senate last year. I have always supported tough border security and cracking down on large employers who hire illegal workers. I also have always supported a path to legalization for those who came here during a time of extremely lax immigration laws but who have laid down strong roots in our communities. I do not, however, favor this path to citizenship for all undocumented persons. Under the provisions of the immigration bill we are now debating, virtually all undocumented persons living in the United States would be eligible to legalize their status and ultimately become citizens. Estimates are that this number totals 12 million to 20 million people. This is legislative overkill. It is one of the reasons this bill has aroused the passions of ordinary Americans who have no opposition to reasonable immigration policies but who see this as an issue that goes against the grain of true fairness, which is the very foundation of our society.

My amendment would allow a smaller percentage of undocumented persons to remain in the United States and legalize their status based on the depth of a person's roots in their community. Under my proposal, undocumented persons who have lived in the United States at least 4 years prior to the enactment of the bill could apply to legalize their status. I note that this 4-year period is even more generous than the 5-year threshold that was contained in several bills the past few Congresses addressed—bills that were supported by Senators from both parties and by immigrants' rights groups.

After receiving the application, the Department of Homeland Security would evaluate a list of objective, measurable criteria to determine whether the applicant should receive a Z visa and thus be allowed to get on the path to citizenship.

Among the statutory criteria would be an individual's work history; payment of Federal or State income taxes; property ownership and business ownership in the United States; knowledge of English; attendance, successfully, at American schools; immediate family members living in the United States; whether the applicant has a criminal record; and, very importantly, whether the applicant wants to become an American citizen.

Like the underlying bill, applicants would be given probationary status while the DHS considers their Z visa application and could lawfully work during this probationary period.

I believe these provisions are fair to our immigrant population, and also that they will help us avoid the mistakes this Congress made in 1986 with the Simpson-Mazzoli amnesty bill, which resulted in a tidal wave of illegal immigration.

My amendment would also make the underlying bill more practical. It strikes the bill's unrealistic ''touch-back'' requirement. Few immigrants would have the money or the ability to return to their home countries on other continents. Most of these persons would lose their American jobs. They would leave their families in turmoil and place further strain on our community services. Basic fairness and common sense dictates that these persons be allowed to apply for a green card from within the United States.

I believe my amendment sets forth an equitable system that not only recognizes the contributions of immigrants to our society but also introduces practical measures that will help us avoid the same mistakes our country made in 1986 with the Simpson-Mazzoli amnesty bill.

I have heard loudly and clearly from Virginians, and I have talked with people on all sides of these issues. What I hear over and over again is that Congress should find a fair system that both protects American workers and respects the rule of law. This amendment represents the fairest method I know to do so, and to do so realistically.

I ask my colleagues to support amendment No. 1313 when it comes to a vote in the Senate.

With that, Mr. President, I yield the floor.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. WEBB. Mr. President, I gladly yield to my colleague.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was listening to the description of the amendment by Senator WEBB. I think

it is a good amendment, and I intend to be prepared to support it. This amendment is about the treatment of those who have come here without legal authorization. The underlying bill, by the way, was cobbled together by a group of people, including the White House, I guess, and they said anybody who shows up in this country without legal authorization by December 31 is deemed to then have been legal and will be given a work permit.

I think Senator WEBB's approach is much more sensitive and much more realistic to our people who have been here 10, 15, 20 years without legal authorization but they have been model citizens, they raised families, have had jobs, have done things that would commend them to us for the future. He is suggesting a much more sensible way of dealing with that. I think that amendment makes a lot of sense.

I did want to say we had a vote on the guest worker or temporary worker provisions, and I offered an amendment, or 2 amendments, and the second amendment was to sunset that after 5 years. I lost that vote by one vote in the Senate, and I have filed an amendment at the desk and will attempt to have another vote on that. I have modified section 2 just a bit. But my hope is that the Senate would reconsider and pass the amendment that would sunset this temporary worker provision after 5 years. Again, the vote was 49 to 48 against my amendment, and we will have another opportunity to vote on it.

The reason I mention it is the Senator from Virginia mentioned that amendment and the other amendment I offered as well. I ask the Senator from Virginia if he doesn't think this piece of legislation, in addition to legalizing those who have come here as of December 31st of last year, saying you now have legal status—in addition to that—saying we believe there are millions of people who don't live here at this point whom we want to be able to invite in to take American jobs—I ask the Senator from Virginia whether that makes much sense in the scheme of trying to create economic opportunity for Americans at the lower economic scale in this country. There are a lot of people working at the bottom of the ladder here who want jobs, who can't find jobs, and find downward pressure on their income. I ask whether the Senator doesn't believe this temporary worker program displaces people in this country who need these jobs.

Mr. WEBB. Mr. President, I say to the Senator from North Dakota I was very pleased to support both his amendments for those reasons and reasons similar to them. I hope the Senator can get a vote on his revised amendment. I think it is important we deal with this immigration issue in a very realistic and practical manner, with the focus being the well-being of individuals who are here legally and who are citizens whose wages and salaries are in many ways being held down by these types of programs. The guest worker programs are classic examples of that.

I also would like to say that with respect to the timeline in the present bill and the cutoff for full legalization being anyone who came here before December 31 of last year, or before January 1 of this year, one of the questions that has been raised on my amendment is: Well, what do we do with these people who haven't been here 4 years? Some questions have been raised saying this would create an unfairness in this amendment. But the answer to that—the obvious answer to that is: What do we do with people who came here after December 31? They are here. What are we going to do with the people who are here next year? They are going to be here.

There is always going to be some leakage in our system. What we are looking for is a measure of fairness for people who have truly put down roots in their community and to allow them to assimilate and become American citizens. That is a separate thing from the guest worker program that the Senator from North Dakota is talking about, and I hope I get another chance to vote for his amendment.

Mr. DORGAN. Mr. President, if the Senator would yield further for a question, there are some in this Chamber who say to us: The choice on immigration is between doing the wrong thing and doing nothing. That is not the choice at all. That is a false choice. They bring the wrong thing to the floor of the Senate and say: If you oppose this, then you are for nothing.

One of the things we are for is enforcing the law. We have a law in this country about employer sanctions, about illegal immigration, trying to stop it. All one would have to do would be to enforce the law. In 2004, there were four cases in the entire United States of America that were brought by the U.S. Justice Department against employers who were employing illegal workers, illegal aliens—four. What does that tell us? That tells us that the administration says: We surrender on the issue. We surrender.

The other point I wished to make is there is no discussion on the floor of the Senate in the construct of this bill, within the debate on this bill, about the American worker. I understand we have an immigration issue. I fully understand that, and we need to deal with that. But part and parcel of that, in my judgment, ought to be some discussion on the floor of the Senate about how this affects the American worker. We have a lot of workers in this country who aren't doing very well. It has been a long time since they have seen any increase in their income, despite their productivity rising. Where is the debate about the impact on the American worker? It is not selfish for us to believe that ought to be a part of this discussion.

So I ask the Senator from Virginia whether he believes as well that when you bring an immigration bill to the floor, you ought to have some discussion about what is the impact of this issue on the American worker, on the people who have a high school education or perhaps don't even have a high school education and who are at the bottom of the ladder, got up this morning and went to work and are working at minimum wage, struggling to get by to raise a family to do the best they can and discover at the end of the day: Oh, by the way, there is more downward pressure on your income because the employer can bring somebody through the back door that is able to be paid lower wages, they will work for less money, even as the bigger employers are exporting jobs out the front door to China and Sri Lanka and Bangladesh.

So I ask whether the American worker shouldn't play a bigger role in the debate on the floor of the Senate.

Mr. WEBB. Mr. President, I would say that an enormous amount of work has gone into this piece of legislation, as we all know. I appreciate all the energy that the Senator from North Dakota has placed for years on the interests of the American worker. I share those interests. This amendment that I offer is based on two things. One is fairness to everyone, including the American worker, and the other is the practicality that is this particular part of the legislation.

Mr. DORGAN. I thank my colleague.

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

The PRESIDING OFFICER. Who yields time?

The Senator from Texas is recognized.

AMENDMENT NO. 1250

Mr. CORNYN. Mr. President, I have an amendment that is scheduled for a vote later on this evening, and I would like to spend a few minutes explaining it. This is—well, let me put it this way: If the definition of insanity is doing the same thing over and over and over again and expecting a different outcome, the provisions in the underlying bill that my amendment will correct represents insanity in action because it repeats a mistake made in the 1986 immigration laws that is within our power to correct. I believe the amendment I am offering will allow that correction to take place, and I offer it in that spirit.

At the very least, the American people expect we will not intentionally repeat mistakes. They don't expect us to be perfect. They do expect us to do our best, and we owe them that much. But in this case, doing our best means not repeating a mistake.

Quite simply, the Department of Homeland Security is, under the current bill, prohibited from using internally all information from Z visa applications, as well as sharing information with the relevant law enforcement agencies. That is right. You can actually apply for a Z visa if you are 1 of the 12 million or so people here in the

country already in violation of our immigration laws, whether it is entering without a visa or once having entered with a visa, overstaying that visa, and if you are seeking the benefits of this underlying bill which are mainly represented in the form of a Z visa, the information contained in that application by those 12 million individuals is effectively shielded from law enforcement authorities. For example, if an applicant comes forward and is denied a Z visa, this legislation currently pending prohibits the Immigration and Customs Enforcement Service from using that information in order to apprehend that person who is not legally present in the country.

What we learned about the 1986 amnesty was that the New York Times said it created the largest immigration fraud in the history of the United States. That same view is shared by the general counsel of the Immigration and Naturalization Service under President Clinton with regard to statutory restrictions on sharing and using information. That general counsel, Paul Virtue, noted that this prohibition greatly contributed to this fraud.

At this point, I ask unanimous consent that the New York Times article be printed in the Recored and I refer my colleagues to the testimony of Paul Virtue before the House Immigration and Claims Subcommittee of the House Judiciary Committee at judiciary house.gov/judiciary/106–52.

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

(See exhibit 1.)

Mr. CORNYN. In addition to questions of why we would want to put out of bounds to law enforcement agencies information which they could use to investigate and identify fraud and criminal conduct, you might ask: Why the double standard? For example, we don't afford these kinds of robust confidentiality provisions for other classes of immigrants such as asylees or battered women or those who fall under the temporary protected status provisions. So why would we have a double standard? When an asylum seeker applies for legal status, that asylum seeker must submit an application and return at a later date for the decision. If that asylum seeker's application is denied, then he or she is taken into custody on the spot, based on information contained in the application.

Now, the proponents of this bill will tell us that without these guarantees of confidentiality, those who are already here in the country in violation of our immigration laws will not come forward and seek the benefits of the Z visa provided for under the bill, which leads me to ask: Aren't we granting the biggest benefit that can ever be given to anybody in the world—legal status and a path to American citizenship—even though these individuals have violated our laws?

And to be clear, we are talking about those who cannot even establish that they meet the minimum requirements to get this valuable benefit. Even worse, they have continually flouted our immigration and criminal laws. Why would we consciously give these individuals broad privacy protections by the mere filing of their application for Z status, and why would they be treated differently from other immigrants?

The proponents say they do exempt from confidentiality those who commit fraud or are a part of some other scheme in connection with their application. Of course, that is the very least we should do. But this bill does not go nearly far enough to effectively enforce our immigration laws and protect the American people from those who could and would and might do us harm.

For example, on page 311 of the bill, in section 604(b) labeled ''Exceptions to Confidentiality,'' the drafters of this bill have chosen to protect aliens who are criminal absconders who have not been removed from the United States; that is, people who are under orders of deportation but who have not yet been removed. This is, in fact, a felony offense under 8 U.S.C. 1253, which is punishable for up to 4 years in prison. Yet the underlying bill would provide confidentiality for that individual.

We all know that hundreds of thousands of individuals come across our borders each year in violation of our immigration laws. But what most Americans would be shocked to realize is that, according to recent estimates, almost 700,000 aliens who have immigrated illegally or overstayed who have been ordered deported have simply failed to comply with that court order. How many Americans think that it is OK to ignore a court order? How many Americans, after receiving a subpoena from a court, ignore it and simply skip that court date?

Let me give two examples of what I am talking about. In section 604(b), the drafters claim they allow law enforcement to go after information for those denied Z status because of felonies and serious criminal offenses, but what is missing are those aliens who have actually committed those felony offenses but who have not yet been actually convicted. In section 604, the drafters further claim they resolve the problem by allowing law enforcement access to those who commit fraud or misrepresentations in their Z applications. But again, what is missing is law enforcement's ability to reach third-party fraud: Where the alien, him or herself may not be complicit but to prosecute the third party, the Government needs the information from the Z application filed by such individuals in order to make the case. Simply stated and summarized, fraud by third parties involved in a Z application; crimes that have not yet resulted in a conviction; absconders—people who have ignored a valid court order and who have yet to be physically removed—as well as those Z visa applicants who are denied on noncriminal grounds, all of those categories of information are rendered confidential and kept from law enforcement authorities when it comes to investigating crime and other wrongful conduct.

As I said earlier today, in fact, if we were more interested in regaining the public's confidence that we were actually serious about passing an immigration law that could be and would be vigorously enforced, I don't think I would be up here offering this amendment because it would be agreed to without the necessity of a vote. But strangely, to me, this commonsense sort of amendment is being resisted. In a way, it helps merely confirm what most people across the country—particularly in my State—seem to suspect, which is that Congress cannot be trusted and is not serious about creating an immigration law system that can be adequately enforced.

As my colleagues know, I offered a separate amendment that would categorically bar fugitive aliens from receiving the benefits under this bill. I believe this is an issue of fundamental fairness and integrity of the system. In exchange for what has been offered to this population, which is the largest legalization program in our Nation's history, we should be able to say that for any person who applies for and receives benefits under this program, we will authorize the Immigration and Customs Enforcement Service to look at that application and to, if necessary, if warranted under law, arrest that individual who made that application and deport them, in accordance with our laws that Congress has already passed.

But the bill the Senate is considering today turns a blind eye to those who apply for the benefits under this bill and are denied. This bill would allow them simply to slide back into the shadows—the precise problem we are being told we are trying to fix.

I daresay if you ask a random taxpayer on the street this simple question: Assume an alien comes forward to apply for legal status under this bill. Because the applicant doesn't satisfy one of the criteria for being awarded legal status, the applicant is denied benefits under the bill. What happens to that individual under the Senate immigration bill? If you were to ask that question to a man or woman on the street, I bet you that 100 out of 100 times people would say: Well, they ought to go home, they ought not to be granted benefits under the bill. Certainly, they would say you ought not to hide evidence of fraud or criminality or wrongdoing that could be investigated and prosecuted.

Yet the so-called confidentiality provisions my amendment addresses, under the current bill, would prevent law enforcement officials from using information on the application to locate and remove a significant population of those who don't qualify for legalization but have applied for it.

To be clear, this is for individuals who have actually applied for a Z visa, or benefits under the program, and

have been denied, not those whose Z visa status has been granted.

This is, in essence, providing an opportunity—to significant categories of individuals whose applications are considered and rejected—to slide back into the shadows, which is the very problem we are told this solution is designed to solve.

The whole point of this exercise, we continue to be told, is to enhance U.S. security by bringing people out of the shadows. But this bill would draw people out, only to allow them to slide back in if they demonstrate they are disqualified for the benefits under the bill—the very people we ought to be focusing on and having deported in accordance with our laws.

I remind my colleagues of our Nation's recent history with mass legalization and the consequences of prohibitions on Federal agencies sharing information.

As I have stated, reasonable observers have concluded that the 1986 amnesty was rife with fraud. That is the conclusion of the New York Times in the article that will be part of this record, dated November 12, 1989. The title is ''Migrants' False Claims: Fraud on a Huge Scale.''

We also note, for example, from the 9/11 Commission staff statements, that Mohamed and Mahmud Abouhalima, conspirators in the 1993 World Trade Center bombing, were granted green cards, or legal permanent resident status, under the Special Agricultural Workers Program, which was an amnesty program created by the 1986 bill.

Under this Special Agricultural Workers Program, a key component of the 1986 amnesty, these applicants had to provide evidence they had worked on perishable crops for at least 90 days between May 1, 1985, and May 1, 1986; their residence did not have to be ''continuous'' or ''unlawful.'' Nearly 1 million illegal aliens received legal permanent resident status under this amnesty—''twice the number of foreigners normally employed in agriculture'' at that time, according to the 9/11 Commission staff statements.

In other words, the inference is inescapable that there was fraud on a huge scale, based on the very kind of confidentiality provisions this bill includes and which my amendment would remove.

I wish to make one other point about this ill-conceived confidentiality provision. Under this bill we are considering, Congress would even prohibit the use of information from sworn third-party affidavits that are one of the documents that can prove eligibility. Who could not, with a little bit of creativity and initiative, get some third party to provide an affidavit that says: Yes, you were present on June 1, 2007; thus, you are eligible for the benefits under this program.

If you designed a program to welcome and invite and embrace fraud more, I cannot imagine what it would be. Yet that very same sort of affidavit could be rendered confidential and could not be shared with law enforcement personnel, unless my amendment is passed.

We already know from well-documented prosecutions of document vendors and other legalization cases that the type of documents submitted—especially sworn affidavits from third parties, not even relatives—no qualification, just third parties—have been used routinely to further fraud.

At the very least, we should not repeat the mistakes of 1986 by allowing the continued use of sworn affidavits by applicants to establish eligibility for the Z visa. My amendment takes care of these concerns.

We know one thing: Criminals and terrorists have abused—and will continue to seek ways to abuse—our immigration system in order to enter and remain in this country.

I regret this bill we are debating fails to give law enforcement the commonsense tools they need in order to prevent terrorists and others from exploiting the vulnerabilities inherent in any massive legalization.

My colleagues may tell you there is a confidentiality exception for national security and for fraud. But to rely solely on these exceptions is simply wishful thinking; it is not going to happen. It doesn't go nearly far enough to reach the kinds of fraud and criminal conduct and other wrongful conduct I have mentioned.

This kind of information law enforcement needs may provide valuable leads of which they were previously unaware. Failure to allow law enforcement to connect the dots is a deadly mistake I have heard my colleagues promise they would ''never allow to happen again.'' So I urge those who are truly serious about the commitment to make sure this kind of fraud and the danger associated with it doesn't ever happen again to support my amendment and make a crucial improvement to this legislation.

I yield the floor and reserve the remainder of my time.

EXHIBIT 1

[From the New York Times, Nov. 12, 1989]

MIGRANTS' FALSE CLAIMS: FRAUD ON A HUGE SCALE

(By Roberto Suro)

In one of the most extensive immigration frauds ever perpetrated against the United States Government, thousands of people who falsified amnesty applications will begin to acquire permanent resident status next month under the 1986 immigration law.

More than 1.3 million illegal aliens applied to become legal immigrants under a one-time amnesty for farm workers. The program was expected to accommodate only 250,000 aliens when Congress enacted it as a politically critical part of a sweeping package of changes in immigration law.

Now a variety of estimates by Federal officials and immigration experts place the number of fraudulent applications at somewhere between 250,000 and 650,000.

LACK OF MANPOWER AND MONEY

The Immigration and Naturalization Service has identified 398,000 cases of possible fraud in the program, but the agency admits that it lacks both the manpower and the money to prosecute individual applicants. The agency is to begin issuing permanent resident status to amnesty applicants on Dec. 1, and officials said they were approving 94 percent of the applicants over all.

Evidence of vast abuse of the farm worker amnesty program has already led to important changes in the way immigration policies are conceived in Congress. For example, recent legislation to aid immigration by refugees from the Soviet Union was modified specifically to avoid the uncontrolled influx that has occurred under the agricultural amnesty program.

Supporters of the farm worker amnesty argue that it accomplished its principal aim of insuring the nation a cheap, reliable and legal supply of farm workers and that it made an inadvertent but important contribution in legitimizing a large part of the nation's illegal alien population. #1,000 Workers, 30 Acres Critics point to cases like that of Larry and Sharon Marval of Newark. Last year they pleaded guilty to immigration fraud charges after immigration service investigators alleged that the Marvals were part of an operation that helped about 1,000 aliens acquire amnesty with falsified documents showing they had all worked on a mere 30 acres of farmland.

The amnesty for farm workers was a last-minute addition to the Immigration Reform and Control Act of 1986, which sought to halt illegal immigration with a two-part strategy. Under a general amnesty, illegal aliens who could prove they had lived in the United States since before Jan. 1, 1982, were given the chance to leave their underground existence and begin a process leading to permanent resident status. And to stem further illegal immigration, the employment of illegal aliens was made a crime.

The agricultural amnesty program was adopted at the insistence of politically powerful fruit and vegetable growers in California and Texas who wanted to protect their labor force. In several respects, the provisions for the program were much less strict than the general amnesty program, which drew 1.7 million applicants. Instead of having to document nearly five years of continuous residence, most agricultural worker applicants had to show only that they had done 90 days of farm work between May 1, 1985, and May 1, 1986.

Representative Charles E. Schumer, a Brooklyn Democrat who was an author of this Special Agricultural Worker provision, said that in retrospect the program seemed ''too open'' and susceptible to fraud. But he argued that budget decisions had made the battle to combat fraud more difficult.

''There has not been enough diligence in tracking down the fraud,'' he said, ''because funding for the I.N.S. has been cut by the White House in each of the last three budgets, even though everyone agreed when the bill passed that greater I.N.S. manpower was essential to make it work.''

Congress rarely raises the immigration service budget above Administration requests.

Aside from its budget problems, the immigration service has repeatedly come under fire this year in Congress and in an audit by the Justice Department for what was termed mismanagement and administrative inefficiency.

John F. Shaw, Assistant Immigration Commissioner, agreed that ''manpower restrictions'' at the agency were a major factor in the fraud in the agricultural amnesty program. He said much of the fraud ''shot through a window of opportunity'' when the agency was frantically trying to deal with many new burdens of the 1986 immigration law.

PEOPLE WHO SOLD FALSE DOCUMENTS

Mr. Shaw said law-enforcement efforts had been limited to the people who sold false documents to applicants for the farm worker amnesty. The immigration service has made 844 arrests and won 413 convictions in cases alleging fraud in the amnesty program. The people involved ranged from notaries public to field crew leaders. ''It was a cottage industry,'' Mr. Shaw said.

The immigration service can revoke legal status if it finds the applicant committed fraud, but even this effort is limited. Only applications that appear linked to a fraud conspiracy are held for review, as when an unusually large number of applicants assert that they have worked in the same place. Some 398,000 aliens have fallen into this category since the application period ended last Nov. 30, but it is likely that many of them will get resident status.

Mr. Shaw said the fraud conspiracies often involved farms that actually did employ some migrant labor. So it is frequently impossible to separate legitimate from illicit claims.

Given the limited law-enforcement effort, no precise count of fraud in the agricultural amnesty program is possible. But some rough estimates are possible based on information from the aliens themselves. An extensive survey conducted in three rural Mexican communities by the Center for U.S.-Mexican Studies at the University of California in San Diego found that only 72 percent of those who identified themselves as applicants for farm worker amnesty had work histories that qualified them for the program. A similar survey conducted by Mexican researchers in Jalisco in central Mexico found that only 59 percent qualified.

But fraud alone does not explain why the program produced more than five times the applicants Congress expected. Frank D. Bean, co-director of the Program for Research on Immigration Policy at the Urban Institute in Washington, said the miscalculation in the Special Agricultural Worker program reflected longstanding difficulties in tracking the number of temporary illegal migrants from Mexico.

''It is at least plausible that a very large percentage of the S.A.W. applicants had done agricultural work in the U.S. even if they did not meet the specific time requirements of the amnesty,'' Mr. Bean said. 'It Was a Weak Program'.

Mr. Shaw of the immigration service, and other critics of the law, believe there were more fundamental flaws. ''It was a weak program and it was poorly articulated in the law,'' he said.

Unlike almost all other immigration programs, which put the burden of proof on the applicant, the farm amnesty put the burden on the Government. Consequently, aliens with even the most rudimentary documentation cannot be rejected unless the Government can prove their claims are false.

Stephen Rosenbaum, staff attorney for California Rural Legal Assistance, a nonprofit service organization for farm workers, argued that there was no other way to structure an immigration program for an occupation ''that does not produce a paper trail.'' He noted that farm workers are paid in cash and neither the employers nor the workers keep detailed records. 'Immense Logistical Problems.'

''You can argue the wisdom of a farm worker amnesty, but if you have one, you have to recognize the immense logistical problems involved in producing evidence,'' he said.

The immigration service at first tried to apply the stringent practices common to other immigration programs, like rejecting applicants with little explanation when their documents were suspect. But three lawsuits brought in Florida, Texas and California over the last two years forced the agency to follow the broader standards mandated by Congress.

The burden-of-proof issue arose again earlier this year when the House of Representatives approved legislation that would have made any person who could prove Soviet citizenship eligible for political refugee status.

A legislator with a powerful role on immigration policy, Senator Alan K. Simpson, Republican of Wyoming, eliminated the provision because of concerns raised by the farm worker amnesty program, an aide said. Mr. Simpson, who is on the Senate Judiciary Subcommittee on Immigration and Refugee Affairs, substituted a series of specific circumstances that had to be met for a Soviet citizen to be considered a refugee, like denial of a particular job because of religious beliefs.

Immigration experts believe that the agricultural amnesty program will probably color policy debates over other categories of aliens whose qualifications will be difficult to document, like the anti-Sandinista rebels of Nicaragua.

''One certain product'' of the agricultural amnesty program, Representative Schumer said, ''is that in developing immigration policies in the future, Congress will be much more wary of the potential for fraud and will do more to stop it.''

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina is recognized.

(The remarks of Mr. DEMINT pertaining to the submission of S. Con. Res. 35 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, so I understand, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 hour 42 minutes remaining.

Mr. KENNEDY. I yield such time as I might use.

On the Cornyn amendment, the issue is basically confidentiality. Why is confidentiality important? What we are trying to do with this proposal is to say to the 12.5 million who are living here, the undocumented as well as those in agricultural jobs: Come out of the shadows, and if you are going to meet the other requirements of the bill—paying fines, go to the end of the line, demonstrate solid work achievement and accomplishment—you will eventually be able to get in line after the backlog is completed for a green card and citizenship. We are saying to the individuals: If you are undocumented today, we want you to register.

There is a question with regard to people who are undocumented today. If I go down and say my name is—maybe an undocumented Irish person, say his name is Halloran, and he goes in and says: I am Halloran and live on Linden Street. I am undocumented, my wife is undocumented, and my children are undocumented. We want these people to come out of the shadows and register to begin this process, right? Right. We have to make sure those people are going to have a certain amount of confidentiality, that they are not thinking they are just going to sign in and register and report to be deported. That is what the Cornyn amendment effectively does, is report to deport because he eliminates all kinds of protections of confidentiality.

We provide levels of protection of confidentiality for individuals, but not if they have been involved in any criminal activity and any fraudulent activity.

The Senator from Texas mentions the 1986 act. He has been mentioning the 1986 act time and time again. I responded that President Reagan signed that act. Republicans were in charge at that time, and they administered that act from 1986 to 1992. I voted against that legislation for many of the reasons that have been outlined. That is a different time.

If they want to talk about what President Reagan and what the Republicans did at that time, they can be my guest. But the fact is, as we do know, there were incidents where fraud was committed during that program in the submission of various agricultural documents, and fraud was committed. That is all outlined in a 1988 report which has been quoted here. But that has been the document. We have not seen other documents about similar kinds of fraudulent activities.

As a result, what did we do with this legislation? We did a number of things because of what happened in 1986.

We provide additional protections and requirements in these areas of identification. We provide a number of protections in this legislation, and I will include those at the conclusion of my statement.

Secondly, we have included in this legislation that if the DHS believes fraud has been committed, they can move ahead and deport. Do my colleagues understand? If the Department of Homeland Security thinks fraud has been committed by these individuals, they can move ahead and deport. That has been included. We have also included random audits of these various programs.

The point that has been made that in 1986 there were irregularities we accept and agree. The fact that the 1986 act was not well managed, we agree. Was there fraud in a number of these affidavits? We say, yes, and that is why we took action in this legislation to address it. And I will include those particular citations.

I will run through these points very quickly. If the applicant is inadmissible for criminal reasons or an alien smuggler, that information is turned over to the local law enforcement and police. If there has been a conviction of a crime, criminal activity, smuggling, marriage fraud, all of that information is turned over to the police. If there is any indication of any kind of intelligence activity, it is turned over to the Department of Homeland Security.

We have written into this legislation protections so we are not going to have abuses of confidentiality. But—but, Mr. President—when we are talking about other kinds of activities—for example, if they fail the English test, or because there is a certain amount of work requirement time, there is an issue as to whether they completed the work requirement, we protect their confidentiality. If they fail the English test, we protect their confidentiality. If there is a technical registration issue, we protect their confidentiality.

This is enormously important because if we do not protect their confidentiality, they are not going to register. It is as clear and simple as that.

This represents a very careful balance that was worked out. I respect the Senator from Texas on this issue, but it is important that we have guarantees for individuals if we expect them to register as this system is being set up because it is going to transition. We know parts of this system are not going to go into effect until we have border security, and if we expect individuals to participate in that system, we have to guarantee their confidentiality. We do so. It is enormously important. This system isn't going to function unless we do.

If the Cornyn amendment is adopted, the bottom line is this system will not function, and it will not work because as individuals in this community are wondering whether they ought to sign up for this system, by and large they are going to check with perhaps their local parish, maybe their local priest, maybe a nonprofit organization, social service organizations, community organizations in which they have confidence and trust, and those individuals are going to know whether there is confidentiality or not. Those individuals upon whom they rely in the local community, extended members of their family, nonprofit organizations, church organizations, unless they are able to give the assurance to these individuals that their confidentiality is going to be protected, we are not going to have people involved, and we are not going to have success with this legislation.

As I mentioned, in the incidence of fraud, we have addressed those extensively with provisions in the legislation. If there are incidents of fraud, criminal activity, terrorist activity, any of the other kinds of issues that involve criminality, of course, that protection is effectively out the window. We provide confidentiality, but limited in a very important way. It is enormously important to the success of the program.

Mr. President, I anticipate that we are going to have presentations by my friend and colleague from Alabama sometime with regard to the earned-income tax credit. I have comments in response to that amendment. I know there will be an alternative amendment that will be offered in that area. I will address the Senate when we have that particular proposal.

Eventually, we are going to have the Lieberman amendment, which is a very thoughtful amendment. We will have opportunity to address it at that time.

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. SALAZAR. 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. SALAZAR. Mr. President, I ask that the time during the quorum call be equally divided between both sides.

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

Mr. SALAZAR. 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. ALEXANDER. 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. ALEXANDER. Mr. President, I appreciate the tremendous effort that has been made on both sides of the aisle to try to address the immigration dilemma facing our country. In my view, other than the war in Iraq, the war on terror, there is nothing more important before us, and we should leave the bill on this floor for as long as it takes to get it right because as difficult as it is to get it right, it seems to me that failure is not an option. If we fail, then what we have done is admitted that we have just simply allowed a situation to continue where perhaps a million new illegal persons will come into our country each year. That contravenes the rule of law upon which this country is founded, it works against our ability to be a country that lives by the motto that is engraved up there on the wall, ''one from many,'' to assimilate into our country the number of people who are coming, and it is a poor example for the rest of the world when we suggest to them that they create governments that rely upon the rule of law. It also absolutely enrages the American citizens, who look at Washington and say that the Government has done a horrible job for the last 10, 15, 20 years in enforcing our immigration laws. Americans have, in many cases, lost faith that we even have the ability to fix the mess. I used to feel that way myself before I came here. I haven't been here that long—just 4 years.

Twelve years ago, I was a candidate for President of the United States. I was in those debates which we watched on television last night, or those kinds of debates. One of my proposals was that we should create a new branch of the military in order to secure the border. In 1994, 1995, and 1996, Americans were upset about our inability to distinguish between legal immigration, which is the lifeblood of our country, and illegal immigration, which is an affront to the rule of law and the principles of what it means to be an American. So this has been going on year after year after year.

When I was home last week in Tennessee, I spent a lot of time listening and talking to Tennesseans. In fact, I just left a group of homebuilders from Tennessee in my office who were talking to me about the immigration bill and about some concerns they have. But of all the concerns that came through to me last week in my conversations with Tennesseans, it boils down to this: We don't really trust you guys in Washington, DC, to fix this problem. You don't seem to be willing to do it.

So I have a suggestion today that I will make, an amendment that I intend to offer. I won't call it up at this moment, but I want my colleagues to know about it and the country to know about it because I think if this bill were to become law, it would increase the level of trust the American people would have in the ability of this Government to enforce whatever law we pass. I am not suggesting it would solve everything or that we would regain trust overnight, but I am suggesting it would be a step forward. I will describe the legislation in just a moment, but it boils down to this: We would involve the Governors of the border States between the United States and Mexico in determining whether the new border control system we put in place is actually operational.

Right now, particularly amendment offered by my distinguished colleague from New Hampshire (Senator GREGG) the other day, the proposed bill has been strengthened in the following way: He said that his amendment would require the Department of Homeland Security to certify that it has established and demonstrated operational control over the entire U.S.-Mexico land border before other parts of the bill involving legal status could go into effect. We call this the trigger.

Senator ISAKSON from Georgia suggested this last year. It is a wise idea. It says, first we secure the border, and then, when it is secure, we do the other things about legalization of people already here, to the extent we decide to do that. But the question still remains: Who is going to say when the border is secure? The people out across the country—at least those in Tennessee—don't trust us, don't trust the Government in Washington, because of this poor record of 20 years. It doesn't matter that I just got here 4 years ago. They look up here and see the Government and they say: You didn't do it last year, you didn't do it 3 years ago, you didn't do it 10 years ago or 15 years ago, so how do we know you are ever going to do it, even if you pass the law?

Well, the three things I can think of that would make a difference are, No. 1, to pass a bill with teeth in it. For example, the Gregg amendment says

there will be 20,000 Border Patrol agents. That is more than we currently have. Today, there are 13,000. There will be four unmanned aerial vehicles. There will be 300 miles of vehicle barriers. Currently, there are about 78. There will have to be at least 370 miles of fencing already built. Now, there are 700 already authorized by the Secure Fence Act of 2006, and that hasn't changed, but 370 miles would have to be built. There would have to be 70 ground-based radar and camera towers on the southwest border. There would have to be a permanent end to catch and release. There would have to be an employment verification system that requires employers to electronically verify new hires within 18 months and all existing employees within 3 years. All of those things would have to be in place. The words are they would have to be ''established and demonstrated, that the Federal Government had operational control over the entire U.S.-Mexico land border.''

The amendment that is already part of the bill, the Gregg amendment, said the Director of Homeland Security would certify that. What I add with my amendment is it has to be concurred in, agreed with, signed off on by three of the four Governors on the United States-Mexico border. In other words, we pass the law with teeth—the teeth of the Gregg amendment and maybe more. I have suggested, and others seem to have agreed, what we ought to do is then fund the law. Either the President challenges us to pass an appropriations bill within 30 days after we pass the law, we do it ourselves, or we set up a trust fund—the way we do for highways and the way we do for Social Security, the way we do for anything else—and we say that money goes to secure the border, to fund these things. We pass a law with teeth. Then we provide the money. Then the Director of Homeland Security says the border is secure. That is the trigger. My amendment would say: The Governors of the border States, three out of four, have to agree.

The Governors of the border States are not in Washington, DC. They have not been infected with whatever is up here. They have not even been vaccinated. I have been up here long enough to be vaccinated with whatever disease is up here, and for that reason more Tennesseans trust the Governors than they do the Washington officials to solve this problem. If the Governors of California, Arizona, New Mexico, and Texas say yes, the border is secure, we agree with the certification of the Department of Homeland Security, I think that would be good enough for most Americans. That is the point of my amendment.

We need to put together a good bill that secures the border first. After border security, the other biggest problem is what to do about those already here illegally. I think that issue is less of an issue if most Americans believe we would pass a law that permitted the Border Patrol agents and the verification system to be done, that we would fund it and we would actually do it as certified by the Director of Homeland Security and the Governors on the border. Then I think they would be willing to accept different solutions for those already here.

But the week before last I voted for the amendment offered by Senator VITTER that would have sent the bill's drafters back to the drawing board on the question of what to do about the 12 million illegal persons, more or less, who are already here.

Senator HUTCHISON and Senator CORKER have done some very important work on this issue, which I intend to support and to cosponsor. That amendment would require illegal immigrants, who want to work here, to return to their home countries and reenter through legal channels in addition to paying a fine and passing the criminal background check.

In addition to that, this bill should be about another subject about which we hear almost nothing, and that is the number of people who come here legally every year. A little more than a million people come into the United States each year legally. Today, if I remember the figures right, most are family members. Some come here as students. Some come here as researchers, to create jobs for us. Some come here as refugees. For those Americans who come here legally and who are prospective citizens, especially given the large number of people coming from overseas, we need to do everything we can to help those persons become Americans.

I have filed several amendments. They seek to promote learning English, our common language, and what it means to become an American through an understanding of history and civics. For example, one of these amendments will help these legal immigrants learn English and what it means to be an American, to codify the oath of allegiance, and to make English our national language.

Another amendment would ask the Government Accountability Office to provide a comprehensive report on the costs imposed on the public and private sector by having millions of U.S. citizens and lawful permanent residents who are not proficient in English. So far in this debate the Senate has already passed my amendment to establish a Presidential award to recognize companies who have taken extraordinary efforts to help their employees learn English and American history and civics.

Some may say that is not so important, we all agree with that. It is awfully important. If you take a look at Europe today and you see the difficulty France has helping immigrants become French, and that Germany has helping immigrant workers become German, and that Japan has—because no one has an idea of what it might mean to become Japanese if you are not born Japanese—you can see how fortunate we are in this country to have literally invented the concept of becoming American. We say it does not matter what your race is, it doesn't matter who your grandfather is, you come here, you take the oath George Washington gave his officers at Valley Forge and you say: I am not whatever I was. I pledge allegiance to America. I learned the language, I learned the history, and we have a few principles we agree on, and I am an American. I am proud of where I came from, but I am prouder to be an American. Race doesn't matter. Religion doesn't matter. We pride ourselves on that. It is a tremendous advantage we have, so we ought not lose sight of the importance of helping legal citizens learn English and what it means to be an American.

I have heard some talk that encouraging people to learn English is somehow divisive. I can't imagine that. In fact, it is the reverse. It is our unifier. It unifies us, to have a common language. It unifies us to know that the rule of law and equal opportunity are common principles.

We debate what that means, and often they collide and conflict and we have to work that out as legislators, but we all agree on the same common principles and we enjoy the fact we have a common language, so I can speak to the President, and I can argue with the Senator from Colorado or I can agree with him as we are doing on an Iraq piece of legislation right now. We have a common language.

So, common language, what it means to be an American, finding many different ways to honor these new citizens who come here legally—that ought to be as important a part of this bill as securing the border and creating a verification system in dealing with the people who already got here illegally.

Primarily I came to the floor this afternoon to let my colleagues know I have a suggestion for how to begin to regain the trust of the American people on this issue, and that is this bill should pass with strong new provisions for border security, with funding to pay for it, and with a trigger that says the legalization parts of the bill don't take effect for 2, 3, 4, maybe even 5 years, until the border is secure.

Then the question is how are we going to know if the border is secure? The bill says trust the Director of Homeland Security. I say ask him, pay attention to him or her, but also trust the Governors of the border States. Let three out of the four Governors, of California, Arizona, New Mexico, and Texas concur with the Director of Homeland Security that the border is secure before we begin the legalization process, and I think the American people might buy it, they might believe that, and we might begin to regain their trust, after 20 years of mismanagement, that we are willing to take seriously securing the border and establishing respect again so we can have a rule of law.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Colorado is recognized.

Mr. SALAZAR. I thank my friend from Tennessee for his comments on the importance of immigration reform. I would say there is agreement in this Chamber among both Democrats and Republicans that what we need to do is secure our borders. The legislation before us today and the legislation we have been working on is, in fact, intended to secure our borders. We all recognize we need to move from a system of lawlessness and broken borders that create a wake of victims, to a system of law and order and a system of immigration reform that works for our country. We have been making significant progress as we move forward with this legislation. At this point we have already had 15 rollcall votes on this legislation. We expect to have another seven rollcall votes on this legislation as we move forward today. That gets us up to 22 rollcall votes. Last year before cloture was invoked on the immigration bill that was before the Senate, there were, at that time, 23 rollcall votes. So by the end of tonight we should be at a point where we would have equaled at least the number of votes we had last year.

We have some difficult amendments still coming up that we will be voting on, both today and tomorrow, but it seems to me we are making significant progress, and I appreciate the hard work that is going on today on the Democratic side as well as the Republican side.

Again, I appreciate the leadership of Senator REID. What he did is say: I am going to take the time of the Senate, 100 Senators. All of us here in the Chamber know how important our time is. We get a 6-year license to serve as Senators, so how we spend our time and how our time is allocated is at a very high premium. What Senator REID did was to say a long time ago we would spend the latter part of May, and now we are into June, dealing with this huge issue of immigration reform. At the end of the day it is a national security issue that goes to the heart of what Senator ALEXANDER was saying, which is we have to secure the borders of this country, we have to deal with the economic realities that have created the immigration issues we are facing here today, we have to deal with the reality of 12 million undocumented workers who live here in the shadows of America's society, and we have to create a system for immigration that is going to work into the future.

The people who have worked on this, including President Bush in the White House, have helped us move this debate forward—hopefully closer to conclusion.

I see my friend from New Jersey, who is I think ready to speak, so I yield the floor.

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

Mr. MENENDEZ. Mr. President, first, I ask unanimous consent that Senator REID be added as a cosponsor of the Menendez-Hagel amendment, No. 1194.

The PRESIDING OFFICER. Without objection it is so ordered.

AMENDMENT NO. 1194

Mr. MENENDEZ. Mr. President, let me first commend my distinguished colleague from Colorado, who has been a voice of reason throughout this whole process. He has been a leader in trying to fashion a comprehensive immigration reform that is tough and smart. We need immigration reform that is tough as it relates to making sure our borders are protected. We have not only the right but the obligation to secure those borders and ensure that we have the wherewithal and the resources to make sure only those who cross, cross in a fashion that is safe, legal and orderly. At the same time, we need immigration reform that deals with our economy, fueling that economy, and finally finds justice for individuals who are often subject to human trafficking as well as exploitation.

To my distinguished colleague from Colorado, I tip my hat for the tremendous effort he has made—and that brings us to where we are today. But I do want to go toward one of the pending amendments that will be voted on in the next block. It is the amendment I have offered with Senator HAGEL and many others that goes to the core of one of the great issues the Senate will decide as it relates to this immigration bill, and that is whether families and the reunification of families is still a value to the Senate, is still a value in our family, whether families who come together and are strengthened by being together and helping each other and working with each other and nurturing each other and by so doing strengthening communities in the process are to be preserved, or are they, in terms of that battle, likely to be eliminated and struck, at least in our immigration context?

I certainly hope when the Senate comes to vote, it will be voting in a way that is in line with the many speeches I have heard here, that I have heard in committee hearings, that I have heard in the other body, in the House of Representatives, where I served before coming here, about family values, family reunification is going to be preserved. It is time to put our votes where our values are. The Menendez-Hagel amendment offers that opportunity.

Now, I do wish to wave my saber to the managers of the bill. I have heard some suggestion that there may be an attempt to offer a budget point of order which would require a higher vote total. I would simply say that there are also budget points of order on the underlying substitute. If in fact we are going to go down that slippery slope, then I would have the expectation myself to be offering budget points of order against the substitute. I think what is fair is to have a vote up or down on the amendment as it relates to the majority of the Senate's will. We will see what the majority will of the Senate is.

But if we are going to move down that road, I would acknowledge that there is a budget point of order as it relates to the underlying substitute. So I hope we will not move to that type of tactic as we pursue the vote on this amendment.

Now, it seems to me that under the existing bill, people who apply under the existing rule, under the law as it is today, who observe the law, who follow the rules, who said to their family member: No, no, do not come to the United States, wait your turn, follow the law, obey the rules, who filed an application as is a right of a U.S. citizen to file for a petition for their immediate relative, who paid their application fee, whose Government took their application fee, whose Government went ahead and made an analysis of that petition to see if it was a petition that was lawfully entitled to be approved, and who approved the very essence of that petition saying: Yes, this person, as a U.S. citizen, has the right—the right—to go ahead and apply for their family member, their brother or sister, their mother or father, their son or daughter—that is the universe that we are talking about—and says: Having approved my documentation and having approved of that petition, then you must wait your turn to the time that ultimately the priority date will invoke the possibility for you to come to the United States.

That is the law. That is obeying the law. That is the rule of law. So you would think that in the legislation we are debating, those who have obeyed the law, followed the rules, and those who are U.S. citizens and have done the right thing, that we would not extinguish, eliminate their right for having done the right thing—for having done the right thing.

But that is the very essence of what this bill does, unless we adopt our amendment. Under the bill, not only does, of course, the Senate bill propose a radical change to who and how you can come to this country, but it also cancels the applications that are pending—pending—of many people who have been waiting patiently in line for family-based visas. If you are a U.S. citizen or lawful permanent resident, you filed after May of 2005, the date that arbitrarily was taken and put into the bill to bring in a relative to the family immigration system, your application is gone. It is voided. You are told: Get to the back of the line—the back of the line, by the way, which is the back of the line with people who violated the law, who violated the law. Imagine that.

Whose right is being extinguished here? Not the family member who is waiting abroad. No. The right of the individual that is being extinguished is the U.S. citizen. That is where the right accrues. It is that person who has

the right to make this claim under existing law.

So we take away their right after they filed the petition, paid their fees, and told their family members to wait. They are told to get in the back of the line. The back of the line is after those individuals who did not follow the law and obey the rules.

It boggles the mind. Under the Senate bill, employment-based immigrants are allowed to continue their applications as long as they are pending after the date of enactment. Employment-based verification. What about those families who have done everything right? It is only fair, in my mind, that family-based immigrants be given the same treatment.

The Menendez-Hagel amendment goes a long way to restoring fairness to this situation by doing what? We simply take the cutoff date that is in the bill, May 2005, and we say: Do not treat American citizens any worse than you are going to treat those who came into the country in an undocumented fashion. You are going to give them a benefit, January 1, 2007. They had to be here by January 1, 2007. Well, then, let those who followed the law, obeyed the rules, paid their fees, told their families to wait, they have the same benefit: January 1, 2007.

It is not outside the ''grand bargain.'' It is within the same context. You want to clear out a backlog? Fine, clear out a backlog but be fair in the process. Do not extinguish the rights of U.S. citizens.

It is important to understand, as we talk about this, the stringent requirements that exist under the law today governing family sponsorship for immigration. They would continue to apply in these cases. Any U.S. citizen or lawful permanent resident wishing to sponsor a family member, as part of the approval of that petition, must demonstrate that he or she earns at least 125 percent of the Federal poverty level and must sign a legally enforceable ''affidavit of support,'' pledging to ensure his or her relative will not become a public charge.

On top of that, based upon the welfare reform legislation that was passed several years ago, legal immigrants are barred, barred from accessing most Federal means-tested public benefits for the first 5 years in the United States and are thereafter subject to further limitations until they have worked 40 quarters in this country, which is the equivalent of 10 years—10 years. Five years first, in terms of being barred from any public benefit because you came in on the affidavit of a family member who said: I am going to be responsible for this individual, and then 10 years after, in terms of being subject to further limitations of their necessity to have worked 40 quarters, 10 years.

Now, I have heard a lot about the rule of law. I am for the rule of law. But how does the rule of law get promoted, how does the rule of law get promoted when we say to a U.S. citizen who has applied for their family member waiting abroad, waiting their time, following the rules, obeying the rule of law, that, in fact, they have an inferior right to someone who did not follow the rules, who did not obey the law, and who ultimately will receive a benefit superior, superior to that U.S. citizen who is claiming their family member and waiting under the law and pursuing the law?

In my mind, it sends out totally the wrong message. The message should have been: No, no. Come across. Come however you can. Then, by the way, you know we are going to give you a benefit. Do not stay out there waiting. Yes, it breaks our heart that we are not together. Yes, you are going to have to wait a period of time. But you know that is the law. We are going to do this right.

Oh, no. Instead of honoring and rewarding that and sending a message that when you observe the law there is a benefit, you know, we do the opposite. We do the opposite under this bill. Our amendment very simply says: A U.S. citizen claiming their family member, waiting under the legal process, waiting to proceed, that their right should not be snuffed out like that, under this bill, in May of 2005, when those who have crossed the borders of our country through a process that is unchecked, undocumented, get a benefit—January of 2007.

Because here is the message we send under this bill: Break the law, you get a benefit—January of 2007. Follow the law, follow the rule of law, obey it, your right is snuffed out in May of 2005. So I think if we want to send a message about the rule of law, what we want to do is to ensure we put on an equal footing the rights of a U.S. citizen claiming their family member, obeying the law, to give them the same opportunity that those who have not. That is what our amendment is all about.

Now, as we approach moving toward a vote on this amendment, I wish to remind our colleagues about whose rights they are snuffing out. Rights of individuals good enough to wear the uniform of the United States, good enough to serve their country, good enough to fight for their country but not good enough to observe their right to claim their family member.

Under this bill, both U.S. citizens and U.S. legal permanent residents' rights are snuffed out. These men in different branches of the armed services of the United States, they were good enough to fight for their country, but they were not good enough, under this bill, to have their rights preserved to claim their family member.

That does not make sense to me. Now, I have heard about this killer amendment—killer amendment. One of our colleagues has tried to describe our amendment on family reunification as a killer amendment. What is a killer amendment? A killer amendment is an amendment that is proposed by a sponsor who does not want to see comprehensive immigration reform pass the Senate.

Now, the ironic part of that is many who used that language last year when I was in the Senate voting for comprehensive immigration reform, that was used against me in my election last year. They were voting against comprehensive immigration reform. Killer amendment? When did family reunification—family reunification—strengthening of families, preserving the rights of U.S. citizens, including those who wear the uniform of the United States, when did that become a killer amendment?

Now, I have heard a lot about family values in my 15 years in Congress. You know, when you want to move away from the human aspect, when you want to forget, for example, the face of Marine LCpl Jose Antonio Gutierrez, a legal permanent resident of the United States who gave his life, the first soldier to die in Iraq, under this bill, had he survived, you would have extinguished his right to claim his family. He was good enough to die for his country, not good enough to have his rights preserved. When you don't want to see the human faces, you dehumanize it so you can deal with it abstractly. So what have we heard about? We have heard about chain migration. We can treat it like an inanimate object; we have to stop that chain migration.

This is much more than chain migration. This chain my colleagues so abstractly refer to, the top of this chain is someone who is a mother or a father. When did that become such a horrible thing? I thought we wanted to strengthen families, honor our parents, honor their ability to perform and to be strengthened. But that is chain migration. We can't let a U.S. citizen be able to claim their family. No, that is chain migration. We can't do that.

When did we decide our brothers and sisters are nonnuclear? But they are part of the chain, brothers and sisters. Then our children—this is a good one—if they are under the age of 21, they are part of our nuclear family. If they are over the age of 21, they are no longer part of our nuclear family, just a little part of this chain.

I have two children. One is 21; the other is 23. I have never for a moment, because they changed from 20 to 21, believed they were not part of my nuclear family. I don't view them as part of a chain. I don't love them any less. I couldn't live without them any less. The mere passage of a year, some numerical figure makes them part of a chain, nonnuclear. I guess we can do away with our children. I guess we can do without the right of U.S. citizens to claim their children. We can just discard them. I guess when you become 21, you really don't matter anymore. As a matter of fact, all of that family values stuff doesn't matter anymore. Unless we adopt this amendment, that is what we are talking about.

Imagine if we couldn't have such a set of circumstances be preserved by

virtue of this amendment. I have shown some of these pictures before, but as we move to the vote, I hope people understand what I am talking about. Under the bill, family reunification that I believe is so critical, we wouldn't have a lot of people in our country who have made enormous contributions. Ultimately, we ended up thriving because of their contributions. We ended up thriving on the contributions of a Colin Powell whose parents, under this bill, would not have been eligible to come to this country and, therefore, unlikely that he would have been born here and had the opportunity to become chairman of the Joint Chiefs of Staff or Secretary of State. He has made a good contribution to this country.

Right now in Iraq our leadership comes from GEN David Petraeus. The reality is, under this bill his parents would have been unlikely to come to this country, and he would not be a United States general and leading the best efforts we can have in Iraq.

Under this bill, the inventor of the polio vaccine, Jonas Salk, would not have made it to this country. Yet he saved the lives of millions and millions of people here and across the world. Under this bill, at least, America wouldn't have been the place in which electricity and the light bulb would have been found. Thomas Edison, from my home State of New Jersey, likely would not have made it because his parents weren't rocket scientists.

The list goes on and on. We have a gentleman who did a great service to our service men and women across the globe, Bob Hope. Under this bill his parents wouldn't have made it, and we wouldn't have had an incredible ambassador for our country and an incredible sponsor of goodwill for the men and women who served us over decades around the globe.

What do we say? This came out recently in one of the newspapers. What are our priorities? Stopping terrorists, stopping drugs at the border? No. Drugs or explosives? No. We are just checking to make sure you don't take any loved ones with you.

Under this bill, it doesn't matter because even when you obey the law and follow the rules, you ultimately have your right extinguished.

It seems to me we have our values wrong. It is not about chain migration, not about just looking at the ability to say that family reunification should not happen, especially when the burden is on the family member who happens to be a U.S. citizen. I simply believe the question before the Senate will be, are you willing to vote to eliminate the right that exists today of a U.S. citizen who filed his papers, the Government took his money, he obeyed the law, followed the rules, you are going to take away his or her right? But you are going to give a right to individuals who didn't follow the law and obey the rules. I certainly don't believe that ultimately is in pursuit of the rule of law.

There are many organizations that have joined us. I ask unanimous consent to have this list printed in the RECORD.

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

ASIAN AMERICAN
JUSTICE CENTER,
Washington, DC, June 5, 2007.

DEAR SENATORS: We, the undersigned organizations, write to urge you to vote yes on the Menendez-Hagel Amendment to ensure fairness for U.S. citizens and their families. Without this amendment, U.S. citizens will be punished for playing by the rules and waiting in line to be reunited with their family members.

The current immigration bill being considered by the Senate contains a provision that would address the current family backlog of people that have applied for lawful permanent residence, but only for those who applied before May 1, 2005. Applications that were filed by U.S. citizens to sponsor their adult children or siblings after this cut-off date—an estimated 833,000—would be thrown out. Not only does this send the wrong message to people who are citizens and obey the law, the government will be severely taxed with the administrative cost of returning application fees for the past two years.

Senators Robert Menendez (D–NJ) and Chuck Hagel (R–NE) have introduced an amendment, co-sponsored by Senators Daniel Akaka (D–HI), Hillary Clinton (D–NY), Christopher Dodd (D–CT), Richard Durbin (D–IL), Daniel Inouye (D–HI), Frank Lautenberg (D–NJ), and Barack Obama (D–IL), to the current Senate bill that would correct this grave injustice by changing the cut-off date for legal immigrant applicants from May 1, 2005 to January 1, 2007—the same cut-off date that is currently set for the legalization of undocumented immigrants—and adding 110,000 green cards a year for a meaningful backlog reduction so as to not lengthen the 8–year deadline for clearing the adult children and sibling backlog.

By voting for the Menendez-Hagel Amendment, you will help immigrants who have gone through the long and sometimes arduous process of learning English and becoming citizens. These Americans have filed applications and paid fees to the U.S. government so that they can bring in their adult children or siblings. They have made life choices based on the very reasonable expectation that they would be eventually reuniting with their family members. Our country can't tell people who have been waiting patiently in line for visas that we are now retroactively rewriting the rules and effectively forcing them to start from scratch.

We urge you to vote yes on the Menendez-Hagel Amendment and ensure our immigration system is fair for United States citizens.

Very truly yours,

National Organizations: Asian American Justice Center; Advocates for Children and Elders International; American Friends Service Committee; American Immigration Lawyers Association; Amerian-Arab Anti-Discrimination Committee; Asian & Pacific Islander American Health Forum; Association of Community Organizations for Reform Now; Cambodian American National Conference; Church World Service, Immigration and Refugee Program; Coalition for Comprehensive Immigration Reform; Democracia Ahora; Dominican American National Roundtable; Ethiopian Community Development Council; Federation of Indo-American Seniors' Association of North America; Friends Committee on National Legislation; Hate Free Zone; Hebrew Immigrant Aid Society; Hmong National Development; Immigrant Legal Advocacy Project; Immigrant Legal Resource Center; International Immigration; Foundation Japanese American Citizens League; Kurdish Human Rights Watch; Laotian American National Alliance; Latin American Legal Defense and Education Fund; Leadership Conference on Civil Rights; Legal Momentum; Lutheran Immigration and Refugee Service; Mennonite Central Committee, Washington Office; Mexican American Legal Defense and Educational Fund; National Advocacy Center of the Sisters of the Good Shepherd; National Alliance to Nurture the Aged and the Youth; National Asian Pacific Center on Aging; National Association of Latino Elected and Appointed Officials Educational Fund; National Council of La Raza; National Korean American Service & Education Consortium; National Immigration Forum; National Immigration Law Center; NETWORK, A National Catholic Social Justice Lobby; Organization for Justice & Equality; Organization of Chinese Americans; People For the American Way; Sikh Council on Religion and Education; Sojourners/Call to Renewal; Somali Family Care Network; South Asian American Leaders of Tomorrow; Southeast Asia Resource Action Center; Unitarian Universalist Association of Congregations; United Methodist Church, General Board of Church and Society; U.S. Conference of Catholic Bishops; World Relief.

Local Organizations: Asian American Federation of New York; Asian American Institute, Chicago, IL; Asian Law Caucus, San Francisco, CA; Asian Pacific American Legal Center of Southern California; CASA of Maryland; Causa, Oregon; Colorado Immigrant Rights Coalition; EI CENTRO de Igualdad y Derechos, Albuquerque, NM; Filipino-American Coalition of Florida; Filipino American Political Alliance of Florida; Fresno Interdenominational Refugee Ministry; Guru Gobind Singh Foundation Sikh Center, Rockville, Maryland; Illinois Coalition for Immigrant and Refugee Rights; Iowa Citizens for Community Improvement; Korean Resource Center, Los Angeles, CA; Korean American Resource & Cultural Center, Chicago, IL; La Casita: Servicios Legales para inmigrantes, Trenton, NJ; Latin American Community Center, Wilmington, DE; Massachusetts Immigrant And Refugee Advocacy Coalition; National Capital Immigrant Coalition; New Jersey Immigration Policy Network; New York Immigration Coalition; Northwest Federation of Community Organizations; OCA—South Florida Chapter; Stone Soup Fresno; Tennessee Immigrant and Refugee Rights Coalition; The Pyonghoa Gospel Church, Flushing, NY; United Chinese Association of Florida; YKASEC—Empowering the Korean American Community, Flushing, NY.

Mr. MENENDEZ. There are 80 of them. I will not read them all, but I want to give a sense of some who have moral authority behind them, as it relates to saying the Senate should adopt this amendment: The Church World Service; the Hebrew Immigrant Aids Society; the Lutheran Immigration

and Refugee Service; the Mennonite Central Committee; NETWORK, a National Catholic Social Justice Lobby; the Unitarian Universalist Association of Congregations; the United Methodist Church; the U.S. Conference of Catholic Bishops; and a whole host of organizations that are not religious in nature but clearly are advocates from all of the different sectors of society: For example, the Asian American Justice Center, the Asian and Pacific Islander American Health Forum, the Federation of Indo-American Seniors' Association of North America, the Friends Committee on National Legislation, the National Association of Latino Elected and Appointed Officials, the National Council of La Raza, the National Korean American Service & Education Consortium, to mention a few. They all believe this Senate should be putting its votes where its values are, into the reunification of families.

Finally, I know there will be an attempt to offer what we call a side-by-side, something to try to produce a figleaf for those who don't want to be seen as casting a vote against family reunification, a vote against snuffing out the rights of U.S. citizens. And that figleaf actually would do absolutely nothing. What it would do is guarantee the underlying bill. It would guarantee that a U.S. citizen who obeyed the law, followed the rules, did everything right, had their family member waiting, it would guarantee that their right would be snuffed out. It would guarantee that they would go to the back of the line, a line in which there are people who didn't follow the law, obey the rules, violated the law, and they will be in the back of the line with them.

That amendment that is going to be offered clearly is a figleaf. It clearly is poorly constructed. It doesn't deal with the present realities of undermining that right of a U.S. citizen. It does nothing to preserve the right of those people who filed and who are now being snuffed out, being cut out in terms of the rights of those U.S. citizens because of the underlying bill.

There is only one way to make this right. There is only one way to preserve family reunification. There is only one way to preserve the rights of these individuals who wore the uniform of the United States, who were good enough to wear the uniform, serve their country, and should have the right, which this bill snuffs out, to claim family members. There is only one way of making sure we don't turn this into an abstract object of chain migration, but that we understand the core values of family; that we understand a child who turns 21 is no less a child you love dearly and want to be with and who doesn't stop being part of your nuclear family because they magically turned 21 and are now nonnuclear. That is what is at stake in this amendment.

I urge my colleagues to support the Menendez-Hagel, and others, amendment so that, in fact, we can still stay within the ''grand bargain'' but we can do what is right on family reunification.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. I ask unanimous consent to speak as in morning business.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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, I suggest the absence of a quorum, and ask unanimous consent that the quorum call be charged equally.

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

The clerk will call the roll.

The bill 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. As we noted earlier, we are going to have a series of votes at 6:45. I wanted to address the amendment which has been offered by my friend, Senator SESSIONS from Alabama, which relates to the earned-income tax credit.

I see the Senator from Alabama has just arrived, so I will be glad to let him make his presentation and then respond. If that is what the Senator would like to do, I will withhold.

Mr. SESSIONS. I think I am ready, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENT NO. 1235

Mr. SESSIONS. Mr. President, I thank Senator KENNEDY for his courtesy, and I would just like to make some general comments about the earned-income tax credit and why I think this is important. I ask that I be notified in 20 minutes if I have gone that far.

The earned-income tax credit is one of the major—the major, in fact—transfer programs in the Federal Government. It is a payment of monies, in reality. It doesn't work the way it was intended, but in reality, it provides a substantial check every year to persons who are low-wage workers. It is for people who are trying to do well but are not making much money, so they give them a check to encourage work. I have felt for some time—and maybe I will talk with Senator KENNEDY one day about it, and we might reach an agreement on this—I think it would be much better if tax credit were paid along with your paycheck. It is designed to increase—it is allowed, under the EITC, but we don't do it that way. You file a return, and the next year, after you have completed your year's work, they send you a large check. On average, the recipient receives a benefit of almost $1,800 a year; that is, the people who qualify receive that amount. Again, the people who qualify are individuals who are working in lower wage jobs, which, in fact, are the types of jobs most of the 12 million illegal aliens are doing. They are working at low-wage jobs. Therefore, we can expect there will be a disproportionate number of persons who will qualify for this tax credit.

Now, the tax credit was designed to encourage Americans to work—American citizens. When it started in the 1970s under President Nixon, they thought there had to be some incentive so that you would get more money by working than by drawing welfare, or else you would just stay home and draw welfare. There still is a problem with that, in reality. But this bill was supposed to incentivize work, and that is why it was drafted the way it was and has continued to grow and become quite substantial. But, again, it was designed to take care of American citizens, our own people.

Now, we are into an immigration reform bill where we have 12 million people here who came into our country illegally. They are being considered for amnesty. They are going to be allowed to stay in this country and be given that right. Maybe some didn't want it or didn't expect it, but they will be given the right to stay here. But under present law, because they are not legally here, they are certainly not entitled to the earned-income tax credit. Unless they file fraudulent documents and receive it fraudulently, they don't get an earned-income tax credit.

So we say we are going to have a $1,000 fine that people must pay as part of a punishment for being in the country illegally, and it is not really amnesty because they pay a fine, but in reality, the fine can be paid on the installment plan, and only $200 has to be paid the first year when you apply for the Z visa. So under the bill, as I understand it—I think there is little dispute about it—as soon as this bill passes, everybody can come in and get a probationary legal status in America, and then before long, they are entitled to apply for and receive a Z visa that is good for 4 years. It can be renewed indefinitely. At some point, they can apply, if they so choose, for legal permanent residency.

What I want to tell my colleagues is that not only will we be providing amnesty to the persons who came into our country illegally for a $200 payment, we will be giving them—even for the temporary probationary status and the

Z visa, prior to legal permanent residency, the earned-income tax credit. I think that is quite a step. Indeed, you pay $200 for your fine, and you file your tax return next year and get a $1,800 check from Uncle Sam.

Don't be mistaken, the earned-income tax credit is for people who don't pay income tax. It is a gift from Uncle Sam. It is meant to encourage Americans to get out and work, not to encourage people to come into our country illegally to gain this benefit. So I just would say to my colleagues, this is an important principle.

According to the Congressional Budget Office—and they run the numbers on this—it is the largest single benefit program and cost of this bill in the first 10 years—not in the outyears; there are some big costs that aren't being calculated. But in the first 10 years, this is the largest direct single benefit.

Over the 2008 to 2017 period—

Ten years—

the Joint Tax Committee estimates that S.A. 1150 would increase outlays for refundable tax credits by about $13 billion, the largest direct spending effect of the legislation. Enacting 1150 would increase the amount of refundable tax credits mainly by increasing the number of resident aliens for income tax purposes.

In other words, it would increase the number of people eligible.

Resident aliens are taxed in the same manner as U.S. citizens and thus could qualify for the refundable tax credit.

They are taxed, but they are not going to be paying high taxes because many of them are lower income people, but they will get the tax credit.

So my amendment would reduce the bill's direct spending cost, the cost to the American taxpayer. Who pays the big check they get every year? Who pays the check they get every year? They are not paying it. It is the taxpayers, the American taxpayers. It is an additional reward on top of the amnesty that is provided. So my amendment would reduce the estimated cost of this legislation by nearly half, No. 1, and it is right, and it is fair.

Now, last year, my amendment—which I believed was justified, but this Congress didn't agree—said you would not receive the earned-income tax credit until you became a citizen. Why not? How is an illegal alien able to come here, not expecting the earned-income tax credit, and then be rewarded with it by our government? That never made sense to me.

But in this legislation—because I think it is important, and we can make a big difference here—in this legislation I have offered, it would simply say that during the time you have a probationary visa or a Z visa up until the time you become a legal permanent resident, you wouldn't get the earned-income tax credit. How much simpler is it than that?

I hope my colleagues will see that this is a perfectly logical amendment, and I would suggest it reflects on our mindset, our approach to this entire process, if we are not able to draw this kind of line as we go through passing—or attempting to pass—this historic piece of legislation. I really think we should give thought to that and ask ourselves what right does somebody who came into our country illegally, who has been here maybe for a number of years, expect to receive this benefit, where we say: OK, we are just going to give up; we are not going to make you go home; we will let you stay; you can have amnesty. By the way, you start receiving the earned-income tax credit of $2,000. How much sense does that make? I don't think that is good public policy. It raises questions about how serious we are about defining our immigration system in a way that works, that has bright lines, and carries out a logical policy. But I understand that people are determined to see that this goes forward.

Now, Senator REID has offered an amendment that is going to be a side-by-side. This amendment is very short, and basically all the amendment says is—I don't have it before me. Our majority leader, our Democratic majority leader, is offering an amendment that says: Well, we will comply with all the current laws of the IRS, and you don't get the earned-income tax credit if you are illegal. Well, of course. That means zero—nothing. I have to tell my colleagues, I am amazed at that amendment, unless I have missed something entirely, because that is what it is all about. They won't be illegal when they are given the probationary status or the Z visa status. They become legal and would get it. I was going to meet with some of the White House people to discuss this issue. I don't think they understood it that way, and I am not sure the President understood that this was actually going to happen under the legislation. But if this bill becomes law, they would get it.

So you say: Well, maybe they wouldn't get it. Well, if they don't get it, why wouldn't you vote for my amendment, which quite plainly assures that they don't get it? Follow me?

So I don't understand this cover amendment. It is not even a fig leaf, I say to my colleagues. I don't think you are going to be able to hide behind the Reid amendment because it is not going to do anything but guarantee that persons who are here and are given this amnesty will pay $200 and then they will get to draw nearly $2,000 a year under the earned-income tax credit.

The amendment being offered by Senator REID makes no sense to me. Maybe I missed something, but I don't think so. I would be delighted to hear what is in play. It is what you call a cover amendment. So what I say to my colleagues is, let's get realistic about what we are doing. Let's understand the cost this legislation is going to have. The Congressional Budget Office has found in their report—although it was written so that it is a little hard to find, but it is perfectly plain—the bill, over 10 years, will cost the American taxpayers $32 billion. A substantial chunk of that amount is the earned-income tax credit. They say the earned-income tax credit is for children. It is not for children, it is for American workers. You may get more if you have children, but it is not for children, it is for American workers.

I thank the Chair and reserve the remainder of my time on this issue.

The PRESIDING OFFICER (Mr. OBAMA). Who yields time?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I see the Senator from Arizona on the Senate floor. I was going to respond at some time to the Senator from Alabama. I am glad to wait until the Senator from Arizona is finished.

AMENDMENT NO. 1150

Mr. KYL. Mr. President, I thank the Senator from Massachusetts, since it is important that, prior to a meeting we have at 5:30, to speak to an amendment offered by Senator MENENDEZ.

I want to be clear that we have a side-by-side amendment that we will also be voting on, which I think goes to the heart of what Senator MENENDEZ is trying to get at here, but it does so in a way that will not upset the bipartisan consensus that has been worked out on the legislation.

I think the Menendez amendment has been discussed in the past. It is an amendment that would, in significant ways, change the basic agreement that has been made by some of the Senators. Therefore, it would be very problematic were it to pass. There is a budget point of order against the Menendez amendment, and that point of order will be raised. Because of the extra cost that would be imposed by additional immigrants being permitted to come into the country over time, in fact, I think there is more than one budget point of order because of those increased costs. The general proposition is that some have said the bill is not family friendly and that we need to do more for families. I want to try to dispel that, Mr. President.

We start out with the proposition that somewhere between 12 million and who knows how many million illegal immigrants who are in the United States, for the most part, are going to be able to stay. If everything that can be expected of them is accomplished, they have the ability to apply for a green card and eventually potentially become citizens of the United States of America. That is a tremendous benefit for people who came illegally.

One of the reasons some of us have been willing to accommodate that is people have come here with families or have created families here, and we do not want to disrupt those families.

Secondly, there are family visas that historically have been issued by the United States. This bill doesn't in any way affect the ability of any legal permanent resident or citizen to bring

into the United States their spouse or minor children. That is the so-called nuclear family.

In addition, 40,000 parents per year can be brought into the United States, and there are extraordinarily liberal visitations for parents beyond that 40,000 number. We have said the so-called nonnuclear family—the extended family—in the future is going to compete the same as workers are going to compete, so that we can get in balance with some of our competitors in the global economy, where more of the visas are reserved for work purposes and fewer for family purposes. But in the meantime, some 4 million people, roughly, who have applied for a family visa—extended or nonnuclear family—are going to be allowed to immigrate to the United States, and instead of taking 30 or 40 years, in some cases, it is going to all happen within an 8-year period of time. That is extraordinarily helpful to families and family reunification.

Now, it is true, if somebody has come here illegally and their family is still outside the country, we don't permit that family to come. But the object, obviously, is to try to encourage that individual to go back with his family. That would be family reunification.

But the problem the Menendez amendment poses is, instead of allowing those people who have applied for visas for extended families who have a reasonable expectation to come to the United States, he would change the date that measures their eligibility in such a way as to allow a lot of people—thousands, hundreds of thousands, actually—to immigrate to the United States who, today, under current law, have no reasonable expectation they would ever make it to the United States. What we have tried to do is to be fair and say, if you have a reasonable expectation you will be permitted to immigrate to the United States, we will allow you to come in, and we will do it within a very short period of time—8 years, or perhaps less than that period of time, as opposed to the perhaps 20 or 30 years it may have otherwise taken. If you didn't have a reasonable expectation to get in, then you are not going to come.

The reason the date was drawn where it was in May 2005 is that represented a compromise. I believe the original date was March or July of 2004—the time when people who were in line but had no reasonable expectation—that their application was going to be processed and were notified by the U.S. Government. Basically, the Government said: For the time, we are not going to be processing these numbers anymore because the backlog is too long. The backlog numbers are truly astounding. There are people in Mexico, for example, who have no reasonable expectation of getting here. For example, if you are the brother or sister of a U.S. citizen, and if you are a Mexican national and you recently filed to become a legal permanent resident of the United States, you have an expected wait of about 80 years. So even if you are 21 years of age, at the time when you can expect to get here you would be 101 years of age. That is not a reasonable expectation you will be allowed into the United States.

I went to Senator MENENDEZ and said: I think you have a point because we have drawn an arbitrary deadline. Remember, the date at which they were told we were no longer going to be processing, temporarily, these applications was in 2004. But in order to be more liberal, we moved the date to May 2005. His argument was, there may be some people who still had an expectation because they filed last year, and maybe they had an expectation they could make it.

I said: You know, there may be some such people, so let's take a look at it and see if we can redo this so everybody who had a reasonable expectation they could get here will be allowed to be here, no matter when they applied—whether it was 2 years ago, last year, 2 months ago, or 10 or 12 years ago—if they had a reasonable expectation of getting in.

We have crafted an amendment that I offered to Senator MENENDEZ, but he preferred to go forward with his amendment. But the side-by-side that I will be proposing is an amendment that stretches the date out to 2027. It says: If you had a reasonable expectation, based upon your category of immigration, the country you are from, the lines that currently exist with that country, if you had a reasonable expectation within the next 20 years you could have made it into the United States, then you get to come in under a family visa. That is extraordinarily liberal—everybody who really had an expectation that they could make it. Like I said, if you are this Mexican national, and you are the brother of an American citizen, and you were 21 years of age when you applied, you would be over 100 years old today. That is not a reasonable expectation. So you would not be permitted to come into the United States. You never had a reasonable expectation that you could make it.

The effect of my amendment and the Menendez amendment is almost identical in terms of the number of people who would be allowed to come to the United States. There is only a 3,000 difference out of about 600,000 people. So we are not reducing the number of people. We are making it accurate as to who can actually come.

There is also a general notion that somehow we are being unfair to families. As Senator KENNEDY has frequently pointed out, after this legislation is passed, for a period of 8 years, the total family percentage coming into the United States will be 74 percent. And you add another 15 percent for humanitarian visas, and there is only 11 left for the employment visas. Today, 65 percent are family visas. In subsequent years, families will still be the majority of immigrants to the United States—51 percent. Then you add to that another 17 percent for asylum seekers and other humanitarian visas; 17 percent of the total is a very humane number for the United States. We can still be very proud of our tradition of allowing the poor, hungry, and downtrodden to come to this country, and we will still have a majority of family-based visas in this country.

Mr. GRAHAM. Will the Senator yield?

Mr. KYL. Yes.

Mr. GRAHAM. For those who are worried about this, on the issue of families, you should be worried about this. Is it not true that in this bill, in terms of family reunification, the way we have accomplished or dealt with the bill, families will be reunified decades earlier, and those who are waiting to join their families under this bill—those who have done it right—will be together no later than 8 years; is that correct?

Mr. KYL. That is exactly correct. Instead of waiting 20, 30 years, they will have to wait no longer than 8 years.

Mr. GRAHAM. So if you want to be the person who keeps families apart, bring this bill down. I assure families will not be reunified under the current system like they are here, that we will have a dramatic increase in green cards to get these families reunited. We go up to 74 percent. If you want to keep families apart, bring this bill down and let the current system survive.

Secondly, when it comes to families, there are 12 million people here illegally. Is it not true that their families, under this bill—if they will do the right thing—will never live in fear again?

Mr. KYL. Mr. President, to me, that is one of the main features of the bill. Today, we have people who are being exploited, people against whom crimes are being committed, but they are afraid to report it to the law enforcement authorities. They are not being paid adequate wages and their working conditions are poor. Frankly, they are being taken advantage of. As long as they are in this gray status, that will continue.

This bill offers them immediately an opportunity to begin a process by which they are playing by the rules and, as a result of that, they can have the freedom and the assurance of being protected by the laws of the United States.

Mr. GRAHAM. To my good friend from Arizona, I say this: If you are concerned about the 12 million people who are living in fear, subject to exploitation, then this is the best chance you will ever have in my political lifetime to fix it. If you want to bring this bill down, the one thing I can assure you is that the 12 million, or however many there may be, will not only live in fear, they are going to live in more fear because we have stirred up a hornets nest in this country.

I argue, if you care about people who have families not being afraid anymore, if they get themselves right with the law, help us pass this bill. In the future, after everybody has been accommodated who has a reasonable expectation, we are going to allow families to be part of the new immigration system.

Could the Senator tell me again, in the future, what percentage of visas will be given to families?

Mr. KYL. The answer I give the Senator is that family visas alone are 51 percent—a majority—and another 17 percent is humanitarian.

Mr. GRAHAM. Would the Senator acknowledge that is twice the family component of other nations with whom we are competing?

Mr. KYL. Mr. President, that is almost exactly right. I know in the case of—in fact, I will give you the exact number. In Canada, it is 24 percent. If we have 51 percent, obviously, that is close to twice that number. In Australia, it is 27 percent. And, again, if we are at 51 percent in the future, that is almost exactly twice. But remember, that is only after 8 years. For the next 8 years, it is 74 percent because of what the Senator from South Carolina was pointing out.

Mr. GRAHAM. Mr. President, the bottom line, I say to my good friend from Arizona, is we would have no bill without him. He stepped to the plate and said I am willing to look at the 12 million anew; I don't believe we are going to deport them, and I don't believe we are going to put them in jail; So I am going to give them a chance to identify themselves, come out of the shadows and do things that will make them valuable to our country and will be fair and humane.

We have accomplished that. We couldn't do it last year. We are going to reunite families who have been waiting for decades to get into this country. We are going to expedite family reunions in an 8-year period for some people because they would not live long enough to get back with their families.

In the future, we are going to have a new system. There is going to be a strong family component, but I make no apologies about this, in the future we are going to have immigration based on the global economy and merit. We need to start looking at where we are in the world and making sure people come into our country under a merit-based system. Neither one of my parents graduated high school. There is a way forward for the semiskilled and low-skilled workers to come into our country in the future. But the family component in the future will be spouses and minor children, freeing up thousands of green cards for merit-based employment. They are not going to bring in their adult children unless they have a way to get in on their own. They are not going to bring in their third cousin. Nobody else does that. They are going to come in as a nuclear family, and we are going to do it based on merit, and merit is not a degree.

Under this bill, if you come in with a strong back and a strong heart and a desire to get ahead, you get points for getting a GED, you get points for an apprenticeship, you get points for doing the things that make you a better person. So I reject completely the idea that the merit-based system excludes hard-working people.

I end with this one thought. If we don't get it right now and correct the flaws in our system which led to the 12 million which will make us globally noncompetitive, then who will? When will they do it? There are a million reasons to say no to something this hard, there are 12 million reasons to say yes, and there are many reasons in the future to say yes because our country cannot survive with a broken immigration system that makes us noncompetitive.

This is a national security issue. This is a global economic issue. Now is the time to understand we will never have a perfect bill but to do something that will be good for America.

I thank my good friend, JON KYL, and Senator KENNEDY for getting us this far.

Mr. KYL. Mr. President, I appreciate that from the Senator from South Carolina.

Let me make one final point. I know Senator KENNEDY wishes to speak.

It was not easy for some people to agree to allow at least 12 million immigrants who came to this country illegally to stay here and eventually become citizens. That was not easy. One of the bases upon which we were able to do that was to respond to an argument that had frequently been made: Why should we let all those people, is the way it is described, become U.S. citizens and then chain migrate all their family—their uncles, cousins, grandparents, and so on? The answer to that question is we probably shouldn't. So that was ended in this legislation. That is what was stopped. That is part of the agreement that was reached, the consensus that was reached.

The adoption of the Menendez amendment would undo that. You can imagine how someone like me feels. I have taken a lot of heat for agreeing that the people who are here illegally should stay here, but I knew one of the reasons that was more palatable was because we had at least stopped the chain migration that would occur for anybody subsequently in the future, after we cleared the backlog of people who already applied.

Mr. MENENDEZ. Mr. President, will the Senator from Arizona yield?

Mr. KYL. Yes, I will be happy to yield. I was going to conclude and turn to Senator KENNEDY. I will be happy to yield.

Mr. MENENDEZ. One point. Remember how the Senator from Arizona said how all ''those people'' would be able to claim their families. The Menendez amendment has nothing to do with ''those people.'' The Menendez amendment has everything to do with U.S. citizens today who have a right under the law. So I hope we do not confuse both of those.

Mr. KYL. Mr. President, I say to the Senator from New Jersey that what he said, as far as he said it, is, of course, exactly correct. What I was talking about was the tradeoff that existed between the accommodation to the 12 million people and—by the way, I don't use that phrase ''those people.'' I hope the Senator understands that I was referring to the criticism of those who say we shouldn't allow the illegal immigrants in the country, especially if we chain migrate their families. We ended the chain migration.

We had to draw a time when applicants would be able to apply and their applications would be considered. We had it at one point. We agreed to move that date to accommodate the people on the Democratic side of the aisle. The Menendez amendment would move it to January 1 of this year, bringing in, I think, a total of well over 800,000 people. That, obviously, would undo the rather delicate balance of agreements that was reached that deals with this subject.

Recognizing, however, we wanted to make sure anybody who had a reasonable expectation of being able to immigrate should be able to do so, we have prepared an amendment that would, in fact, allow anybody with a reasonable expectation to be able to immigrate here. We put the date way back to 2027, and we say that if you could have reasonably expected to get here by 2027, you are in and you are in within an 8-year period from now.

I think that is very fair. The person who is excluded under our proposal is the person who, as I said, is the sibling of a Mexican national who is a sibling of a U.S. citizen who might be 101 years old when he gets to the United States of America. That is not a reasonable expectation.

I think our approach is reasonable. It is consistent with the underlying agreement we reached. I regret to say—and I appreciate the Senator from New Jersey has every right to raise a budget point of order on the underlying bill—we fully expected there would be points of order at the conclusion presumably of the consideration of the bill and we would have to vote on those. Obviously, it is a 60-vote point of order. We expected to have 60 people who would support the legislation, and we believe that to be the case. But if the Senator wants to bring the bill down, as the Senator from South Carolina said, by raising an amendment such as that which has been proposed or at this time trying to conclude the budget point of order, I don't think that is the best way forward.

As the Senator from South Carolina said, we have one good chance to get legislation passed. I don't think we want to blow that chance. Now is our time. We were sent here to do difficult

jobs. I hope, in the bipartisan spirit that has so far characterized our debate, we can move forward and continue to keep this bill as literally a beacon of hope for a lot of people who are counting on us.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know the Senator from Vermont is looking for some time to speak. I believe there is 30 minutes I have remaining; is that correct?

The PRESIDING OFFICER. There is 30 minutes.

Mr. KENNEDY. The Senator from Connecticut, Mr. LIEBERMAN, wants time. I yield 10 minutes to Senator LIEBERMAN. I will use probably 6 or 7 minutes. I will be more than glad to give 10 minutes to the Senator from Vermont if not, we will try and extend that if we can.

Mr. KYL. Mr. President, if I might interrupt the Senator for a question. Would it be possible also to make sure Senator DOMENICI will be able to speak after the Senator from Vermont?

Mr. KENNEDY. I will take 5 minutes of the 30 minutes; Senator DOMENICI can have 5 minutes; 10 minutes to the Senator from Connecticut, Mr. LIEBERMAN; and 10 minutes to the Senator from Vermont, Mr. SANDERS. I think that takes up 30 minutes. I ask unanimous consent that another minute be given to each of us, 33 minutes.

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

AMENDMENT NO. 1234

Mr. KENNEDY. Mr. President, I will be brief in response to the Sessions amendment. We are talking about the earned-income tax credit. That was developed in the 1970s. Why was the earned-income tax credit developed? Because of the increased number of children living in poverty.

We have, as this chart shows, in the United States more children who live in poverty than any other country in the world. This amendment would say to legal immigrants that you are not eligible for the earned-income tax credit that benefits children.

If we look at the report from the CRS, it shows that over 98 percent of the earned-income tax credit goes to families with children. That was its purpose, that is where it is focused, that was the reason for it, and this is the need.

Why in the world would we want to take benefits away from needy children? Who are the workers of the earned-income tax credit? Their average income is less than $20,000 a year. This is phased out at about $30,000 to $33,000 a year. This is the low-income individuals who are, what? Are they on welfare or are they out working? They are working. They have children. They are legal. Why take the benefits away from the children, the neediest children, most of whom are living in poverty?

We don't take the earned-income tax credit away from people who go to jail and commit murder. We don't take away the earned-income tax credit from people who have defrauded the Government. We don't take the earned tax credit away from burglars, child molesters, and the rest of the individuals who commit crimes. But this amendment wants to take it from one particular group and that is legal workers.

Who are those legal workers? They are trying to provide for their families, pay the penalties, show that they are working, and go to the end of the line. Many of these children are American children. They are not undocumented. They are American children because they were born here.

I find it difficult to understand, when we are talking about individuals who are working, who want to work, will work, are trying to make a better future for themselves and their families and particularly for their children, why they should be the only class of working people in the United States who ought to be penalized. That is what the Sessions amendment would do. That is wrong and it is not fair and it should not be accepted.

Mr. President, I yield the time as I have indicated.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I thank Senator KENNEDY for yielding me time.

As I think we all know, this is a long and complicated bill. An important part of this bill deals with illegal immigration—how do we make sure we stop the flow of illegal immigrants into this country; how do we finally begin to deal with employers who are knowingly hiring illegal immigrants; what do we do with 12 million people who are in this country who, in my view, we are not going to simply, in the middle of the night, throw out of this country. These are difficult and important issues.

On those issues I am in general agreement with the thrust of this legislation. But, Mr. President, I wish to tell you there are areas in this bill where I have strong disagreement, and one is the issue of legal immigration, what we are doing in terms of bringing people into this country who, in my view, will end up lowering wages for American workers right now.

Senator KENNEDY a moment ago made a very important point. He talked about the truth that in our country today we have the highest rate of child poverty of any major country on Earth. That is a national disgrace. But on top of that, we have the highest rate of poverty of any major country on Earth. In fact, since President Bush has been in office, 5 million more Americans have slipped into poverty.

Today, in our country, as many people know, the middle class is shrinking. Millions of American workers are working longer hours for lower wages. In my State of Vermont, it is not uncommon for people to work two jobs, even three jobs, to make enough income to pay their bills. According to a recent Pew-Brookings Institute study, men in their 30s earned, on average, 12 percent less in 2004 than their fathers did in 1974, after adjusting for inflation. In other words, in America, we are moving in the wrong direction. Our standard of living, in many ways, is going down. If we don't reverse trends, our kids will have a lower standard of living than we have.

Now, in the midst of all of that, we are finding many large corporations, both those who employ skilled workers—professional workers—and those who employ low-wage workers, that are coming to this body and are saying, my goodness, yes, we are outsourcing millions of decent-paying jobs; yes, we have opposed vigorously raising the minimum wage; yes, we have done everything we can to make sure workers can't form unions, but what we want to do now, because we love the American people so much and we are so concerned about the American worker, what we want to do now is bring millions of new workers into this country, both low-wage workers and professional workers.

The argument there is Americans don't want to do the work. They say: We can't find American workers to do the work. That is a crock, in many instances. It is not true. One of the groups that has come to Congress to tell us how much they are concerned about the need to find workers because they can't find Americans to do the jobs is our old friends at Wal-Mart.

As many Americans know, Wal-Mart pays low wages. They often hire people for 30 hours a week rather than 40 hours a week, and they provide minimal health care benefits. Yet Wal-Mart has come in and said: Well, we can't find the workers. Bring us in more low-wage workers.

Well, guess what. Two years ago, when Wal-Mart announced the opening of a new store in Oakland, CA, guess how many people showed up for that job in Oakland, CA, at a Wal-Mart. Eleven thousand people showed up—11,000 people showed up in Oakland—filled out applications for a job when only 400 jobs were available. Eleven thousand people for 400 jobs.

Wal-Mart says they need more low-wage workers coming in from around the world because they can't find workers. Well, that was a couple of years ago. So you might say: Well, that doesn't happen today. In January of 2006, when Wal-Mart announced the opening of a store in Evergreen Park, just outside of Chicago, in your home State, Mr. President, 24,500 people applied for 2,325 jobs. Yet Wal-Mart and their friends are coming in here saying we can't find Americans who want to work.

Let us be clear. Wal-Mart does not provide good wages, does not provide good benefits, does not provide good health care, yet we are finding many people who want to do that because

people in this country are desperate, because people in this country want to work at almost any job.

Some of the people at the other end of the economic spectrum, the people who are hiring professionals, make the same argument. There are organizations out there, including companies such as Motorola, Dell, IBM, Microsoft, Intel, and Boeing, that say the same thing: We can't find professionals to do the jobs. I find it interesting that while these companies claim they can't find workers in the United States, some of these very same companies have recently announced major layoffs of thousands of American workers.

Let me repeat that. These companies are saying we desperately need to bring workers from other countries into America because we can't find people in the United States to do these skilled jobs. Yet, at the same time, they are laying off tens of thousands of American workers.

Let me give a few examples. A few days ago, the Los Angeles Times reported Dell would be eliminating 10 percent of its workforce, slashing 8,800 jobs. Dell is part of the group saying we need to bring more professionals into America. Meanwhile, as Dell has eliminated decent-paying jobs in the U.S., it applied for nearly 400 H–1B visas last year.

But Dell is not alone. On May 31, the Financial Times reported Motorola would be cutting 4,000 jobs on top of an earlier 3,500-job reduction designed to generate savings of some $400 million. This is nothing new. Motorola has cut jobs in this country year after year after year. But guess what. Motorola, part of a group saying they can't find American workers, recently received 760 H–1B visas. That was last year.

On May 30, Reuters reported IBM would be laying off more than 1,500 American workers, bringing total layoffs to that company of 3,700 last year. In April, CBS MarketWatch reported Citigroup announced it would be laying off 17,000 workers, yet Citigroup received over 330 H–1B visas.

Here is the point, and this is not a complicated point. Many of the largest corporations in this country are supporting this legislation. And you know why? It is not because they are staying up late at night worrying about some Mexican kid in Detroit or Chicago and what will be the future of that kid. They are not worrying about that. What they want to see is a continued influx into this country of cheap labor. They are not content with outsourcing millions of good-paying jobs. They are not content with fighting against working people who want to form unions. They are not content with their opposition, successful until recently, of keeping the minimum wage at $5.15 an hour for 10 years. That is not good enough. Now they are saying: Gee, we can't move Wal-Mart from America to China, we can't move hotels to China, we can't move restaurants to China, so what is the best way to continue keeping wages low for those workers?

When I was a kid, I worked in a hotel. I was a busboy. There is nothing wrong with that job. Millions of people do that job. I resent very much the fact that many of these large corporations are continuing their war against the middle class and against the American worker. I think it is high time the Senate begins to stand up for the American worker rather than the large multinational corporations who have so much sway over what we do in this body. I would hope before an immigration bill is passed, it will respect the rights of American workers, both low-wage workers and professional workers, and say that is our major responsibility, to make sure our kids——

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

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

Mr. SANDERS. Mr. President, I ask unanimous consent for 1 additional minute to yield to my friend.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. My question, I guess, Mr. President, would be something like this: Perhaps it could be true that the large number of job applications received by Wal-Mart facilities is because even though Wal-Mart does not pay great wages, they do have health care benefits and job security, as opposed to construction work. Would the Senator agree that if businesses raised wages at the construction sites, if they had jobs that had a more permanent status to them, and actually offered a retirement plan and health care benefits, they might get more people willing to work at the construction sites?

Mr. SANDERS. Reclaiming my time, Mr. President, the Senator makes an important point, and that is we have all been educated that economics is about supply and demand. If you don't get the workers you want, you raise wages and you raise benefits. You don't simply open the door and bring in other workers at low wages.

The Senator makes an important point.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I came to the floor tonight for a few moments to talk about the significance of the bill that is before us and the work that has been done by Senators and a couple of Cabinet members and great staff.

The American people have been telling us for many years that we are confronted with a problem that is apt to destroy our land, destroy our country, destroy our values, and that problem is that we have an inability to control our borders. We have illegal immigrants who come across our borders by the thousands who are, for the most part, interested in jobs. But after some of them get here and their jobs are procured, there are other things they bring with them or do here that make the American people very worried about our future.

I, for one, as a Senator of long standing, grow more worried every year as to whether we will ever be able to control our borders and thus control who comes in and who goes out so that we know who they are. We have heard the American people tell us this is our biggest responsibility; that if we don't secure our borders, something bad is going to happen to our country. We have heard them tell us of the horror stories that happen when some of these immigrants come here without authority, without the law on their side; they sneak in, in the dark of the night, or however they have been able to come, and then they form gangs. We have heard about how they have scared our people, hurt them, killed them, and how they fight amongst each other. Of course, I am not talking about all of them. I am saying the American people see this and say to us, can't you ever control our borders?

I want to say I think a terrific job has been done with this bill. It is not finished—there are a few more amendments that need to be considered and some time taken to review the final bill—but I believe the bipartisan group that wrote this bill under the leadership of Senator JON KYL on the Republican side and Senator TED KENNEDY on the other side, working with their best staff for months, and then both day and night for the last 2 months, have put together a piece of legislation that shows how you can work out practical differences if in fact your goal is significant and you forget about politics, you forget about party, and you begin to write a law you can be proud of.

I think we are close to that. I don't think you get there very often. Rarely do you get the opportunity to be part of such a law as a Senator. So for those who are going to vote against this bill, tonight they are saying to themselves, I think I am going to vote against it, I ask you and urge you to think of when you are going to be given an opportunity to vote on a bill, a piece of legislation that is more important than this. If we don't do it now, with your vote, when will we do it?

If for some reason this bill fails, those who cause it to fail have to ask themselves, when will we get a bill we can rely on, that we can trust, which is put together by good, practical people who resolved issues in a practical manner by working on the issues that are now confronting us, which are that our borders are wide open and we have no control over what is happening.

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

Mr. DOMENICI. Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. DOMENICI. I am certain if, after we pass legislation such as this, we provide the resources that are needed—and that is very important, and I think we are providing a means and a manner for resources to go to the border in this bill—and, secondly, if we annually make sure the resources and manpower are there to implement this law—because it will require much by way of manpower, much by way of technology—if we give this law that, we will return to say this was a historic event. Indeed, we will have done something good for America and good for our children. Something good for the families of existing immigrants, good for immigrants who are coming in the future and their families, who will also be permitted. We will also look for merit in those who are coming to help America, which is competing in a very difficult world.

I am very proud to be on the side of those who are trying to maintain the measure intact, or practically intact, because you can't do much better than was done by this hard-working bipartisan group. The more you try to change it, the more you risk losing it. When you end up thinking what did you lose it for, you end up really wondering whether you did right for your country.

I urge that we move as fast as we can, giving Senators an opportunity, those who need it, and, yes, saying we are going to pass it soon—I don't know about tomorrow or the next day but certainly send to our leader a message that if you will give us an opportunity to call up a few more amendments, it will get accomplished.

I look forward to more debate, more amendments.

Mr. MENENDEZ addressed the Chair.

The PRESIDING OFFICER. Who yields time? Who yields to the Senator? If no Senator yields time, then the time will be divided equally between both sides.

The Senator from New Jersey.

Mr. MENENDEZ. I suggest the absence of a quorum and ask unanimous consent that it be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1345

Mrs. DOLE. Madam President, I ask that at the conclusion of the consented time and the stacked votes, I be recognized to call up my amendment No. 1345 and that after 2 minutes of consideration, the amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time to the Senator? At this time, the Senator from Alabama controls 17 minutes and the Senator from Texas 12.

Mr. SESSIONS. Is there any other time left?

The PRESIDING OFFICER. There is not at this time.

Mr. SESSIONS. I will be pleased to yield to the Senator from North Carolina.

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

Mrs. DOLE. Madam President, I am very concerned that amendments to this bill are being limited because there are many issues that deserve attention in this debate. For instance, in my home State of North Carolina, we have had a number of fatal automobile accidents caused by an intoxicated person who was in the United States illegally. Sadly, just yesterday morning on Interstate 40 near Raleigh, a man was killed on his way to work when his vehicle was struck by an SUV barreling across the median. The SUV driver, according to initial news reports, is an illegal alien, who now faces a number of criminal charges, including DWI.

In several of these incidents, the illegal alien driver has a record of DWI, sometimes repeated offenses, but has been caught and released. Just this past March, in Johnston County, NC, a 9-year-old boy and his father lost their lives in an accident caused by an intoxicated driver who had been convicted twice of drunken driving and had an outstanding warrant stemming from a probation violation—and he was in the United States illegally. Another tragic case was the death of Scott Gardner, a Gaston County school teacher, who was killed in 2005 by a drunk driver—a driver who was an illegal alien with five previous DWI charges. I want to thank my colleague RICHARD BURR who introduced the Scott Gardner Act to deal with this serious issue, and on the House side, my good friend SUE MYRICK has been a true leader on this front.

I hear from many North Carolinians who ask me what is Washington doing to stop this from happening. When are we going to take action to make our communities safer.

Such senseless tragedies are not unique to North Carolina. Automobile accidents caused by intoxicated illegal aliens are occurring around the Nation—too often killing innocent people who are just going about their daily lives, or leaving the victims with crippling, disabling injuries.

It is a privilege, not a right, for an immigrant to receive legal status to live in the United States of America. My amendment would ensure that this privilege is not granted to an illegal alien with a DWI conviction.

No question, our DWI laws should be vigorously enforced, regardless of the offender's immigration or citizenship status.

My amendment addresses an all too prevalent problem and should be considered. There are a number of other amendments that deserve a place in this debate. The bill we are considering would have enormous ramifications for nearly every American, as well as those who want to work in this country or become American citizens. We must do our due diligence and not rush this bill through. The majority in this body must not stifle the voice of the minority Members. More amendments must be considered.

I yield back my remaining time to Senator SESSIONS, the Republican manager.

Mr. SESSIONS. I thank Senator DOLE for her insight, sharing that important information, and for offering an amendment and demonstrating once again that good amendments dealing with very important issues are not being allowed to be considered. This is not a free and open debate. This is not a free opportunity to amend. The majority leader is controlling his machinery, the train is moving down the track, and very few amendments are being approved.

I have offered and filed quite a number. I have only gotten two amendments, and I said at the beginning that only one would be voted on. We are having the first vote on one I have offered.

Madam President, I ask unanimous consent—I see my colleague, Senator KENNEDY, here—I ask unanimous consent that the pending business be set aside and I be allowed to call up amendment No. 1253.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. On behalf of Senator KENNEDY, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Madam President, we have quite a number of other amendments. That is what we are going to hear when we offer any of them because we now have a cloture motion filed. If cloture is obtained and you don't have an amendment pending, you can't get a vote on it. We know what the game is, and it is not a free, open debate on one of the most important bills in the time that I have been in the Senate that we are considering today.

I would like to share a few more thoughts. Maybe I will have a few minutes left for Senator LIEBERMAN. I know he wants more time than he has gotten so far. Senator KENNEDY is maneuvering for me to give him some of my time and maybe I will be able to do that.

The earned-income tax credit will not be taken away from people who are illegally in the country today if my amendment is passed. The earned-income tax credit is a credit given to working individuals who have lower incomes to encourage people to work. That is what it is all about. It is for Americans and people legally here.

So what I propose is that we do not provide this, on average, almost $2,000-per-year paycheck from the U.S. Government, to people who came into the

country illegally and were given this probationary card status through their Z card status.

I am not offering an amendment to take the earned-income tax credit away after they become legal permanent residents. So if they become a legal permanent resident, they would be entitled to have the earned-income tax credit.

Last year I offered an amendment that said that you would not get the earned-income tax credit until you became an actual citizen. That was voted down. Why? I still am not sure. I still don't think that was a good vote. But at least we ought not to give this credit to someone who was here illegally a few days ago, and now we give them some sort of probationary status and they immediately start getting paychecks from the Federal Government.

I don't think that is what this system is about. People would be given a great thing. They would be given amnesty, they would be able to stay in the country legally, continue to work, and any family gets to stay with them. All of this is in this piece of legislation.

A lot of people think that is too generous, but that is what this legislation does. The next question is: What else do they obtain by virtue of having this legal status bestowed on them when they were illegal? They are not receiving the earned-income tax credit now. It is not something that is being taken away from them. It is a question of when are we going to bestow that additional benefit on people who were in our country illegally and how much of an incentive does this payment to them create for other people who want to come into our country illegally?

That is some of the confusion we have. In my view, the first thing you do to reduce the flow of illegal immigration into the country is to quit rewarding it by Federal largesse. That is the first thing. If you cannot go out and arrest everybody—and that is not practical—and we are not going to do these other things, at least don't give people extra financial benefits as a reward to coming into our country illegally.

I am very concerned about that. I think that it is not a little bitty matter because the—Madam President, I would ask that I be notified when there is 5 minutes remaining.

The PRESIDING OFFICER. The Senator will be notified.

Mr. SESSIONS. So what I would say to my colleagues is, this is going to cost a lot of money. You do not have to be trained in economics to understand that money comes from somebody. Who does the money come from? It comes from American workers and taxpayers, many of whom are having their wages depressed as a result of this huge flow of illegal labor. They are being asked to pay an earned-income tax credit check of $1,800, on average, to individuals who were illegal a few months before and possibly still have not completed the full background check. They still may not have completed the process to go to even a Z visa. Then they may be in a Z visa status for some time.

I know it is said it is not amnesty because they have to pay a fine. How much is the fine? $1,000. They pay a $1,000 fine. Well, they do not actually pay a $1,000 fine. When they get this probationary status visa, they only pay $200. They pay the rest of it on an installment. Nobody has stated and set out how they are going to pay it. Presumably, they can pay it for 8 years or more.

So a person here illegally under the legislation that is now before us, that person would obtain legal status in the country, be able to work, and would then be entitled to receive an earned-income tax credit.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. SESSIONS. So they would receive that earned-income tax credit, which would be, on average, almost $2,000, and they would pay only $200. Now, that is a pretty good deal, if you can get it, it seems to me. It is not necessary. It is not necessary as a matter of law, and it is not necessary as a matter of morality. It is certainly contrary to sound principles of Government. We should not do that.

I urge my colleagues to support this amendment. It is an amendment that would impact our Treasury by perhaps, according to the Congressional Budget Office, $10 billion in the next 10 years—$10 billion. So it is quite a sizable chunk.

Madam President, I see my friend, Senator LIEBERMAN is here. I yield the remainder of the time I have left to him. How much time remains?

The PRESIDING OFFICER. There is 3½ minutes.

The Senator from Connecticut.

AMENDMENT NO. 1191

Mr. LIEBERMAN. Madam President, I thank my friend, Senator SESSIONS. I appreciate his kind gesture. That brings me back within 30 seconds of what I originally had. I appreciate that.

I am going to speak on amendment No. 1191, which is set down for a vote this evening. This is an amendment that would improve our Nation's treatment of asylum seekers, that is, people who come to our shores seeking refuge from persecution they have suffered in their home countries based on race, religion, nationality or political conviction.

As far as I know, this is the only amendment on the treatment of those seeking asylum that will be considered as part of this comprehensive immigration legislation. I offer this amendment because the Congressionally chartered Commission on International Religious Freedom has told us that our country, our Government, is failing in its historic duty to those ''longing to breathe free'' from the Statue of Liberty.

I believe, as the Commission outlined, we can address this serious challenge at very little expense, with no adverse affect on our Nation's security, and without impairing immigration enforcement operations. It is the right thing to do. It is consistent with our best values in our history. In fact, as you know, our Founding Fathers understood the Nation's role to be not just a haven for those seeking freedom but a haven for those seeking freedom from persecution.

Thomas Jefferson once likened the United States to a ''New Canaan,'' the Biblical Canaan in mind, where victims of persecution, and I am quoting here, ''will be received as brothers and secured against like oppressions by a participation in the right of self-government.''

That is exactly what America has become. To the great benefit of this country, some of the greatest Americans in our history came here as refugees seeking asylum from persecution. Nobel Laureates Albert Einstein and Thomas Mann became neighbors in Princeton, NJ. Henry Kissinger and Madeline Albright came with their families to the United States, fleeing from the Nazis and Communists, respectively, and went on, of course, to become Secretaries of State.

If I might, on a point of personal privilege say, most special to me, on a day in 1949, then a child, my wife, Hadassah Freilich Lieberman, came here with her parents seeking asylum from Communist Czechoslovakia. This national duty to those fleeing persecution is emblazoned in a particular stanza on the Statue of Liberty that says:

Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame is the
imprisoned lightning,
And her name . . . Mother of Exiles.

Yet despite that lofty sentiment, too often today we are apparently turning asylum seekers away without the proper hearings guaranteed them by law, or confining them in prison conditions alongside convicted criminals while their cases are pending. That is what the U.S. Commission on International Religious Freedom has reported to Congress. This group was established, I am proud to say, in 1998, pursuant to legislation I introduced along with then-Senator Nickles and still, fortunately, Senator SPECTER.

It was aimed at strengthening our Government advocacy on behalf of individuals around the world who were being persecuted for their faith. Congress in the year that we established the Commission on International Religious Freedom also expressed its concern that recently enacted expedited removal procedures might be causing our own Government to mistreat victims of oppression, religious oppression, who came to the United States seeking asylum.

To find out if this was happening, Congress directed the newly established Commission to study the treatment of asylum seekers. The Commission conducted a comprehensive investigation and released a report in February of 2005 that was quite critical of the procedures of the Department of Homeland Security.

The report's recommendations were reasonable and straightforward. Unfortunately, 2 years passed. I persistently asked officials at the Department of Homeland Security when it would respond to the report and was always told the same: The recommendations are under review.

It appeared that little or nothing was being done. In fact, this February, 2007, the Religious Freedom Commission itself issued a blistering report 2 years after its initial report in which it gave out grades. The Customs and Border Patrol Agency received an F with respect to its treatment of asylum seekers. The Immigration and Customs Enforcement Agency received mostly Fs, and an overall grade of D. The Department of Homeland Security itself generally received an overall grade of D as well in its treatment of those claiming to be coming to America to seek asylum from persecution—religious, racial, nationality or based on political conviction.

That is unacceptable. Remember it was Congress that originally expressed concern about the treatment of asylum seekers. It was Congress that directed the Commission it had created to study whether there is a problem, was a problem, and now, in this Congress, as part of this comprehensive immigration reform bill, it must be Congress that will fix the problems the Commission has found.

That is why I introduced separate legislation earlier this year and then filed this amendment. I am pleased to say it appears I have come to some agreement with the Department of Homeland Security on a modified version of the amendment which I hope will be broadly supported by my colleagues.

It implements the recommendations of the U.S. Commission on International Religious Freedom and will improve our treatment of those who come to our shores claiming they seek asylum from persecution.

We have made a number of changes to address the concerns the Department of Homeland Security brought to us. I am pleased to describe them briefly.

The Commission on Religious Freedom found that too often the Department of Homeland Security was returning asylum seekers to countries where they were persecuted without giving them a chance to adequately make their case that they had a credible basis for their claims of persecution. Often employees of the Department of Homeland Security were failing to even ask these asylum seekers if they feared persecution, as required by Department procedures, before they were removed. This amendment would require what might be called simple quality assurance procedures so that the Department of Homeland Security can ensure its practices comply with its policies.

Secondly, virtually all the defense facilities the Department of Homeland Security uses are run as maximum security prisons, and in many cases those seeking asylum in this country, because they claim to be fleeing countries that were persecuting them, those detainees are forced to share cells with convicted criminals in maximum security prisons, sometimes in county jails. This is not appropriate for asylum seekers and other detainees who are not criminals and are not being criminally prosecuted. This amendment would require better Department of Homeland Security standards for those detention facilities to make them more consistent with our best values and the words that are emblazoned on the Statute of Liberty. This amendment would also encourage the development of more appropriate facilities for asylum seekers and families with children. These would be modeled after two secure but less restrictive facilities that the Department of Homeland Security already operates, one in Florida and the other in Pennsylvania.

The amendment will also encourage the expansion of secure alternatives to detention such as supervised release programs. Congress has already funded programs of this kind, and they have been successful. The amendment ensures the Department of Homeland Security will conduct vigorous oversight of the detention facilities it uses so the facilities, in fact, are complying with Department standards.

It is time we put in place and enforce safeguards to ensure people fleeing persecution are treated humanely and in accordance not just with our Nation's laws but with our best values.

I thank the Chair.

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

AMENDMENT NO. 1191, AS MODIFIED

Mr. LIEBERMAN. I have a modification to the amendment, which I send to the desk at this time.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment, as modified, is 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) 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)).

(2) DETAINEE.—The term ''detainee'' means an alien in the custody of the Department of Homeland Security who is held in a detention facility.

(3) DETENTION FACILITY.—The term ''detention facility'' means any Federal facility in which 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.

(4) REASONABLE FEAR OF PERSECUTION OR TORTURE.—The term ''reasonable fear of persecution or torture'' has the meaning given that term in section 208.31 of title 8, Code of Federal Regulations.

(5) STANDARD.—The term ''standard'' means any policy, procedure, or other requirement.

SEC. ____03. RECORDING EXPEDITED REMOVAL INTERVIEWS.

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures and take steps to effectively ensure that questions 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)) are asked in a standard manner, and that both these questions and the answers provided in response to them are recorded in a uniform fashion.

(b) FACTORS RELATING TO SWORN STATEMENTS.—Where practicable, as determined by the Secretary in his discretion, 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) EXEMPTION AUTHORITY.—

(1) IN GENERAL.—Subsection (b) shall not apply to interviews that occur at facilities, locations, or areas exempted by the Secretary pursuant to this subsection.

(2) EXEMPTION.—The Secretary or the Secretary's designee may exempt any facility, location, or area from the requirements of this section based on a determination by the Secretary or the Secretary's designee that compliance with subsection (b) at that facility would impair operations or impose undue burdens or costs.

(3) REPORT.—The Secretary or the Secretary's designee shall report annually to Congress on the facilities that have been exempted pursuant to this subsection.

(d) INTERPRETERS.—The Secretary shall ensure that a competent interpreter, not affiliated with the government of the country from which the alien may claim asylum, 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.

(e) RECORDINGS IN IMMIGRATION PROCEEDINGS.—Recordings of interviews of aliens subject to expedited removal shall be included in the record of proceeding and may be considered as evidence in any further proceedings involving the alien.

(f) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable in law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does this section create any right of review in any administrative, judicial, or other proceeding.

SEC. ___04. OPTIONS REGARDING DETENTION DECISIONS.

Section 236 of the Immigration and Nationality Act (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''; and

(ii) 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) in subsection (b), by striking ''Attorney General'' and inserting ''Secretary'';

(3) in subsection (c)—

(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,''; and

(4) in subsection (d)—

(A) in paragraph (1), by striking ''Attorney General'' and inserting ''Secretary'';

(B) in paragraph (1), in subparagraphs (A) and (B), by striking ''Service'' each place it appears and inserting ''Department of Homeland Security''; and

(C) in paragraph (3), by striking ''Service'' and inserting ''Secretary of Homeland Security''.

SEC. ___05. REPORT TO CONGRESS ON PAROLE PROCEDURES AND STANDARDIZATION OF PAROLE PROCEDURES.

(a) IN GENERAL.—The Attorney General and the Secretary of Homeland Security shall jointly conduct a review and report to the appropriate Committees of the Senate and the House of Representatives within 180 days of the date of enactment of this Act regarding the effectiveness of parole and custody determination procedures applicable to aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts. The report shall include the following:

(1) An analysis of the rate at which release from detention (including release on parole) is granted to aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts throughout the United States, and any disparity that exists between locations or geographical areas, including explanation of the reasons for this disparity and what actions are being taken to have consistent and uniform application of the standards for granting parole.

(2) An analysis of the effect of the procedures and policies applied with respect to parole and custody determinations both by the Attorney General and the Secretary on the alien's pursuit of their asylum claim before an immigration court.

(3) An analysis of the effect of the procedures and policies applied with respect to parole and custody determinations both by the Attorney General and the Secretary on the alien's physical and psychological well-being.

(4) An analysis of the effectiveness of the procedures and policies applied with respect to parole and custody determinations both by the Attorney General and the Secretary in securing the alien's presence at the immigration court proceedings.

(b) RECOMMENDATIONS.—The report shall include recommendations with respect to whether the existing parole and custody determination procedures applicable to aliens who have established a credible fear of persecution and are awaiting a final determination regarding their asylum claim by the immigration courts should be modified in order to ensure a more consistent application of these procedures in a way that both respects the interests of aliens pursuing valid claims of asylum and ensures the presence of the aliens at the immigration court proceedings.

SEC. ___06. LEGAL ORIENTATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Homeland Security, 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 aliens awaiting a credible fear of persecution interview or an interview related to a reasonable fear of persecution or torture determination under section 241(b)(3).

SEC. ___07. 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 comply with the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to prevent detainees from being 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, the safety of officers and other detainees, 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.—Essential medical care provided promptly 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.

(B) EXCEPTION.—A detention facility that is not operated by the Department of Homeland Security or by a private contractor on behalf of the Department of Homeland Security shall not be required to maintain current accreditation by the NCCHC or to seek accreditation by the JCAHO.

(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.—Frequent 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 SPECIFIC POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of—

(A) victims of persecution, torture, trafficking, and domestic violence;

(B) families with children;

(C) detainees who do not speak English; and

(D) detainees with special religious, cultural, or spiritual considerations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations described in paragraph (1).

(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) aliens who have established credible fear of persecution;

(B) victims of torture or other trauma and victims of persecution, trafficking, and domestic violence; and

(C) families with children, detainees who do not speak English, and detainees with special religious, cultural, or spiritual considerations.

(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.

(f) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create any right, benefit, trust, or responsibility,

whether substantive or procedural, enforceable in law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does this section create any right of review in any administrative, judicial, or other proceeding.

SEC. ___08. 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. At the discretion of the Secretary, the Administrator of the Office shall be appointed by, and shall report to, either the Secretary or the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement. The Office shall be independent of the Office of Detention and Removal Operations, but shall be subject to the supervision and direction of the Secretary or Assistant Secretary.

(3) SCHEDULE.—The Office shall be established and the Administrator of the Office appointed not later than 6 months after the date of the enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Administrator of the Office shall—

(A) undertake regular and, where appropriate, unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a confidential written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary 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) conduct any review or audit relating to detention as directed by the Secretary or the Assistant Secretary;

(C) report to the Secretary and the Assistant Secretary the results of all investigations, reviews, or audits; and

(D) 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 Assistant 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 completed investigations carried out by the Administrator.

(B) CONTENTS OF REPORT.—Each report required by subparagraph (A) shall include—

(i) a description of—

(I) each detention facility found to be in noncompliance with the standards for detention required by this subtitle; and

(II) the actions taken by the Department to remedy any findings of noncompliance or other identified problems; and

(ii) information regarding whether such actions were successful and resulted in compliance with detention standards.

(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 Department of Justice; or

(5) any other relevant office or agency.

SEC. ___09. 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.—In facilitating the development of the secure alternatives program, the Secretary shall have discretion to utilize a continuum of alternatives to a supervision of the alien, 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(c)(2), shall be considered for the secure alternatives program.

(B) DESIGN OF PROGRAMS.—In developing the secure alternatives program, the Secretary shall take into account the extent to which the program includes only those alternatives to detention that reasonably and reliably ensure—

(i) the alien's continued presence at all future immigration proceedings;

(ii) the alien's compliance with any future order or removal; and

(iii) the public safety or national security.

(C) CONTINUED EVALUATION.—The Secretary shall evaluate regularly the effectiveness of the program, including the effectiveness of the particular alternatives to detention used under the program, and make such modifications as the Secretary deems necessary to improve the program's effectiveness or to deter abuse.

(4) CONTRACTS AND OTHER CONSIDERATIONS.—The Secretary may enter into contracts with qualified nongovernmental entities to implement the secure alternatives program and, in designing such program, shall consult with relevant experts and consider programs that have proven successful in the past.

SEC. ___10. LESS RESTRICTIVE DETENTION FACILITIES.

(a) CONSTRUCTION.—To the extent practicable, the Secretary shall facilitate the construction or use of secure but less restrictive detention facilities for the purpose of long-term detention where detainees are held longer than 72 hours.

(b) CRITERIA.—In pursuing the development of detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities; and

(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 frequent 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.—In any case in which release or secure alternatives programs are not a practicable option, the Secretary shall, to the extent practicable, ensure that special detention facilities for the purposes of long-term detention where detainees are held longer than 72 hours 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) part of a family with minor children;

(2) a victim of persecution, torture, trafficking, or domestic violence; or

(3) 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.

(f) NO PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create any right, benefit, trust, or responsibility, whether substantive or procedural, enforceable in law or equity by a party against the United States, its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any person, nor does this section create any right of review in any administrative, judicial, or other proceeding.

SEC. ___11. 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 180 days after the date of the enactment of this Act.

Mr. LIEBERMAN. Madam President, it is my understanding that based on the agreement we have reached after negotiation with the Department of Homeland Security, the Senate is prepared to agree to the amendment. I ask unanimous consent that occur.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment, as modified, is agreed to.

The amendment (No. 1191), as modified, was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. This will mean the amendment now listed as No. 6 of those

to be voted upon would no longer have to be voted upon.

The PRESIDING OFFICER. The Senator from Texas has the remainder of the time.

AMENDMENT NO. 1250

Mr. CORNYN. Madam President, I rise to speak in favor of my earlier amendment which would take the blinders off law enforcement personnel when it comes to investigating fraud and other wrongful and even criminal conduct on the part of those who are claiming an advantage under this legislation, as well as third parties who might be implicated in fraud or other criminality.

I would first like to respond to Senator KENNEDY's comments, and then I want to speak to the Menendez amendment briefly. Senator KENNEDY earlier claimed my amendment eliminated all kinds of protections of confidentiality. He said he provided a level of protection of confidentiality for individuals so it will encourage them to come forward and file their applications for Z visas, and he is worried if we allow law enforcement access to that information to investigate third party fraud or other criminality, the applicants for the Z visas will not be willing to come forward.

It should be noted that my amendment does not eliminate all protections. It simply ensures law enforcement has access to information for those who cannot qualify for Z status under the terms of the underlying bill, including those who are criminals and absconders who have reflected their prior disregard for our laws. Also, despite Senator KENNEDY's claim, their proposal still protects information for aliens who have committed crimes but have not been convicted and are denied Z status. My amendment would make that information available to law enforcement personnel in the discharge of their official duties.

Furthermore, the distinguished Senator from Massachusetts acknowledges there was fraud in sworn affidavits and claims.

He said he is now alluding to the 1986 fraud under the agricultural amnesty bill that I mentioned in my earlier remarks and which were the subject of a New York Times article dated November 12, 1989. He said we took action in this legislation to fix it.

First, let me express my appreciation to the Senator for acknowledging that the third party affidavits that were used to qualify for benefits in 1986 were a large source of fraud.

I see nothing in the bill that would ensure that fraudulent sworn affidavits, especially those provided by third parties, are accessible to law enforcement to prosecute the fraud.

This type of fraud remains protected and thus we haven't come very far from the problems we encountered in the 1986 amnesty.

Senator KENNEDY says we must guarantee confidentiality.

He said:

If we expect individuals to participate in that system, we have to guarantee their confidentiality. It's enormously important. This system isn't going to function and work unless we do.

What my esteemed colleague is essentially saying is, we need to protect those who have violated our laws, even committed felonies and other crimes for which they have not yet been convicted, because they would not come out of the shadows and register.

The point is, it is more than just coming out of the shadows. It is giving legal status to a person who has arguably violated our laws and put them on a path to citizenship, denying law enforcement the opportunity to investigate and to prosecute where appropriate.

Further, we are essentially binding the hands of law enforcement because even if they wanted to prosecute these individuals and remove them from the country, they couldn't get the evidence needed to make the case, nor could they remove the person because by merely applying for Z status, they get the protection from removal.

Is that really what we want to say to our country about who should be permitted to remain in the United States? I think not. Nothing in my amendment would affect the ability of those who have entered the country in violation of our immigration laws or who have simply overstayed their visa or even those who have produced false documents in order to gain access to work. My amendment would not even address any of those individuals. This present amendment would not do that.

But, surely, we want to remove the cloak of confidentiality, the blinders, from our law enforcement personnel that would allow them to investigate cases of fraud, wrongful conduct, and other criminality.

I remain flabbergasted that the proponents of this bill would embrace this sort of provision. I would think what they would want to do is restore public confidence that we are actually reestablishing the rule of law when it comes to this broken immigration system. If anything, this serves to confirm the worst fears of skeptics about this bill because, frankly, it does nothing but confirm their worst fears that this is a vehicle for perpetuating the same sort of mistakes we encountered in the 1986 legislation, but apparently those lessons were not learned.

AMENDMENT NO. 1194

I want to speak briefly about the amendment offered by Senator MENENDEZ while he is on the Senate floor regarding those who want to immigrate to our country, but particularly those who have respected our laws and who have waited patiently in line.

I am particularly troubled by the situation that his amendment is designed to remedy because the proponents of the underlying bill have said: We are not going to allow any line jumping. We are going to provide an opportunity for those who have violated the law to get right with the law, but we are not going to do so to the detriment of people who have followed the rules and waited patiently in line, expecting that their application for a visa or legal permanent residency would be acted on. As I said before the recess, this is a very important principle to me. It is a matter of fundamental fairness and crucial to the integrity of not only our immigration system but 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 before someone who has respected our laws and waited in line for a chance to enter the country legally.

I am not talking about the claim that those who wait in line legally have to do it in their home country while someone who is here illegally and obtains a Z card can wait in country. That certainly is an issue. Those who are here illegally are getting the advantage over and above those who have made the decision to obey our laws waiting patiently outside the country. Even Secretary Chertoff, a key negotiator of the compromise, admits in a USA Today article that there is a ''fundamental unfairness'' anytime illegal immigrants are permitted to stay in country, while those who have respected our laws wait patiently outside of the country. I am afraid we make what even Secretary Chertoff admits is a ''fundamental unfairness'' that much more unfair in the underlying bill. To their credit, proponents of this compromise have stated that the proposal would not allow anyone who came here illegally to obtain their green card until everyone who chose to follow the law gets their green card. That is a laudable goal, and that should be our goal. But to achieve this goal, the compromise arbitrarily sets the cutoff date for legally ''being in line'' at May 1, 2005, while setting the date for the end of the line for those illegally here at January 1, 2007.

As an illustration, this means someone who chose to respect our immigration laws, chose not to enter illegally, and filed the proper immigration paperwork on June 1, 2005, is not considered to be ''in line'' under the terms of this bill, while someone who decided not to respect the laws and enter illegally on the same date can obtain a Z status and ultimately secure American citizenship.

My staff has met with a number of groups who have focused on this particular problem. I know Senator MENENDEZ has been listening to their same concerns. The Asian American Justice Center in particular has made compelling arguments that declaring the end of the line for legal immigration as May 1, 2005, is unfair. Other groups, including the Interfaith Immigration Coalition, the Jewish Council for Public Affairs, the U.S. Conference of Bishops, the Mexican American Legal Defense and Education Fund 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 the bill and will lose their chance to immigrate under current rules and be placed in line behind Z visa applicants. Some of these groups report that more than 800,000 people who have patiently waited in line will in essence be kicked out of the line.

I understand the Menendez amendment will be voted on soon. It addresses an important issue, ensuring that those who decided to abide by the laws will not be disadvantaged simply because they chose not to come here illegally.

As I said, I have been struggling with this over the past couple weeks because this is a matter of fundamental fairness. So I continue to consider this amendment. I know others are likewise considering it.

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

Mr. CORNYN. Madam President, I thank the Chair and yield the floor.

AMENDMENT NO. 1250

The PRESIDING OFFICER. There will now be 2 minutes equally divided on amendment No. 1250.

Who yields time?

The Senator from Texas.

Mr. CORNYN. Madam President, I understand we have 2 minutes equally divided before the vote.

Simply stated for my colleagues, my amendment would remove the blinders that would prevent law enforcement from investigating and prosecuting wrongful conduct, including fraud and criminality.

I would think if there is one thing we learned from the 1986 amnesty, this type of confidentiality provision, if it protects any information to be gleaned from the applications of those who have actually been denied Z visas, it would be that we should pursue and support this kind of amendment which would help law enforcement and, even more importantly, help restore public confidence that we are not playing games with them but that we are actually serious about restoring the rule of law when it comes to our broken immigration system.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the Cornyn amendment attacks the whole issue of confidentiality for these undocumented aliens. If the Cornyn amendment is adopted, there are no individuals who are going to register for any of these programs—none—because all their information will be available.

This is a report-to-deport amendment. How are you going to convince individuals to come in and register for the Z visa program or any of the programs if they know all of their information is going to go to the Immigration Service and every other agency?

With regard to criminality, with regard to terrorism, with regard to all the fraud and all the abuse, we have put in here careful protections. Those kinds of protections are supported by JON KYL, by other Republican Members, and by all of us here.

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

Mr. KENNEDY. If you accept the Cornyn amendment, it effectively undermines all confidentiality.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I appreciate everyone allowing me to say a few words before the vote starts. We have six votes that will take place. Any minute, the votes will start. We worked out an agreement—tentative in nature, but I think it is fairly firm—we will have six more votes tonight. I want to alert Members we will have more votes tonight. It could be a late night, for sure.

When that is all completed, we will have had—I do not know the exact number—35 votes, or something like that, and it is evenly divided between Democrats and Republicans. There is one vote difference as to who offered the amendment. But I think we have made a lot of progress.

I hope people feel they are having an opportunity to have their voices heard in this regard. Within a short few votes, we will certainly have had more votes than we had last year. I am not sure that is a good guide for anything, but that is at least what we will be able to show everyone. I hope people would be able to see that the end is in sight.

Remember, if cloture is invoked on this matter, we will have 30 hours more of amendments. As I have indicated to my friend, the distinguished junior Senator from Arizona and others, upon being asked the question whether all these postcloture votes would take place, the answer is, we are not going to be blocking any people from voting on germane amendments.

I hope everyone understands it will be a late night tonight, and we will start early in the morning.

Mr. CORNYN. Madam President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the Cornyn amendment No. 1250.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 57, nays 39, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—57

Alexander	DeMint	McCaskill
Allard	Dole	McConnell
Baucus	Domenici	Murkowski
Bennett	Dorgan	Nelson (NE)
Bond	Ensign	Pryor
Brownback	Enzi	Roberts
Bunning	Graham	Rockefeller
Burr	Grassley	Sessions
Byrd	Gregg	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Isakson	Stevens
Collins	Klobuchar	Sununu
Conrad	Kyl	Tester
Corker	Lincoln	Thune
Cornyn	Lott	Vitter
Craig	Martinez	Voinovich
Crapo	McCain	Warner

NAYS—39

Akaka	Feinstein	Mikulski
Bayh	Hagel	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Obama
Boxer	Kennedy	Reed
Brown	Kohl	Reid
Cantwell	Landrieu	Salazar
Cardin	Lautenberg	Sanders
Carper	Leahy	Schumer
Casey	Levin	Stabenow
Clinton	Lieberman	Webb
Durbin	Lugar	Whitehouse
Feingold	Menendez	Wyden

NOT VOTING—3

Dodd	Johnson	Kerry

The amendment (No. 1250) was agreed to.

AMENDMENT NO. 1331

The PRESIDING OFFICER. There will now be 2 minutes evenly divided on the Reid amendment, No. 1331.

Mr. REID. Mr. President, the earned-income tax credit is an important program that benefits low-income workers with children who are legally working in this country. Those working illegally in this country are ineligible for the earned-income tax credit.

This amendment makes it perfectly clear that nothing in the bill changes the prohibition of an illegal alien's access to the earned-income tax credit. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, this is not a cover vote. It is not a cover vote at all. It leaves the bill exactly as it was. The problem with the legislation is that those people who are today illegal and would be made legal through the probationary status visa or the Z visa would be entitled to receive the earned-income tax credit, which is, on average, nearly $1,800 per recipient. That earned-income tax credit is a direct payment from the taxpayers of America.

This amendment—unlike the vote you cast last year when I raised it—would allow the earned-income tax credit when you get a green card but not when you are on a Z visa or probationary visa. So this is less far-reaching than the amendment I offered last year.

I urge that this amendment not be accepted.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 1331.

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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—57

Akaka	Feinstein	Murray
Baucus	Grassley	Nelson (FL)
Bayh	Hagel	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Brownback	Klobuchar	Rockefeller
Byrd	Kohl	Salazar
Cantwell	Landrieu	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Smith
Casey	Levin	Specter
Clinton	Lieberman	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Voinovich
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden

NAYS—40

Alexander	DeMint	McCain
Allard	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Bunning	Enzi	Sessions
Burr	Graham	Shelby
Chambliss	Gregg	Snowe
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	Warner
Craig	Lott	
Crapo	Martinez	

NOT VOTING—2

Dodd	Johnson

The amendment (No. 1331) was agreed to.

AMENDMENT NO. 1234

The PRESIDING OFFICER. There is now 2 minutes equally divided before the vote on the Sessions amendment No. 1234.

Who yields time?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, who is eligible for the earned-income tax credit? Legal workers. They work. Who are the beneficiaries of the earned-income tax credit? Ninety-eight percent of it goes to poor children. What country in the world has the greatest percent of poor children? The United States of America. Ninety-eight percent of the benefits of the earned tax credit go to poor children, and many of them are American children.

In the history of the Internal Revenue Code, we have never excluded a class. We have treated everyone equally. The Sessions amendment for the first time in the history of the United States of America is going to say: Workers who are here legally are going to be denied the earned-income tax credit that can benefit their children who are looking for a better future.

I hope the Sessions amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, the earned-income tax credit was designed and has been in effect as a support for American workers. That is what it is. Four million people who do not have children receive it.

This amendment says those people who are here illegally today who are made legal under this bill through the Z visa or the probationary status who have not yet obtained legal permanent residence would not get this benefit. The people are supposed to pay a fine, $1,000. They only have to pay $200. They pay that $200 fine, sign up, and they get a $2,000 earned-income tax credit, which is basically a check from the United States Government.

The people who are here illegally would be, under this bill, made legal, be allowed to work. They are not receiving earned-income tax credit today. There is no moral, legal, or principled reason to give them that in the future until they become a legal permanent resident.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 1234.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—56

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

NAYS—41

Akaka	Brownback	Clinton
Biden	Cantwell	Collins
Bingaman	Cardin	Durbin
Boxer	Carper	Feingold
Brown	Casey	Feinstein
Hagel	Lieberman	Sanders
Harkin	Menendez	Schumer
Inouye	Mikulski	Smith
Kennedy	Murray	Snowe
Kerry	Nelson (FL)	Specter
Kohl	Obama	Webb
Lautenberg	Reed	Whitehouse
Leahy	Reid	Wyden
Levin	Salazar	

NOT VOTING—2

Dodd	Johnson

The amendment (No. 1234) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1194

The PRESIDING OFFICER. There is now 2 minutes evenly divided before the vote on the Menendez amendment, No. 1194.

Who yields time?

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, under the bill before us, U.S. citizens have less rights than an undocumented alien. The base bill says, you break the law, you get benefits up to January 1, 2007. You follow the rule of law, and your right as an American citizen to claim your family, for which you have already submitted a petition, is extinguished as of May 1, 2005. That is fundamentally wrong.

How do we promote the rule of law when we say to a U.S. citizen, who has already applied for their family member waiting abroad, paid their fees, the government has collected them, their application has been approved, they followed the rules and obeyed the law, that they have an inferior right—an inferior right—to someone who did not follow the rules and crossed the border and who will ultimately receive a benefit superior to that of a U.S. citizen who is claiming their family?

Why do we tell the family of the U.S. citizen to go to the back of the line behind people who violated the law? This is a vote about family values and family reunification. This is a vote about the rule of law. I urge my colleagues to support the amendment.

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

Mr. KYL. Mr. President, first of all, this is an amendment that would enable people to enter the United States and become immigrants, green card holders, and eventually citizens, who, under the current law, have no expectation of ever getting those rights because they are in categories or are from countries in which the waiting line is so long that they would never, ever be able, under existing law, to become a U.S. citizen.

In addition, because it would allow several hundred thousand immigrants to come into this country who would not otherwise be legal under existing law, there are three budget points of order, and, therefore, at the conclusion

of these remarks, I will be making a budget point of order. I hope my colleagues agree that we should not waive the budget under these circumstances.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I make a point of order that the pending amendment, No. 1194, to S. 1348, violates section 201, the pay-as-you-go point of order of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. MENENDEZ. Mr. President, I regret that we have started down this road. I move to waive section 201 of the concurrent resolution for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be 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 Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—53

Akaka	Feinstein	Murray
Baucus	Hagel	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Hatch	Obama
Bingaman	Inouye	Pryor
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Bunning	Klobuchar	Rockefeller
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Smith
Clinton	Levin	Stabenow
Coleman	Lieberman	Tester
Conrad	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Mikulski	

NAYS—44

Alexander	DeMint	McCain
Allard	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Burr	Graham	Shelby
Byrd	Grassley	Snowe
Chambliss	Gregg	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Collins	Isakson	Thune
Corker	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NOT VOTING—2

Dodd	Johnson

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1460

The PRESIDING OFFICER. There are now 2 minutes evenly divided before the vote on the Kyl amendment No. 1460. Who yields time?

Mr. KYL. Mr. President, could we have order?

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, I appreciate not waiving the budget in this last point of order. I will confess to you, I think that Senator MENENDEZ had a point in saying we should only allow people who had a reasonable expectation to be immigrants, and those who didn't should not. The bill itself drew an arbitrary deadline. Senator MENENDEZ drew a different arbitrary deadline. This side-by-side actually is constructed so that, under existing law, everyone who has a reasonable expectation of being allowed to immigrate under a family visa will be able to immigrate under a family visa. Only those people who never had any reasonable expectation would be denied.

What it does is to take it out to the year 2027, 20 years from now, and anyone who could have had a reasonable expectation of immigrating within that 20-year period would be allowed to immigrate under this amendment. It is a more precise and fair and just way to allow family members to come into the United States. The numbers are approximately identical to those who would be allowed to immigrate under the bill.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I urge my colleagues to vote against this. It is not more than a figleaf. It sounds great, 2027. The definition of ''reasonable expectation'' means absolutely nothing. The majority of the Senate voted to have some form, although it did not pass a budget point of order, to have some form of family reunification of U.S. citizens waiting to go be reunited with their family abroad.

This does nothing. As a matter of fact, I have heard some of the children, family members of U.S. citizens, would have to wait 60 years. I have the State Department's report. None of them are more than 15 years. So the reality is, this is a figleaf for those who voted against the last one. It does absolutely nothing for family reunification.

Let's keep at least a strong message we do want to reunify families as we move this bill ahead and vote against the Kyl amendment.

The PRESIDING OFFICER (Mr. SALAZAR). The question is on agreeing to the amendment.

Mr. KYL. 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 Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Georgia (Mr. CHAMBLISS).

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

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—51

Alexander	Domenici	McCaskill
Allard	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Graham	Pryor
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Coburn	Hatch	Shelby
Cochran	Hutchison	Smith
Coleman	Inhofe	Snowe
Collins	Isakson	Specter
Corker	Kyl	Stevens
Cornyn	Lincoln	Sununu
Craig	Lott	Thune
Crapo	Lugar	Vitter
DeMint	Martinez	Voinovich
Dole	McCain	Warner

NAYS—45

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Hagel	Nelson (FL)
Biden	Harkin	Obama
Bingaman	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Clinton	Levin	Webb
Conrad	Lieberman	Whitehouse
Durbin	Menendez	Wyden

NOT VOTING—3

Chambliss	Dodd	Johnson

The amendment (No. 1460) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1182 TO AMENDMENT NO. 1150

Mr. REID. Mr. President, I call up amendment No. 1182, the Thomas amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. Thomas, proposes an amendment numbered 1182.

Mr. REID. 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 authorize the Secretary to establish new units of Customs Patrol Officers)

At the end of section 101 of the amendment, insert the following:

(c) SHADOW WOLVES APPREHENSION AND TRACKING.—

(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary, acting through the Assistant Secretary of Immigration and Customs Enforcement (referred to in this subsection as the ''Secretary''), to establish new units of Customs Patrol Officers

(commonly known as ''Shadow Wolves'') during the 5-year period beginning on the date of enactment of this Act.

(2) ESTABLISHMENT OF NEW UNITS.—

(A) IN GENERAL.—During the 5-year period beginning on the date of enactment of this Act, the Secretary is authorized to establish within United States Immigration and Customs Enforcement up to 5 additional units of Customs Patrol Officers in accordance with this subsection, as appropriate.

(B) MEMBERSHIP.—Each new unit established pursuant to subparagraph (A) shall consist of up to 15 Customs Patrol Officers.

(3) DUTIES.—The additional Immigration and Customs Enforcement units established pursuant to paragraph (2)(A) shall operate on Indian reservations (as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452)) located on or near (as determined by the Secretary) an international border with Canada or Mexico, and such other Federal land as the Secretary determines to be appropriate, by—

(A) investigating and preventing the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) carrying out such other duties as the Secretary determines to be necessary.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2008 through 2013.

Mr. REID. I believe there is no debate on this matter.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1182) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1272 TO AMENDMENT NO. 1150

Mr. REID. Mr. President, I call up amendment No. 1272 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. SCHUMER, proposes an amendment numbered 1272.

Mr. REID. 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 improve security by providing for the establishment of B-1 visitor visa decisionmaking guidelines and a tracking system)

At the appropriate place, insert the following:

SEC. ____. B-1 VISITOR VISA GUIDELINES AND DATA TRACKING SYSTEMS.

(a) GUIDELINES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act—

(A) the Secretary of State shall review existing regulations or internal guidelines relating to the decisionmaking process with respect to the issuance of B-1 visas by consular officers and determine whether modifications are necessary to ensure that such officers make decisions with respect to the issuance of B-1 visas as consistently as possible while ensuring security and maintaining officer discretion over such issuance determinations; and

(B) the Secretary of Homeland Security shall review existing regulations or internal guidelines relating to the decisionmaking process of Customs and Border Protection officers concerning whether travelers holding a B-1 visitor visa are admissible to the United States and the appropriate length of stay and shall determine whether modifications are necessary to ensure that such officers make decisions with respect to travelers admissibility and length of stay as consistently as possible while ensuring security and maintaining officer discretion over such determinations.

(2) MODIFICATION.—If after conducting the reviews under paragraph (1), the Secretary of State or the Secretary of Homeland Security determine that modifications to existing regulations or internal guidelines, or the establishment of new regulations or guidelines, are necessary, the relevant Secretary shall make such modifications during the 6-month period referred to in such paragraph.

(3) CONSULTATIONS.—In making determinations and preparing guidelines under paragraph (1), the Secretary of State and the Secretary of Homeland Security shall consult with appropriate stakeholders, including consular officials and immigration inspectors.

(b) DATA TRACKING SYSTEMS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act—

(A) the Secretary of State shall develop and implement a system to track aggregate data relating to the issuance of B-1 visitor visas in order to ensure the consistent application of the guidelines established under subsection (a)(1)(A); and

(B) the Secretary of Homeland Security shall develop and implement a system to track aggregate data relating to admissibility decision, and length of stays under, B-1 visitor visas in order to ensure the consistent application of the guidelines established under subsection (a)(1)(B).

(2) LIMITATION.—The systems implemented under paragraph (1) shall not store or track personally identifiable information, except that this paragraph shall not be construed to limit the application of any other system that is being implemented by the Department of State or the Department of Homeland Security to track travelers or travel to the United States.

(c) PUBLIC EDUCATION.—The Secretary of State and the Secretary of Homeland Security shall carry out activities to provide guidance and education to the public and to visa applicants concerning the nature, purposes, and availability of the B-1 visa for business travelers.

(d) REPORT.—Not later than 6 and 18 months after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security shall submit to Congress, reports concerning the status of the implementation of this section.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1272) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, for all Senators, we now have a number of amendments lined up which we can vote on this evening. There will be about 80 minutes, an hour and a half, before the vote starts.

Mr. President, I ask unanimous consent that the time until 10 o'clock be for debate with respect to the following amendments and that the time be equally divided and controlled between the majority and Republican leaders or their designees, with the time to run concurrently; that no amendments be in order to any of the amendments in this agreement prior to the vote; that at 10 o'clock tonight, the Senate proceed to vote in relation to the amendments in the order listed; that there be 2 minutes of debate prior to each vote, with the votes after the first being 10 minutes in duration; and that if the amendment is not pending, then it be called up now.

The first amendment we will vote on is Clinton, No. 1183, as further modified; second is Ensign, No. 1374; the third one will be Salazar, No. 1384; fourth one is Inhofe, No. 1151; the fifth one is Hutchison, No. 1415; sixth is Vitter, No. 1339; seventh is Obama, No. 1202, as modified with the changes at the desk; and eighth is Dorgan, No. 1316.

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

The amendments are as follows:

AMENDMENT NO. 1374

(Purpose: To improve the criteria and weights of the merit-based evaluation system)

Beginning on page 262, strike line 36 and all that follows through page 264, line 1, and insert the following:

Category	Description	Maximum points
Employment		**66**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**35 pts** Honorable Service within any branch of the United States Armed Services for (1) 4 years with an honorable discharge, or (2) any period of time pursuant to a medical discharge–**35 pts** U.S. employment in STEM or health occupation, current for at least 1 year (extraordinary or ordinary)–**35 pts**	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**23 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**21 pts**	
U.S. employment experience	Years of lawful employment for a U.S. employer (in the case of agricultural employment, 100 days of work per year constitutes 1 year)–**5 pts/year** (max 30 pts)	
Age of worker	Worker's age: 25-39–**18 pts**	
Education (terminal degree)	Graduate degree in a STEM field (including the health sciences).–**50 pts**	**50**

Category	Description	Maximum points
	Graduate degree in a non-STEM field–**34 pts** Bachelor's degree in a STEM field (including the health sciences)–**40 pts** Bachelor's degree in a non-STEM field–**32 pts** Associate's degree in a STEM field (including health sciences)–**30 pts** Associate's degree in a non-STEM field–**25 pts** Completed certified Department of Labor registered apprenticeship–**23 pts** High school diploma or GED–**21 pts** Completed certified Perkins vocational education program–**20 pts**	
English and civics	Native speaker of English or TOEFL score of 100 or higher–**30 pts** TOEFL score of 90-99–**25 pts** Pass USCIS Citizenship Tests in English & Civics–**21 pts**	**30**
Home ownership	Sole owner of place of residence–**8 pts per year of ownership**	**24**
Medical insurance	Current private medical insurance for entire family–**10 pts per year held**	**30**
Total		**200**

AMENDMENT NO. 1202, AS MODIFIED

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)(1), (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.

(d) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

(1) INCREASE IN LEVEL.—Section 201(c)(1)(B)(ii) (8 U.S.C. 1151(c)(1)(B)(ii)) is amended by striking ''226,000'' and inserting ''567,000''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective during the period beginning on October 1 of the sixth fiscal year following the fiscal year in which this Act is enacted and ending on the date that an alien may be adjust status to an alien lawfully admitted for permanent residence described in section 602(a)(5).

AMENDMENT NO. 1384

(Purpose: To preserve and enhance the role of the English language)

At the end of the matter proposed to be inserted, add the following:

SEC. 702A. DECLARATION OF ENGLISH AS LANGUAGE.

(a) IN GENERAL.—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. Nothing in this Act 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 OF LAW.—For purposes of this section, the term ''laws of the United States'' includes the Constitution of the United States, any provision of Federal statute, or any rule or regulation issued under such statute, any judicial decisions interpreting such statute, or any Executive Order of the President.

AMENDMENT NO. 1151

(Purpose: To amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes)

Strike section 702 and insert the following:

SEC. 702. ENGLISH AS NATIONAL LANGUAGE.

(a) SHORT TITLE.—This section may be cited as the ''S.I. Hayakawa National Language Amendment Act of 2007''.

(b) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''Sec.
''161. Declaration of national language.
''162. Preserving and enhancing the role of the national language.
''163. Use of language other than English.

''SEC. 161. DECLARATION OF NATIONAL LANGUAGE.

''English shall be the national language of the Government of the United States.

''SEC. 162. PRESERVING AND ENHANCING THE ROLE OF THE NATIONAL LANGUAGE.

''(a) IN GENERAL.—The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America.

''(b) EXCEPTION.—Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If an exception is made with respect to the use of a language other than English, the exception does not create a legal entitlement to additional services in that language or any language other than English.

''(c) FORMS.—If any form is issued by the Federal Government in a language other than English (or such form is completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

''SEC. 163. USE OF LANGUAGE OTHER THAN ENGLISH.

''Nothing in this chapter shall prohibit the use of a language other than English.''.

(c) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

''6. Language of the Government ..... 161''.

AMENDMENT NO. 1316

(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) on 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, under the H–2A visa program or any visa program other than the Y–1 visa program.

AMENDMENT NO. 1415

(Purpose: To prohibit obtaining social security benefits based on earnings obtained during any period without work authorization)

Strike section 607 and insert the following:

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by striking subsection (c) and inserting the following new subsections:

''(c)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (d) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number prior to January 1, 2004.

''(d) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (c).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of the Social Security 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(c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

AMENDMENT NO. 1339

(Purpose: To require that the U.S. VISIT system—the biometric border check-in/check-out system first required by Congress in 1996 that is already well past its already postponed 2005 implementation due date—be finished as part of the enforcement trigger)

On page 3, line 25 insert the following new subsection:

(6) The U.S. Visit System: The integrated entry and exit data system required by 8 U.S.C. 1365a (Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), which is already 17 months past its required implementation date of December 21, 2005, has been fully implemented and is functioning at every land, sea, and air port of entry.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

AMENDMENT NO. 1183, AS FURTHER MODIFIED

Mrs. CLINTON. Mr. President, I call up amendment No. 1183, as further modified, and ask unanimous consent for its consideration.

The PRESIDING OFFICER. The amendment is pending.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the majority leader, Senator REID, and Senator DODD be added as cosponsors to the amendment.

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

Mrs. CLINTON. Mr. President, I know there are very strongly held and honestly felt disagreements in this Chamber on the legislation before us. Many of these differences are mirrored across our country. The issue of immigration strikes deeply at our values and our concept of America and stirs our emotions. While we may reach different conclusions, we all have to begin at the same place. Our immigration system is in crisis. I have concerns about this underlying bill, but we all do. This is not the bill any of us individually would have written and produced for the Senate's consideration. But I commend the primary sponsors for bringing this to the floor of the Senate so we can debate the issues it raises and try to craft a solution that simultaneously honors our Nation's strong immigrant heritage and respects the rule of law.

As a nation, we place a premium on compassion, respect, and policies that help families. But our immigration laws don't reflect that. In fact, our current laws tear families apart. For lawful permanent residents and their spouses and minor children, this bill not only fails to help them, it actually makes matters worse. It is time to take all the rhetoric about family values and put it into action and show that we mean what we say when we talk about putting families first. That is what my amendment does.

This amendment is a bipartisan amendment offered with Senator HAGEL and Senator MENENDEZ. It is our view we must make reuniting families a priority in our immigration system, that we should show compassion for those living apart from their spouses and minor children, that we should reform immigration in a way that honors families and brings them together. Unfortunately, the compromise bill before us fails to help families and children stuck in a bureaucratic quagmire created by our tangled, broken immigration system. Spouses and minor children of lawful permanent residents applying for a green card are required to remain overseas while awaiting their new legal status. The problem is there is a huge backlog.

Despite what some have suggested this week, the visa backlog for spouses and minor children of lawful permanent residents is significant and substantial. According to the June 2007 State Department visa bulletin, the backlog is currently more than 5 years long. For some, that backlog could stretch even longer. What does that mean? In very human terms it means parents are forced apart from their children. Husbands are separated from their wives. Tax-paying, law-abiding, legal immigrants who are doing the right thing are treated as though their families don't matter at all.

If you are a lawful permanent resident and your spouse and minor children are caught in this long line, your family is not allowed to enter the United States even for a brief visit. You are limited in your ability to leave the United States to visit your spouse and children overseas. Under our current policies, lawful permanent residents are forced to choose between their newly adopted country and living with their spouse or children. Five years may not seem long to some of us. We serve 6 years in the Senate. It seems to go by very fast. But 5 years in the life of a young child or in a marriage is precious time indeed. For a 10-year-old child, it is half their life. It is time that can never be recaptured. Unfortunately, that 5-year timeframe is often much less than what actually happens to these families.

We are proposing that spouses and minor children of lawful permanent residents be exempt from the visa caps and that we finally allow these nuclear families who have been separated for far too long to be reunited. This amendment is necessary because the compromise bill does absolutely nothing to bring these families together. In fact, the compromise actually reduces the number of visas for spouses and minor children of lawful permanent residents. It does not allocate a single visa to address the existing backlog for these family members.

As I have said many times, we have a national interest in fostering strong families. This amendment is supported by more than 100 faith-based, family, and immigrant advocacy organizations and denominations. I thank all of these organizations that have endorsed and rallied support for the Clinton-Hagel-Menendez amendment. They do an invaluable service in speaking out for people whose voices would otherwise not be heard.

The amendment is not considered a bill killer. It is not considered an amendment everybody has to vote against who has agreed to the compromise, because many of us know these legal permanent residents. Many of us actually work with them. Some of them even contribute to the campaigns of people in this Chamber. These are people who are doing everything they can to play by the rules, except they are divided for years from their spouses and minor children. I hope the Chamber will endorse this act of compassion and common sense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I certainly agree with the Senator from New York about the value of having family unity. A strong family is certainly a very important value that we ought to maintain to the maximum extent possible. I intend at the appropriate time, before the vote comes up, to raise a point of order under concurrent resolution 21, but for a few moments I will deal with the merits as to the issue advanced by the Senator from New York.

The effect of adoption of this amendment would mean those who are now legal permanent residents or green card holders would have an immediate right to bring in their spouse and children, and it is estimated there are some 800,000 of these green cards in existence at the present time. From many perspectives, it would be worthwhile to have that accomplished. That would certainly be a personal preference of mine, if it were not for many collateral constraining factors about the difficulty of allowing that many additional green cards all of a sudden. The 800,000 figure is the best estimate that is available at this late hour.

The effect of the amendment offered by the Senator from New York as to the approximately 12 million undocumented immigrants would be that as soon as the backlog is cleared after 8 years, then at that time they would be eligible to have green cards issued as green card holders or as legal permanent residents, after the backlog is

cleared in 8 years. Under the amendment by the Senator from New York, they would have the right to bring in their spouse and minor children.

Again, if I were to devise an ideal system and there were not other limitations, I certainly would not disagree with that as a desirable way to proceed. But this compromise was constructed very carefully and very painfully by the dozen or so Senators from both the Democratic side of the aisle and the Republican side of the aisle who structured it. The Presiding Officer was a member of that group, the junior Senator from Colorado. In structuring the arrangement to not allow legal permanent residents or so-called green card holders from bringing in their spouse and minor children, there were many tradeoffs. As I have said on the floor earlier, many of the provisions which were excluded, rejected, were ones I personally would have favored. I have cast a fair number of votes here during the course of this debate that, given my preferences, I would have cast differently. But the overall objective of getting a bill passed is worth the compromises which have been made.

Earlier today, this amendment was characterized by the Senator from New Mexico as the politics of compromise. Well, that might sound bad, but that happens to be the reality of what goes on in the Senate all the time. It goes on in all political bodies. We don't have anyone who can structure a bill to his or her precise specifications. If I could structure a bill, it would be a very different bill. But my role, along with a number of other Senators, was to try to find accommodations to find a bill which we could agree to and bring to the floor and then, if the full Senate wanted to work its will to the contrary, that is the way the system works. But there is nothing inappropriate about the politics of compromise. That means we sacrifice the better for the good.

The overall good is to get a bill passed which will deal with 12 million undocumented immigrants in a constructive way. It gives them an opportunity to escape the fear they now have that they will be detected at any time. It gives us an opportunity to identify those who are not contributing, who have criminal records, who ought to be deported. We can't deport all 12 million, but for the balance to be on the path toward citizenship, that is a very worthwhile, commendable objective as to the greater picture. We have comprehensive reforms. We have securing the border and employer verification. I will not go through all of the details, but this bill is very important. This accommodation to reject the contentions of the Senator from New York is necessary if we are to attain the greater good.

Mr. KYL. Mr. President, might I just interrupt with a question to the Senator?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, is it not true that under this amendment, this amendment would wipe out the difference between a citizen of the United States and a green card holder with respect to their right to immigrate the nuclear family? So there would be no distinction between a green card holder and a citizen's rights?

Mr. SPECTER. Mr. President, the Senator from Arizona is correct. It is the citizen who has the right to bring a spouse and minor children, not legal permanent residents, so-called green card holders.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it was the intention of the majority leader to ask that there be 10 minutes on each amendment to be evenly divided. I think that was the desire in order to be fair to all of those who were going to offer amendments. I think those who are offering amendments were given that kind of assurance. So I ask unanimous consent that the remaining time be allocated equally between the amendments and equally in terms—well, I ask unanimous consent that there be 10 minutes on each amendment equally divided between those who favor the amendment and those who are opposed.

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

The Senator from New York.

Mrs. CLINTON. Mr. President, may I inquire, was a budget point of order or other point of order made against the amendment?

The PRESIDING OFFICER. It was not raised. It is not in order at this time.

Mrs. CLINTON. Mr. President, let me, just if I could, respond.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take 2 minutes of my time on the following amendment and yield it to the Senator. She was not aware of the time limitation when she made her remarks. I think she ought to be entitled to make her comments.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank the Senator.

I think it is important to recognize that there are many distinctions between a U.S. citizen and a foreigner living legally in the United States which uphold the value of citizenship, but the right to marry and to live with your family should not be one of them.

Denying legal permanent residents, who are on the pathway to pledging their allegiance to the United States, the right to marry and live together in our country is an obstacle to their becoming the kind of full-fledged citizens we want them to be.

Also, under current law, guest workers, students, and others can be with their spouses and minor children and then adjust to legal permanent resident status with them. Due to the backlogs, only lawful permanent residents are treated differently.

So, Mr. President, I understand that those who worked so hard on coming up with this compromise may not be able to find their way clear to support this at this time, but I do not believe we have a national interest in separating legal permanent residents from their spouses and minor children.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

AMENDMENT NO. 1151

Mr. INHOFE. Mr. President, let me make an inquiry. It is my understanding that under the UC, all of the eight amendments that will be considered on the floor have been called up and are in order to be considered; is that correct?

The PRESIDING OFFICER. They have not all been reported at this time.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me tell you something procedurally that is going to happen here in about an hour at 10 o'clock. There is a list of amendments. First, there are two of them, and then the Salazar amendment will be considered. After that, the Inhofe amendment will be considered.

Now, I want to get something understood procedurally because I think it is very important for everyone, particularly the occupant of the chair at this time, who has the Salazar amendment, to know what is going on.

A year ago, we debated the Inhofe amendment that would make English the national language for the United States of America. We debated it at length, hour after hour. We talked about that every President back to and including Theodore Roosevelt in 1916 made comments that English should be the official and should be the national language of the United States of America. We talked about the 50 countries that have English as a national language, one being in west Africa—Ghana—and one being in east Africa—Kenya—but not the United States of America.

Now, one of the things that happened a year ago is I had my amendment up, which is essentially the same amendment that will be up tonight. I would like to have you listen carefully. It is really a one-sentence amendment. All it says is:

> Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English.

In other words, this is an entitlement.

Now, it has exceptions in there for laws that are on the books, such as laws protecting the sixth amendment, which would be the Court Interpreters Act and other such things. However, it

was aimed—I don't want to act as if I am hiding this because we talked about this a year ago. One of the things has been very controversial: At the very end of the Clinton administration was when he passed Executive Order No. 13166, and 13166 essentially said that if you are a recipient of Federal funds, then your documentation can all be done in whatever language you desire, so it could be Swahili, it could be Spanish, or any other language.

Now, what happened a year ago was they passed my amendment—and my amendment was exactly the same as it is today—and it passed by a vote of 62 to 35. Does that sound right? So, 62 to 35. Then right after that, the Salazar amendment—and I see the Senator from Colorado is preparing to respond—was passed, which gutted my amendment, did away with it.

So those individuals who voted for my amendment and then voted for the Salazar amendment—and there are quite a few Democrats and Republicans who did that—voted to make English the official language and then, in the next vote, 3 minutes later, voted to take it away.

Now, I see that this is happening again tonight because, unfortunately, I have to offer my amendment first. I anticipate it will be adopted because it is very popular. Right now, the polling shows that 91 percent of the people in America want English as an official language, and 76 percent of Hispanics believe English should be an official language.

Now, I am prepared to go on and debate this issue. I should not have to do it since 62 Members of this body already voted in favor of it. What I am going to say now, though, is very significant because if you vote for the Inhofe amendment when it comes up tonight, then vote for the Salazar amendment, you are essentially saying you are gutting the Inhofe amendment and you do not want English to be the official or the national language of the United States of America.

The Salazar amendment is exactly the language in the underlying bill. I have it before me. I would be glad to read it. In fact, I am not sure how this time is going to work out. If we have time equally divided, I am going to run out of time. So I will just state that the language is precisely the same in the underlying bill. The underlying bill actually puts into law executive orders, and this specific executive order of 13166, which gives anyone an entitlement to any language he or she wants, will become law. That is the language which is in there right now.

I am attempting to change that language. If my amendment is adopted, it will change. However, the next vote is going to be on the Salazar amendment. I am just saying to you, as my friends out here, do not vote for both of us because if you vote for both of us, you are voting to make English the official language, and then, in the very next vote, you are taking it away and reinstating the original language in the bill.

So I hope no one is going to think it is going to go unnoticed if anyone votes for my amendment and then votes to kill the amendment they just supported. That is what is going to happen tonight. I look forward to the vote.

The PRESIDING OFFICER (Mr. KENNEDY). The Senator's time has expired.

The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise to speak in opposition to the proposed amendment by my good friend from Oklahoma. First and foremost, I want to say I believe all Members of this Chamber and the people in the United States understand that English is important and that people, in order to succeed in our society, need to learn English; that the ability to acquire the English language and to speak it well is something we all support, and we support a number of different programs that would assist people who have limited English proficiency to acquire the English language as a keystone to success. I think that goes without saying.

The amendment that is proposed by my friend from Oklahoma would, in fact, do a number of things that I think are problematical and should cause all of us to vote against the amendment.

The first and a very important reason to vote against his amendment is that it is contrary to the provisions of law that exist in many States. For example, in the State of New Mexico, you have in the Constitution—in the Constitution of the State of New Mexico—as my good friend, Senator DOMENICI, would articulate here, a provision that says that many of the documents within that State have to be provided in both English and Spanish. The same thing is true for the State of Hawaii. I believe this is a States rights issue, and those constitutions of those States ought to be respected. There are other States in our Union which have decided they are going to adopt English as their official language. I believe that is a matter the States ought to decide. I do not believe it is a matter we ought to be imposing here from Washington, DC, on the backs of the States of our Union.

Also, at the end of the day, what my good friend from Oklahoma is attempting to do with his amendment is to undo an executive order that has been long recognized by President George Bush, implemented by President George Bush, conceived by President Bill Clinton, and put into law with his signature.

President Clinton's executive order was signed on April 11, 2000, on October 26, 2001. That executive order was recognized by Ralph Boyd with the U.S. Department of Justice under the Bush administration. It was again recognized on January 11, 2002, and again on November 12, 2002, and then again on December 1 of 2003.

If I may take a moment to just read a portion of what was included in that communication that went out from the U.S. Department of Justice to all of the court administrators across the United States and all of the U.S. district courts. It said the following in the memorandum:

> It is beyond question that America's courts discharge a wide range of important duties and offer critical services both inside and outside the courtroom. Examples range from contact with the clerk's office in pro se matters to testifying at trial. They include but are not limited to matters involving domestic violence, restraining orders, parental rights, and other family law matters, eviction actions, alternative dispute resolution or mediation programs. . . .

And on and on.

What both the Bush administration and the Clinton administration recognized in this executive order is that it is important to make sure people who have limited English proficiency receive the kinds of services so they can understand what is going on in terms of the interface between the Government and themselves.

Mr. President, I believe my friend from Oklahoma has an amendment in search of a problem, and I urge my colleagues to vote against it.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I will take just a few minutes. I am sorry to interrupt the debate.

EXPRESSING THE SENSE OF THE SENATE THAT ATTORNEY GENERAL ALBERTO GONZALES NO LONGER HOLDS THE CONFIDENCE OF THE SENATE AND OF THE AMERICAN PEOPLE—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to S.J. Res. 14 and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 179, S.J. Res. 14, relating to Attorney General Alberto Gonzales.

Harry Reid, Richard J. Durbin, Kent Conrad, Bernard Sanders, Jeff Bingaman, Dan Inouye, Jon Tester, S. Whitehouse, Debbie Stabenow, Byron L. Dorgan, Amy Klobuchar, Sherrod Brown, Carl Levin, Chuck Schumer, Barbara Boxer, Jack Reed, H.R. Clinton.

Mr. REID. Mr. President, I withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. REID. Thank you, Mr. President.

CREATING LONG-TERM ENERGY ALTERNATIVES FOR THE NATION ACT OF 2007—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I now move to proceed to H.R. 6, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 9, H.R. 6, comprehensive energy legislation.

Jeff Bingaman, Dick Durbin, S. Whitehouse, Blanch L. Lincoln, Jon Tester, Robert P. Casey, Jr., Patty Murray, Daniel K. Akaka, Jack Reed, Mary Landrieu, Max Baucus, Mark Pryor, Ron Wyden, Joe Biden, Pat Leahy, Claire McCaskill, Amy Klobuchar, Ken Salazar.

Mr. REID. Mr. President, I withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. REID. Mr. President, I had alerted the distinguished Republican leader I was going to do this. I had to do it because we had to do it before the night's business ends.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007—Continued

The PRESIDING OFFICER. The Senator from Colorado still has, I think, 1 minute 10 seconds.

Mr. SALAZAR. Mr. President, parliamentary inquiry in terms of the time available with respect to the Inhofe amendment.

The PRESIDING OFFICER. The Senator has the remaining 45 seconds.

Mr. INHOFE. Parliamentary inquiry, Mr. President.

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

Mr. INHOFE. Yes, I understand that. Parliamentary inquiry: Since we are talking about two amendments, the Salazar amendment and the Inhofe amendment, then I would assume there would be another 10 minutes equally divided later on this evening if it is the desire of the offerors; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. INHOFE. I thank the Chair.

The PRESIDING OFFICER. If they wanted to use the time, obviously it would be respected.

Mr. SALAZAR. Mr. President, parliamentary inquiry again: Just to be clear, then, on the Salazar amendment No. 1384, there will be 10 minutes for debate equally divided between the majority and the minority.

The PRESIDING OFFICER. The Senator is correct.

Mr. SALAZAR. And with respect to the Inhofe amendment, the minority time has expired, and there is 43 seconds left on the majority side?

The PRESIDING OFFICER. The Senator is correct.

Mr. SALAZAR. Mr. President, I conclude by urging my colleagues to vote no on the Inhofe amendment. At the end of the day, what the Inhofe amendment is proposing to do is to undo executive orders that have been signed by both the Clinton administration and the Bush administration. Those executive orders were created in order to be able to have people understand what is happening with respect to the courts, with respect to domestic violence, and with respect to other issues that our government provides services for where they need to be able to understand what is happening with respect to the communication they are receiving.

I urge my colleagues to vote no on the Inhofe amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 1374

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 1374.

Mr. President, this bill does a laudable job in setting up a new merit-based system for the future. That is the right thing to do for our country, but the bill misses the mark.

Our country needs an immigration system that recognizes we want to attract the best and the brightest from around the world. We have been doing that for many years because we recognize that people who are smart, who are talented, when they come to this country they actually create jobs in this country. They create opportunities for other people in this country.

The current bill unfortunately misses the mark on this merit system. The current bill is actually worse than current law. This bill today is worse than current law, and that is why the high-tech community across the country has come out in opposition to the provisions of the merit-based system in this bill. I want to tell a small anecdote that will illustrate the problems with our current system on attracting talent.

In my office today, a gentleman by the name of Bill Watkins from Seagate Corporation out of California just opened a new branch in Singapore and hired U.S. graduates, foreign students who graduated from MIT and other universities. The reason he hired them to go to Singapore, where he will pay them less money than he would have paid them in the United States, the reason he sent those jobs overseas is because of our immigration policy that basically will educate you in the United States, but then after we educate you, we will send you home.

The amendment I offer today says we are going to actually value people who are educated here, especially in the science and mathematics and engineering fields—we call those the stem fields—in the health sciences fields, we are going to give you even more points than the current bill does so that into the future we will attract the best and the brightest from around the world. It is the idea of being a brain drain to the rest of the world. People from all over the world want to come to America. We want the best and the brightest to come to America because of this fact—whether it is low-skilled or high-skilled workers, 4 percent of the jobs, 4 percent of the people who have jobs in the future will create the jobs for the other 96 percent of Americans. Those are the talented people we want to attract.

Over half of the start-ups in Silicon Valley in the last 10 years have come from immigrants. Those people, when they start up companies, create jobs in America. They create opportunities, some high skilled, some low skilled, but they are creating opportunities for people to pursue the American dream. So while the current bill is going in the right direction, it misses the mark.

So my amendment says we are going to reward those in the sciences, those in the technical fields, those who have a Ph.D. in electrical engineering. We are going to give you enough points to virtually guarantee entrance into this country. It is a good thing. It is why the high-tech community is supporting my amendment.

We also put in this amendment, if you are an immigrant, if you are one of these Z visa holders, we actually want you to be rewarded for doing military service. So we are going to offer another amendment to make sure they can do military service, and then when they do that, we want to reward them to come into this country. To serve in our military should be the greatest honor, and we should reward people with legal permanent status, the ability to get legal permanent status.

We have a shortage of nurses in this country. We give more rewards for people in the health sciences as well in our amendment.

I think this is a critical amendment to improve this bill. If we are going to do a comprehensive immigration reform bill, we certainly shouldn't make it worse than current law, and this bill is worse than current law when it comes to high-tech workers coming into this country. So I would urge all of our colleagues to support this amendment. I know it is a delicate balance that we have between the various people who have brought this bill together, but I truly believe this is an improvement on not only current law, but it is also a great improvement on the current bill.

I reserve the remainder of my time.

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

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, is there anyone who is going to speak on the other side on the amendment?

The PRESIDING OFFICER. The Senator could be recognized, and the person is free under the agreement to

speak later during the course of the evening.

Mrs. HUTCHISON. Mr. President, in that case, I would like to use 4 minutes of my time and then reserve the remainder of my time for if there is opposition to my amendment.

AMENDMENT NO. 1415

Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 1415.

Mr. President, will the Presiding Officer notify me at 4 minutes so that I may reserve the remainder of my time?

The PRESIDING OFFICER. The Chair will so advise.

Mrs. HUTCHISON. Mr. President, our Social Security system, we all know, is in a very precarious position. In fact, we are trying to pass Social Security reform that would extend the life of our Social Security system. We know we are facing impending insolvency. The trust fund has $2.4 trillion and is supporting 46 million beneficiaries. In 2017, the trust fund will begin paying out more in benefits than it receives in revenue. It is expected to be fully exhausted in 2041. If we pass the bill before us, we will be adding millions of new beneficiaries into the Social Security system, but we will also be allowing individuals who were not authorized to work in this country the opportunity to qualify from illegal work.

Under the current bill, Social Security credits for the time prior to getting a valid card would not be allowed. That is the good part of the bill. However, on a visa overstay or someone who has a card in their name, but they are working illegally, they would still be able to get quarters credited for that illegal work. My amendment would close that loophole.

According to the GAO, about 22 percent of the whole Social Security that an employee would pay over 40 quarters would be approximately $193.42 per month. What I meant to say is, if you take the example of an hourly worker making $9 an hour, they would, in a 40-hour workweek, contribute $193 to the system per month. However, after working 40 quarters, which is the minimum, the payout would be $405 per month for each overstay after the age of 65 and up to the expected life expectancy of 78. So 22 percent would be paid in, while 78 percent would come out. This means over the lifetime of the Social Security for that worker, the payout would be $81,922 but the input would be $23,210. So over the lifetime of that person, the deficit would be $58,712.

Now, it is estimated that 40 percent of the illegals in this country are visa overstays. So if you multiply the 40 percent, which is about 4.8 million people according to estimates, you would get $28 billion that would be a deficit in the Social Security system. That is if it were 1 year of overstay. We don't know how many years people overstay. That is impossible to know right now. But if it were 2 years, it would be $56 billion, and it goes on.

We asked for a scoring of this amendment, and we have a letter from the Chief Actuary of the Social Security Administration.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mrs. HUTCHISON. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 1384

Mr. SALAZAR. Mr. President, I call up my amendment No. 1384.

Mr. President, I ask that the Chair let me know when I have 2 minutes remaining on my time.

The PRESIDING OFFICER. The Chair will so notify.

Mr. SALAZAR. I ask unanimous consent that Senator PETE DOMENICI be added as a cosponsor to this amendment No. 1384.

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

Mr. SALAZAR. Mr. President, I rise to speak on behalf of my amendment No. 1384 and to urge my colleagues to join me in support of this commonsense legislation that supports English as the common language for the United States of America.

Our amendment is a very simple amendment. It says that the Government of the United States—and here I am quoting:

> The Government of the United States shall preserve and enhance the role of English as the language of the United States.

Again, it is:

> The Government of the United States shall preserve and enhance the role of English as the language of the United States.

This is a simple and straightforward amendment that recognizes the reality of the United States of America, that we are a people who yearn to speak English, want to speak English, and have the vast majority of our people knowing how to speak English.

This language I have read is also part of a carefully crafted compromise. It is included in the underlying legislation that was worked upon by both Republican and Democratic Senators over a long period of time. It was agreed that this was the language that made the most sense in terms of including a provision relating to the English language in the underlying legislation.

As I said earlier in opposition to Senator INHOFE's amendment, this is in fact a States' rights issue. The States of America ought to decide whether they are going to call English the official language of their State, as they did in Colorado; or they should decide, as they did in New Mexico in their constitution in 1912, to recognize English and Spanish as part of the language within their State. That was their right as New Mexicans. It is their right in Hawaii to be able to recognize a language other than English. It is a matter that ought to be left to the States. It would be a Washingtonian kind of thing to require these mandates upon the States, and it is something that we as the Senate should reject. Our language in amendment No. 1384 preserves that ability of the States to be able to enact their own legislation with respect to the English language.

Finally, I only say that in my own personal history the native language in my home was Spanish. My family had lived along the banks of the Rio Grande River in southern Colorado for a period of 407 years. During all that time, they preserved their Spanish language, but they also honored and preserved the English language. My father and mother, who were veterans of World War II, had eight children who became college graduates. They understood the importance of English as something that would help them live the American dream, as all eight of their children have.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, if I am in order, I will speak in strong support of my amendment No. 1339 which will be voted on later tonight.

The PRESIDING OFFICER. The Senator is so entitled.

AMENDMENT NO. 1339

Mr. VITTER. Mr. President, there has been a lot of discussion in this debate on the immigration bill about enforcement provisions. There has been a lot of discussion about triggers in this bill to ensure that enforcement actions are taken, are paid for, and are enacted before other aspects of the bill, such as the Z visa program and the temporary worker program, go into effect.

My grave concern is that these triggers are wholly inadequate and represent thinking that is backward from where it needs to be. If you look at the triggers designed in the bill, they were arrived at, again, as I would put it, in a backward fashion.

The question was asked: Well, it is going to take about 18 months to be ready to enact the other provisions of the bill, so what enforcement are we teed up to do during the next 18 months anyway? We will define that as the enforcement trigger for the bill.

I simply think that is the wrong way to arrive at a trigger. The key question has to be: What needs to be done? What is the totality of significant measures that needs to be done in order to have real enforcement at the border and real enforcement at the workplace? Let's make that totality the trigger in the bill. Of course, the triggers are far less than that.

One perfect example is the subject of this amendment. The US–VISIT Program has been authorized since 1996, but it is not near operational. This is the program that would establish an entry and exit system so we know absolutely who comes into the country on visas and when those people leave, if they leave on time under their visa, or if they do not and are, therefore, overstaying their visa.

Without such a system, we cannot possibly know who is in the country and who is overstaying their visa. This

is a very serious part of our illegal immigration problem. As of 2006, the illegal population, by most estimates, included 4 million to 5.5 million overstays. So visa overstays are a big part of the problem. We know from 9/11, that visa overstays accounted for many of the terrorists at the center of the 9/11 plot.

So how can we have meaningful enforcement without this US–VISIT system, including the exit portion of the system? We cannot. The simple answer is that we can't. My amendment No. 1339 would include full implementation of this exit system of the US–VISIT Program into the trigger of the bill. Therefore, the other significant portions of the bill, such as temporary workers, such as Z visas, et cetera, cannot take effect until the full trigger is pulled, including full implementation of the US–VISIT system.

If we are serious about enforcement, we have to pass this amendment. If we are serious about enforcement, we have to recognize that 4 million to 5.5 million illegals in this country are visa overstays, and we cannot get our hands around that visa overstay problem without full implementation of this system, which has been authorized but nowhere near implemented since 1996.

So I urge all my colleagues to come together and build up the trigger and enforcement provisions of this bill with the Vitter amendment No. 1339.

With that, I yield back my time.

(Mr. SALAZAR assumed the Chair.)

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

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

AMENDMENT NO. 1202

Mr. OBAMA. Mr. President, I come to the floor tonight to speak about the new point system created in this bill—a proposal that will radically change the way we judge who is worthy of lawful entry into American society.

For decades, American citizens and legal permanent residents have been able to sponsor their family members for entry into our country. For decades, American businesses have been able to sponsor valued employees. The bill before us changes that policy—a policy that, while imperfect, has worked well, and this bill will now replace it with a new, untested, unexamined system to provide visas to immigrants who look good on paper but who may not have any familial or economic ties to our country.

I have serious concerns about this new experiment in social engineering, not only because of the lack of evidence that it will work but because the bill says the new point system cannot be changed for 14 years. For that reason, I come to the floor today, joined by Senators MENENDEZ and FEINGOLD, to offer amendment No. 1202 to sunset the point system after 5 years.

I am pleased that immigration experts, religious organizations, and immigrant advocacy organizations have all endorsed our amendment.

These groups have endorsed our amendment because the point system in this bill constitutes a radical shift in immigration policy, premised on the view that there is something wrong with family and employer-sponsored immigration. If this program were merely supplementing the current system rather than significantly replacing it, it would not have caused as much concern.

Religious organizations and immigrant advocacy groups have also endorsed my amendment because the decisions about what characteristics are deserving of points—and how points are allocated for those characteristics—were made without a single hearing or public examination.

They support the amendment because the new points system shifts us too far away from the value we place on family ties and moves us toward a class-based immigration system, where some people are welcome only as guest workers but never as full participants in our democracy. Indeed, the practical effect of the points system is to make it more difficult for Americans and legal permanent residents with family living in Latin America to bring them here.

Our current immigration system delivers the lion's share of green cards—about 63 percent—to family members of Americans and legal permanent residents, while roughly 16 percent of visas are allocated to employment-based categories. The bill before us would reduce visas allocated to the family system in order to dramatically increase the proportion of visas distributed based on economic points. Once implemented, these new economic points visas would then account for about 40 percent of all visas, while family visas would account for less than half of all visas, with the remainder going for humanitarian purposes.

Under the new system, just a few of the current family preferences would be retained in any recognizable form. Spouses and children of U.S. citizens would still be able to come, but parents of U.S. citizens would no longer be counted as immediate family. Thus, most parents seeking to join their children and grandchildren in the United States would be denied green cards.

The rest of the current family preferences—siblings, adult children, and many parents—would be eviscerated.

The new points system would also eliminate employment-based green cards altogether, forcing employers recruiting workers abroad to rely exclusively on short-term H–1B and Y visas. This proposal takes an admittedly problematic employment-based visa system and replaces it with a far more problematic temporary worker visa system.

The design of the points system leaves numerous questions unanswered. Beyond pushing workers from Latin America to the back of an endless line with no hope of ever reaching the front, the new points system leaves unspecified the crucial question of how migrants with sufficient points will be prioritized. Government bureaucrats would thus be left with unprecedented discretion to determine which immigrants have acceptable education, employment history, and work experience to merit admission into the country.

Taken together, the questionable design of this points program and the fundamental shift away from family preferences in the allocation of visas raises enough flags that we should not simply rubberstamp this proposal and allow it to go forward.

Let me be clear. Senators MENENDEZ, FEINGOLD, and myself are not proposing to strike the program from the bill, but this system should be revisited after a reasonable amount of time to determine whether it is working, how it can be improved, and whether we should return to the current family and employer-based system that has worked so well.

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

Mr. OBAMA. Mr. President, I ask for 1 additional minute.

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

Mr. OBAMA. Mr. President, we live in a global economy, and I do believe America will be strengthened if we welcome more immigrants who have mastered science and engineering. But we cannot weaken the very essence of what America is by turning our back on immigrants who want to reunite with their family members, or immigrants who have the willingness to work hard but might not have the right graduate degrees. That is not who we are as a country. Should those without graduate degrees who spoke Italian, Polish, or German instead of English have been turned back at Ellis Island, how many of our ancestors would have been able to enter the United States under this system?

Character and work ethic have long defined generations of immigrants to America. But these qualities are beyond the scope of this bill's points system. It tells us nothing about what people who have been without opportunity can achieve once they are here. It tells us nothing about the potential of their children to serve and to lead.

In short, the points system raises some serious concerns for me. I am willing to defer to those Senators who negotiated this provision and say we should give it a try, but I am not willing to say this untested system should be made virtually permanent. For that reason, I urge my colleagues to support to sunset this points system after 5 years so we can examine its effectiveness and necessity.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I think it is very appropriate you be occupying the Chair during this moment in this debate. My good friend from Illinois says to those who have worked so hard to get this bill to the point it is at: Nothing personal, but I can't live with this provision.

Bipartisanship is music to the American people's ears. When you are out there on the campaign trail, you are trying to bring us all together. You are trying to make America better. Why can't we work together? This is why we can't work together because some people, when it comes to the tough decisions, back away because when you talk about bipartisanship, some Americans on the left and the right consider it heresy, and we are giving in if we adopt this amendment.

The 12 million who have lived in fear for decades, my Republican colleagues and a majority have told our base we are not going to put them in jail and we are not going to deport them. No matter how much you scream, no matter how much you yell, we are going to make them right with the law, we are going to punish them, but we are not going to play like they don't exist, and we are going to do things differently in the future.

If you care about families under this bill, people are united in 8 years who would be 30 years getting here. If you care about families wanting to wake up one morning and not be afraid, this bill does it.

This amendment in the name of making the bill better says that bipartisanship doesn't have the ''bi'' in it. It means everybody over here who has walked the plank and told our base you are wrong, you are going to destroy this deal. And that is exactly what it is, a deal—a deal to make America more secure, to give people a chance to start their lives over again and to have a new system that has a strong family component but will make us competitive with the world because some people don't want to say to the loud folks: No, you can't have your way all the time.

Let me tell you, this is about as bipartisan as you will get, Mr. President. Some of us on the Republican side have been beat up and some on the Democratic side have been beat up because we have tried to find a way forward on a problem nobody else wants to deal with.

To my friend, Senator KENNEDY, thank you for trying to find a way, as much as we are different, to make this country better, more secure, to treat 12 million people in a way they have never been treated and, in my opinion, deserve to be treated, to have a chance to start over.

What a sweet idea it is to have a second chance in life. Well, they are not going to get it if this is adopted, and America will be all the worse for it. What a great opportunity we have as a country not to repeat the mistakes of 1986, by having a merit-based immigration system that has a strong family component but frees up some green cards so we can be competitive.

So when you are out on the campaign trail, my friend, telling about why can't we come together, this is why.

Mr. OBAMA addressed the Chair.

The PRESIDING OFFICER. The Senator has no time.

Mr. OBAMA. I understand, but I wish to respond to my colleague from South Carolina since it appears to be directed at me.

Mr. KENNEDY. I yield 2 minutes of my time.

Mr. MCCAIN. I object unless the Senator from South Carolina has sufficient time as well.

Mr. OBAMA. I would like to give additional time. When the Senator from South Carolina addresses me directly, I feel it is appropriate for me to respond.

The PRESIDING OFFICER. The Senator from Massachusetts has the opportunity to yield time.

Mr. KENNEDY. I think I am entitled to yield time. I am in charge of the time on this side. I yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts yields 2 minutes to the Senator from Illinois.

Mr. OBAMA. Mr. President, I have a very simple response to what we just heard. I think it is important to consider the actual amendment before us as opposed to what appeared to be a broad-based discussion of the bill overall.

What this amendment specifically does is it says we will go forward with the proposal that has been advanced by this bipartisan group. It simply says we should examine after 5 years whether the program is working. The notion that somehow that guts the bill or destroys the bill is simply disingenuous and it is engaging in the sort of histrionics that is entirely inappropriate for this debate. This is a bill that says after 5 years, we will examine a point system in which we have had no hearings in the public. Nobody has had an opportunity to consider exactly how this was structured. It was structured behind closed doors. And the notion that after 5 years we can reexamine it to see if it is working properly, as opposed to locking it in for 14 years, that somehow destroys the bipartisan nature of this bill is simply untrue.

I ask all my colleagues to consider the nature of the actual amendment that is on the floor as opposed to the discussion that preceded mine.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1415

Mrs. HUTCHISON. Mr. President, I wish to use the final minute of my time on my amendment No. 1415 and say I want to make sure we are doing everything to be fair to the people who pay into our Social Security system. We know we will be adding more people in this bill, but we want to make sure they are people who have worked legally in the system. Therefore, I hope we will adopt my amendment No. 1415, cosponsored by Senator GRASSLEY.

I ask unanimous consent to have printed in the RECORD a letter from the office of the Chief Actuary of the Social Security Administration in which he says the average annual savings in the bill from my amendment would be approximately $300 million this year, and over the 75-year period there will be more savings up front, fewer savings toward the end of the 75 years, but the average would be about $300 million per year. That is into our Social Security trust fund.

It is a matter of fairness to the people who have paid legally, and I hope everyone will support amendment No. 1415.

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

SOCIAL SECURITY ADMINISTRATION,
OFFICE OF THE CHIEF ACTUARY,
Baltimore, MD, June 6, 2007.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUTCHISON: Matthew Acock of your staff and Derek Kan of the Republican Policy Committee have requested that we produce preliminary estimates of the effect of two amendments to S. 1348, as amended with A. 1150, on the financial status of the Social Security program. They emphasized the need for at least preliminary estimates as quickly as possible. We have developed preliminary estimates for these amendments consistent with the analysis provided to Chairman Max Baucus on the current bill S. 1348/1150.

AMENDMENT 1301: OPTION TO REFUND PAYROLL TAXES FOR Y-VISA GUEST WORKERS

Your amendment number 1301 to S.1348 would provide Y-visa workers who have completed their time in this status and have returned to their home country the option to get a refund of employee payroll taxes from Social Security and Medicare. Exercising the option would preclude obtaining credit for these earnings toward Social Security or Medicare benefits. It would also preclude returning to the United States as a Y-visa guest worker in the future.

We assume that only those Y-visa workers who have no intention of returning to the U.S. would exercise the option. Such workers, without exercising the option, would often have made the payroll tax contributions with no expectation of receiving any benefits in the future because the limit of 6 years in Y-visa status is not sufficient to obtain insured status for most Social Security benefits (unless the U.S. and the worker's home country have an in-force totalization agreement). Thus, refunded payroll taxes under the amendment would represent a reduction in revenue for the OASDI program.

Of the 200,000 Y-visas granted each year we estimate that roughly two thirds would ultimately exercise the option to receive their employee payroll taxes back as a refund. Those not exercising the option would be individuals who either attain legal permanent resident status in the U.S. or overstay the Y-visa and continue residing in the U.S. on an unauthorized basis. We estimate that the reduction in revenue from this amendment, assuming it is enacted along with S. 1348/1150, would be a negligible worsening in the long-range OASDI actuarial balance. The average annual cost over the 75-year long-range projection period would be about equivalent to $200 million this year.

AMENDMENT 1302: WITHHOLDING OF SOCIAL SECURITY EARNINGS CREDITS FOR Z-VISA WORKERS WHEN NOT LEGALLY AUTHORIZED TO WORK

S. 1348/1150 provides for legalization of current undocumented immigrants who were

working in the United States on January 1, 2007. This amendment would prohibit assigning credit toward OASDI benefits for years in which earnings were received but the worker was not legally authorized to work. The effect of the amendment would restrict the use of such earnings credits for Z-visa holders who obtained a legitimate Social Security number (SSN) before January 1, 2007. S. 1348/1150 already includes this restriction for workers who would first obtain a legitimate SSN after 2006.

We estimate that almost one half of the 6.5 million individuals expected to gain legal status under S. 1348/1150 (through Z-visas and agricultural visas) would be affected by this amendment. We estimate that the long-range actuarial balance would be improved by 0.01 percent of taxable payroll.

We are hopeful that these quick preliminary estimates will be helpful. We will be working on more detailed estimates and must caution that due to the preliminary nature of estimates mentioned here, the more detailed estimates could differ somewhat. We look forward to continuing to work with you on this important legislation.

Sincerely,

STEPHEN C. GOSS.

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

The Senator from Oklahoma.

AMENDMENT NO. 1151

Mr. INHOFE. Mr. President, the distinguished Senator from Colorado and I have each had 5 minutes on my amendment. I have not had 5 minutes in rebuttal of the amendment of the Senator from Colorado. Let me tell you what is going on. I know a lot people in this Chamber are going to think no one is going to figure this out. I am going to say it over and over again after this is over if the outcome is as I anticipate it will be.

First, this is probably the first time in 20 years we have had an honest effort where we can make English our national language in the United States of America. This is something all the polling data shows is in the nineties—91 percent, 93 percent of the people in America who want to have this amendment adopted.

In fact, a Zogby poll last month in May showed 76 percent of the Hispanics in America want to have English as the national language.

The Salazar amendment is precisely what the underlying bill is. The underlying bill—and I can read it to my colleagues, but I have done it three times on the floor already—yes, it does put into law the controversial Executive Order 13166. My colleagues have heard a lot about this from their constituents.

It says you are entitled to have your information, if you receive Government money, in any language of your choosing—Swahili or any other language. That is what is in the underlying bill. That also is in the Salazar amendment.

This is what is going to be happening. My colleagues have a chance to change all of this when they vote on the Inhofe amendment, which is I believe the third amendment in line tonight. What I don't want my colleagues to do is vote for my amendment and then vote for the Salazar amendment. All that does is put it right back where the bill is now. In other words, it would do away with my amendment and put it back as the language is in the underlying bill.

So there is no reason in the world to do it, unless someone is trying to cover up their true position. If my colleagues believe we should join the other 50 countries, such as Kenya, Ghana, and other countries around the world, that have English as their official language, then this is a chance to do it. If my colleagues do not believe it, then this is their chance to vote against the Inhofe amendment.

It is an act of hypocrisy if colleagues vote for the Inhofe amendment and then vote for the Salazar amendment to undo the Inhofe amendment. That happened a year ago. Democrats and Republicans did that. However, this time it will not go unnoticed.

It is interesting that every President back to and including Teddy Roosevelt in 1916 said very emphatically that we should have English as our official language, as our national language. It was said by President Clinton, it was said by the other President Roosevelt, by both President Bushes, and everyone has been for it.

I have a listing I wish to make part of the RECORD that shows all of the polling data in the last 5 years. It shows that between 85 and 95 percent of the American people want this amendment adopted. My colleagues can turn their backs on them or they can try the old trick they do around here all the time: Vote for the Inhofe amendment, and then turn around to vote to undo it if they want.

One thing that was stated by the Senator from Colorado was there are a lot of statutes this would negate. I remind my colleagues, if they read this bill, it says: Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform, or provide services or provide materials in any language other than English.

I have a list I also want to be made part of the RECORD that shows there are many statutes where they mandate languages other than English. A good example is the Court Interpreters Act. That is put in there to protect the sixth amendment to the Constitution, so people can be advised of their rights.

Again, my colleagues are going to have the opportunity to vote to make English our national language. I hope they will adopt this. They will certainly be serving their constituents well if they do. But if they do, they shouldn't turn around and undo what they just did because that is not going to go unnoticed.

Mr. President, I ask unanimous consent that the polling information and the list of selected Federal laws requiring the use of languages other than English be printed in the RECORD.

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

NATIONAL ENGLISH AMENDMENT POLLS

Polls: All types of pollsters of all groups, liberal and conservative, immigrant and nonimmigrant, with all wordings show consistently high levels of support for making English the official language of the United States:

1. A Zogby Poll conducted on May 17–20, 2007 showed that 83 percent of Americans favor official English legislation, including 76 percent of Hispanics. 94 percent of Republicans, 72 percent of Democrats, and 83 percent of Independents are favorable to official English legislation.

2. An April 2007 McLaughlin & Associates poll showed 80 percent of all Americans indicated that they would support a proposal to make English the official language.

3. A December 2006 Zogby International poll showed that 92 percent of Americans believe that preserving English as our common language is vital to maintaining our unity.

4. A June 2006 Rasmussen Reports poll showed that making English the nation's official language is favored by 85 percent of Americans; this figure includes 92 percent of Republicans, 79 percent of Democrats, and 86 percent of those not affiliated with either major political party.

5. A March 2006 Zogby International Poll showed 84 percent of likely voters support making English the official language of government operations with commonsense exceptions.

6. A 2004 Zogby poll showed 92 percent of Republicans, 76 of Democrats and 76 percent of Independents favor making Englisgh the official language.

7. In 2000, Public Opinion Strategies showed 84 percent favored English as the official language with only 12 percent oppposed and 4 percent not sure.

8. A 1996 national survey by Luntz Research asked, ''Do you think English should be made the Official Language of the United States?'' 86 percent of Americans supported making English the official language with only 12 opposed and 2 percent not sure.

Latino immigrants support the concept of Official English:

1. An April 2007 McLaughlin & Associates poll showed that 80 percent of all Americans, including 62 percent of Latinos, would support a proposal to make English the official language.

2. A March 2006 Zogby poll found that 84 percent, of Americans, including 71 percent of Hispanics, believe English should be the official language of government operations.

3. My favorite poll is this one: In 2004 the National Council of LaRaza found that 97 percent strongly (86.4 percent or somewhat (10.9 percent) agreed that ''The ability to speak English is important to succeed in this country.''

STATUTES

SELECTED FEDERAL LAWS REQUIRING THE USE OF LANGUAGES OTHER THAN ENGLISH

The following are provisions of the United States Code which expressly require the use of languages other than English:

1. The Food Stamp Act of 1977—(7 U.S.C. §2020(e)—Under certain circumstances, requires states to provide written and oral assistance in languages other than English.

2. Immigration and Nationality Act—(8 U.S.C. §1224)—Provides interpreters during examinations of aliens seeking entry to the United States.

3. Domestic Violence Prevention—(8 U.S.C. §1375a(a))—States that information for nonimmigrants shall be in languages other than English.

4. The Equal Educational Opportunities Act of 1974—(20 U.S.C. §1703(f))—Upheld in Lau v. Nichols, (1974), this Act necessitates some accommodation for students who don't speak English.

5. Language Instruction for Limited English Proficient and Immigrant Students—(20 U.S.C. §6823)—Requires state plans for educating limited English proficient students. Describes how local schools will be given flexibility to choose the language instructional method to be used, so long as the plan is scientifically-based and demonstrably effective.

6. Plans for Educating Limited English Proficient Student—(20 U.S.C. §6826)—Calls for plans for educating limited English proficient students, including demonstrations that teachers are multilingual.

7. Authorizes Grants for Educating Limited English Proficient Students—(20 U.S.C. §6913)—Authorizes and mandates grants for educating limited English proficient students without limitation on language used.

8. Education of Limited English Proficient Students—(20 U.S.C. §6932)—Requires research on education of limited English proficient students.

9. Language Instruction Educational Program Definition—(20 U.S.C. §7011)—Defines ''language instruction educational program'' as one that may include instruction in both English and the child's native language to enable participating children to become proficient both in English and in a second language.

10. Parental Notification of Identity of Limited English Proficient Students—(20 US.C. §7012)—Provides for parental notification of identification of a student as limited English proficient, including use of language other than English to notify the parent.

11. Native American Languages Act—(25 U.S.C. §2902–2906)—Preserves, protects, and promotes the use of Native American languages. States that nothing in the Native American Languages Act shall prevent the use of federal funds to teach English to Native Americans.

12. The Court Interpreters Act—(28 U.S.C. §1827(d))—Invoking the Sixth Amendment right to confront witnesses, requires the use of interpreters in certain judicial proceedings.

13. Labor Protection Notices for Migrant Workers—(29 U.S.C. §§1821(g), 1831(f))—Migrant and farmworker labor protection notices must be in languages other than English, according to the level of fluency of the workers.

14. Migrant Health Centers and Alcohol Abuse Programs—(42 U.S.C. §§254b(f), 245c, 4577b)—Federally-funded migrant health centers and alcohol abuse programs that serve a significant non-English-speaking population must have interpreters.

15. Substance Abuse and Mental Health Administration Reorganization Act—(42 U.S.C. §§290aa(d)(14))—Requires some services in languages other than English.

16. Disadvantaged Minority Health Improvement Act—(42 U.S.C. §300u–6(b)(7))—Requires the Office of Minority Health to provide multilingual services.

17. Voting Rights Act—(42 U.S.C. §§1973b(f)(1), 1973aa–1a)—Restricts elections and election-related materials published only in English in the bilingual ballots and voting materials sections of the Voting Rights Act.

18. Older Americans Act—(42 U.S.C. §3027(a)(20)(A))—Requires state planning agencies to use outreach workers who are fluent in languages other than English when there is a substantial number of limited-English proficient older persons in a planning area.

19. Community Development Grants—(42 U.S.C. §5304)—Requires applicants for community development grants to explain how they will meet the needs of non-English-speaking persons.

20. Child Development Grants—(42 U.S.C. §9843)—Permits grants for child development (Head Start) programs for limited English proficient children.

21. Domestic Violence Hotlines—(42 U.S.C. §10416)—Requires a plan to provide domestic violence telephone hotline operators in Spanish.

Mr. INHOFE. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think there are 2 minutes left on the discussion of this issue.

I hope our colleagues listened to the extraordinary history of the Salazar family. It is the living of the American dream. It is respect for the Spanish language and Spanish tradition, and the reverence that it has for English today.

I am disappointed in the Inhofe amendment because the Inhofe amendment doesn't add one nickel, it doesn't add 1 hour for those who want to learn English. To learn English in my home city of Boston, MA, immigrants have to wait 3 years in order to gain admission to a class to learn English. There are long waits in all parts of the country. If we had some effort to try and provide the opportunity for those who do not know English to learn English, I think we would be much better off.

Finally, as the Senator from Colorado has pointed out, the great civil rights protections of Title VI of the 1964 Civil Rights Act and Executive order 13,166 as well as protections dealing with public health and safety that we have found to be so important in terms of ensuring the health and the safety and the security of our people. Providing information needed to protect health and safety depend on communication—communication—and we have developed a process, a way of respecting different traditions in order to be able to do that.

The Salazar amendment retains and respects that tradition, and it is the way we should be proceeding and embracing this evening for the reasons he stated so well.

AMENDMENT NO. 1374

Mr. President, I wish to yield time on the Ensign amendment. I think I have 5 minutes on the Ensign amendment in opposition?

The PRESIDING OFFICER. The Senator is correct. The Senator has 5 minutes on the Ensign amendment.

Mr. KENNEDY. Mr. President, the Ensign amendment basically rearranges what we call the merit-based system that has been included in this legislation. This was the subject of a good deal of debate: Do we want to develop a merit-based system that has been developed in some other countries. It has had some success in some areas, some challenges in others.

During the debate there was a question about how we would develop a merit-based system to take in the needs of the United States. There are important needs in high skills, but we also understand from the Department of Labor that 8 out of the 10 areas of occupations are basically low skill, what they call low skill. Those may be teachers, they may be managers, or professional people in some areas, but they are basically individuals who have very important skills that are essential to the American economy.

We had debate about how we were going to work out that merit system, and in that whole process we worked diligently to find a system that is going to respect the higher skilled but also provides some opportunity for the low skilled as well to be able to gain entry and then to gain what we call the sufficient points to move far forward and able to gain green cards and eventually citizenship.

The Ensign amendment absolutely emasculates that amendment and virtually closes out all of the low-skilled possibilities for people who might come on in as temporary workers or may come on in under other provisions of this legislation. Under the Ensign amendment, all of those individuals, the lower skilled, are effectively eliminated and closed out, make no mistake about it. Make no mistake about it.

Finally, we have provisions in the legislation dealing with the higher skills, called the H–1B provisions. That is directly related to higher skills. We have addressed that issue in other provisions of the legislation.

For those reasons, I would hope the Ensign amendment would not be accepted.

AMENDMENT NO. 1339

Mr. President, on the Vitter amendment, let me add some additional points to this debate. A great deal of time was spent listening to Secretary Chertoff, to making recommendations about what is going to be in the national security interest to preserve our borders. That was one of the most important parts of the development of this legislation.

Senator ISAKSON came forward with a very important suggestion and a proposal with regard to ensuring that we were going to have true national security, protection of our national security before other provisions were going to be set forth. We have had good chances during the period of these past months to work with Homeland Security and to work with all of the Members of this body to ensure we were going to have effective provisions to protect national security. We even accepted a Gregg amendment which we believed added to the provisions that were accepted.

It is our belief those provisions are sufficient, the allocations of resources for the border, the utilization of enhanced border patrols, the enhanced border security, which has been outlined time and again during the course of this debate. They are sufficient. So I would hope at the time that amendment is addressed it would not be accepted.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1316

Mr. MCCAIN. Mr. President, I rise in opposition to the Dorgan amendment. I was a little surprised to see it in order, but that happens quite often around here. This is the same amendment we voted on a couple of weeks ago. It was a close vote, I realize, but I didn't know we were going to have a practice of second chances on amendments after they were defeated.

It seems to me this is something that is very unnecessary. But if we get into the custom here with so many amendments that we vote again and again, I don't think that is good for this process. I think the process that has taken place so far has been very commendable. Both managers have done a great job, but this is another attempt to do away with the temporary worker program. It is another attempt to kill this legislation. That is what it will do. That is exactly what this amendment does.

We had vigorous debate on it once, with a long period of debate, and it was defeated. Now, basically, we are having another vote again. I don't think that is appropriate. But more important, one thing that hasn't changed, I say to my colleagues, if you pass this, it kills the bill. We have made too much progress with too much debate and with too much consensus to revisit the same issue over again and have it carry this time.

I am sure the sponsor of the amendment has some reason for bringing it up again, but I don't think there is a good reason, and I hope we will reject this amendment because it has already been rejected.

I urge my colleagues to vote ''no'' on the Dorgan amendment.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I take the time on the Dorgan amendment myself. How much time remains on this?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. Mr. President, I have opposed the Dorgan amendment each time for very important and basic reasons. We are attempting to secure our borders. We are going to secure our borders. We know, even when we secure our borders, we are going to have pressure on those borders to come through. People are either going to come through the front door or they are going to come through the back door.

What do I mean by that? If they are coming through the back door, they are going to be the undocumented and the exploited undocumented workers, such as we have seen in my own city of New Bedford, where they are arrested and exploited and are driving down wages. If they come through the front door, they are going to meet the needs of American industry when we find there are no existing options for American workers. There is going to be the requirement that you have to get American workers first. We have accepted that and restated that with the Durbin amendment. But if they are able to gain entry into the United States, they are going to have the kind of protections that are included in the legislation.

I have listened to those who have been opposed to the temporary workers, saying there are no rights and protections for these temporary workers. They ought to read the bill. They ought to read the bill, because any temporary worker who is going to be hired is going to be guaranteed the prevailing wage, they are going to be protected by the OSHA provisions, they are going to be protected by workmen's compensation, and they are going to have the opportunity, we believe, over a period of time, if they have come in, to try to improve themselves, to learn English, to involve themselves in an employment program to begin to go up the ladder in terms of getting a green card. So that is the choice.

If we act to eliminate the temporary worker program, we are going to find what we have at the present time, that hundreds of individuals die in the desert; that we are going to have those individuals who are able to gain entry in the United States and are undocumented and they are going to be exploited, as they are exploited today, and they will drive down wages, as happens today. That happens to be the situation.

Some like some temporary worker programs better than others, but we have the one we have in this bill and we have every intention to try and make it work. We have set up a careful system in the bill to accommodate the concerns about the size of the temporary worker program. There is, as well, a market-based adjustment that is crucial to the provision in the bill, and I think it would be a great mistake to effectively emasculate the temporary worker program. That is what the Dorgan amendment would do.

Mr. President, I believe that I am the only one who has time that is remaining. If that be the case, I would be glad to yield back the remaining time.

I ask if the Chair would be good enough to state the amendments, the first amendment that would be before the Senate at this time. We have a series of different votes, and I think we ought to have the opportunity to make sure all of us understand exactly what we are voting on.

I believe the hour of 10 o'clock has arrived, and I yield whatever time remains, and I think we expect yeas and nays votes on all of them.

AMENDMENT NO. 1183

The PRESIDING OFFICER. The question occurs on the Clinton amendment, No. 1183.

Mr. KYL. Mr. President, I make a point of order that the pending Clinton amendment, No. 1183, to S. 1348, violates section 201, the pay-as-you-go point of order of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. KENNEDY. Mr. President, I move to waive the applicable provisions in the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the motion.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—44

Akaka	Harkin	Murray
Bayh	Inouye	Nelson (FL)
Biden	Kennedy	Nelson (NE)
Bingaman	Kerry	Obama
Boxer	Klobuchar	Reed
Brown	Kohl	Reid
Cantwell	Landrieu	Rockefeller
Cardin	Lautenberg	Salazar
Casey	Leahy	Sanders
Clinton	Levin	Schumer
Conrad	Lieberman	Stabenow
Dorgan	Lincoln	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Mikulski	

NAYS—53

Alexander	Crapo	McCain
Allard	DeMint	McConnell
Baucus	Dole	Murkowski
Bennett	Domenici	Pryor
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Smith
Byrd	Gregg	Snowe
Carper	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Tester
Coleman	Isakson	Thune
Collins	Kyl	Vitter
Corker	Lott	Voinovich
Cornyn	Lugar	Warner
Craig	Martinez	

NOT VOTING—2

Dodd	Johnson

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment falls.

AMENDMENT NO. 1374

Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 1374, offered by the junior Senator from Nevada, Mr. ENSIGN.

Who yields time? The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, my amendment goes to the merit-based system. We have a serious problem in this country where we are graduating incredible engineers from our high-tech universities. When they graduate, we say: You must go home.

I had a company in my office today from Silicon Valley. They are opening an office in Singapore, hiring American graduates, foreign-born graduates from American universities, opening in Singapore because they cannot hire them in this country. There are not enough visas.

My amendment fixes the merit-based system and says we want to attract the best and the brightest from around the world. The high-tech community supports my amendment because they think the underlying bill is flawed.

Mr. President, India and China will graduate 600,000 to 700,000 engineers. We will be graduating 65,000 to 70,000. Half of ours are foreign-born. We do not have enough of that brain power coming into this country like we have had in the past. Those who came here will come here and create opportunities for other people in the United States.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the merit-based system that is included in this legislation as it exists at the present time is heavily skewed toward the high skills. I would say 75 to 80 percent of those who are going to qualify in the merit-based system are going to be for the highly skilled.

There is the reservation under the skill system, 25 or 30 percent for lower skills because our economy designed high skills, and the Department of Labor says 8 out of 10 occupations that our Nation needs are low skills: teacher's aides, home health aides, and others.

That has been worked out. That is the way it is. Under the Ensign amendment you would completely skew it to shortchange all of the low skills, all for the high skills. We are taking care of the high skills with the H–1B program. If we need to do something about that, then let's have amendments to do it.

But this way effectively is saying to millions of people who have come here and have been absolutely indispensable to our economy that they are never going to have a chance to be part of the American dream.

I hope the amendment will be defeated.

Mr. ENZI. Mr. President, 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 amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—42

Alexander	DeMint	McConnell
Allard	Dole	Murkowski
Baucus	Domenici	Nelson (NE)
Bennett	Dorgan	Pryor
Bond	Ensign	Roberts
Bunning	Enzi	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Conrad	Inhofe	Tester
Corker	Isakson	Thune
Cornyn	Lincoln	Vitter
Crapo	Lott	Warner

NAYS—55

Akaka	Graham	Mikulski
Bayh	Hagel	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Obama
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Brownback	Klobuchar	Rockefeller
Byrd	Kohl	Salazar
Cantwell	Kyl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Snowe
Casey	Leahy	Specter
Clinton	Levin	Stabenow
Coleman	Lieberman	Voinovich
Collins	Lugar	Webb
Craig	Martinez	Whitehouse
Durbin	McCain	Wyden
Feingold	McCaskill	
Feinstein	Menendez	

NOT VOTING—2

Dodd	Johnson

The amendment (No. 1374) was rejected.

AMENDMENT NO. 1384

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 1384 offered by the Senator from Colorado, Mr. SALAZAR. Who yields time?

Mr. SALAZAR. Mr. President, I ask for a ''yes'' vote on Salazar 1384 and a ''no'' vote on Inhofe 1151, and the 2 minutes under that time I will yield to Senator DOMENICI from New Mexico.

Mr. INHOFE. Parliamentary inquiry, before the Senator speaks: Is the 2 minutes equally divided?

The PRESIDING OFFICER. It is 2 minutes equally divided. The senior Senator from New Mexico is recognized.

Mr. SALAZAR. Parliamentary inquiry: The senior Senator from New Mexico is recognized for 2 minutes to speak on both amendments?

The PRESIDING OFFICER. We are now considering only the Salazar amendment. There are 2 minutes to be divided equally.

Mr. SALAZAR. I ask unanimous consent that the senior Senator from New Mexico be given 2 minutes to speak on both Salazar 1384 and Inhofe 1151.

Mr. INHOFE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SALAZAR. I yield 1 minute on Salazar 1384 and request a ''yes'' vote and yield the time to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I, too, ask for a ''yes'' vote on the Salazar-Domenici amendment which everybody should understand says that the English language is the common language of the United States. I come from a State that is different from most of yours in that we have had a long history of trouble regarding what language we speak; this has been so from the very time New Mexico started to become a State. The legislature of the United States played around with New Mexico in an effort to see if there could be enough Anglos so there wouldn't be a majority of Spanish speakers at the State's infancy. We were told we had to wait for Statehood until there was a majority of English speakers in New Mexico, and the U.S. Supreme Court later said the Congress could not do that to New Mexico. New Mexico could do what they desired. We voted in a State constitution that still stands that says English and Spanish are common languages and you can speak both languages.

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

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, this is very simple. I hope everyone understands and is listening. We are going to have an opportunity in a few minutes to vote on another amendment which we will describe at that time with 2 minutes equally divided.

If you are opposed to English as the national language of the United States, then vote for the Salazar amendment. That is exactly what it does. His amendment says anyone who receives Federal money is entitled—this is an entitlement—to have the documentation in any language he or she chooses. It could be in Swahili, French, any other language.

So if you are opposed to English as the national language, go ahead and vote for this amendment. But keep in mind, when you do, that 91 percent of Americans are on our side of this issue and want English to be the national language, and 76 percent of the Hispanics, as a result of a poll that was taken in May of this year—a Zogby poll—are for English as the national language.

I ask you to defeat the Salazar amendment.

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

The question is on agreeing to Salazar amendment No. 1384.

Mr. SALAZAR. 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—58

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Hagel	Nelson (NE)
Bennett	Harkin	Obama
Biden	Inouye	Reed
Bingaman	Kennedy	Reid
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Brownback	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Snowe
Carper	Leahy	Specter
Casey	Levin	Stabenow
Clinton	Lieberman	Tester
Coleman	Lincoln	Warner
Collins	Lugar	Webb
Conrad	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NAYS—39

Alexander	DeMint	Martinez
Allard	Dole	McCain
Bond	Ensign	McConnell
Bunning	Enzi	Pryor
Burr	Graham	Roberts
Byrd	Grassley	Sessions
Chambliss	Gregg	Shelby
Coburn	Hatch	Smith
Cochran	Hutchison	Stevens
Corker	Inhofe	Sununu
Cornyn	Isakson	Thune
Craig	Kyl	Vitter
Crapo	Lott	Voinovich

NOT VOTING—2

Dodd	Johnson	y

The amendment (No. 1384) was agreed to.

Mr. DURBIN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the amendment be modified to be a first-degree amendment.

Mr. INHOFE. Mr. President, reserving the right to object—I object.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

AMENDMENT NO. 1151

Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 1151 offered by the Senator from Oklahoma, Mr. INHOFE.

The Senator from Oklahoma is recognized for 1 minute.

Mr. INHOFE. Mr. President, last year, a year and a month ago, we had this same vote. Sixty-two people in this Chamber voted in favor of it, and I will ask them to do the same again. This, very simply—we talked about this many times—makes English the official, the national language of the United States as opposed to giving an entitlement to anyone, to any other language, which is in, of course, the amendment we passed.

If this amendment passes, it will go to conference, and we will have an opportunity to do something in conference to decide whether it is a combination of these or one or the other should prevail. So I ask that you do what 90 percent of your constituents want you to do and that is vote yes on the Inhofe amendment to make English the national language of the United States of America.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Colorado is recognized for 1 minute.

Mr. SALAZAR. Mr. President, I ask my colleagues to vote no on 1151 for three reasons. First, it is in violation of the very delicate compromise, the bipartisan compromise that has been put together by both Republicans and Democrats. Second of all, it is an absolute transparent attempt to undo the Executive Orders of President Bush and President Clinton and the implementation memorandums from both of those Presidents. Third, this is a States' rights issue.

Fourth, for me, I remember having my mouth washed out with soap as a young man for speaking the Spanish language, which is my native language. I love English and we should encourage people to speak English.

This amendment is nothing but a divisive amendment among the people of the United States. I urge my colleagues to vote no on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. 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 Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 64, nays 33, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—64

Alexander	Dole	Mikulski
Allard	Dorgan	Murkowski
Baucus	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Bond	Graham	Pryor
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hagel	Shelby
Byrd	Hatch	Smith
Cardin	Hutchison	Snowe
Carper	Inhofe	Specter
Chambliss	Isakson	Stevens
Coburn	Klobuchar	Sununu
Cochran	Kyl	Tester
Coleman	Landrieu	Thune
Collins	Lincoln	Vitter
Conrad	Lott	Voinovich
Corker	Lugar	Warner
Cornyn	Martinez	Webb
Craig	McCain	Wyden
Crapo	McCaskill	
DeMint	McConnell	

NAYS—33

Akaka	Feingold	Menendez
Bayh	Feinstein	Murray
Biden	Harkin	Obama
Bingaman	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Cantwell	Kohl	Salazar
Casey	Lautenberg	Sanders
Clinton	Leahy	Schumer
Domenici	Levin	Stabenow
Durbin	Lieberman	Whitehouse

NOT VOTING—2

Dodd	Johnson

The amendment (No. 1151) was agreed to.

AMENDMENT NO. 1415

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, on amendment No. 1415 offered by the Senator from Texas, Mrs. HUTCHISON.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator ALLARD be added as a cosponsor on the amendment.

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

Mrs. HUTCHISON. Mr. President, the underlying bill does not allow Social Security credits for work done with a fraudulent card. However, it does allow credit for work done on visa overstays. We all know that is estimated to be about 40 percent of the 12 million estimated illegal immigrants.

Mr. President, if we don't pass this amendment, it could jeopardize the integrity of the Social Security system for all the hard-working people who are going to depend on that for their retirement. It would be a loss of about $28 billion per year. I urge adoption of my amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the Senator from Texas. She has worked with the managers of this legislation. We are prepared to accept this amendment. We thank her for the courtesy, and we hope the membership will support her amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1415) was agreed to.

AMENDMENT NO. 1339

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, on amendment No. 1339 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, this amendment is very simple and straightforward. It would add to the enforcement trigger mechanism of the bill that the US–VISIT Program be fully operational. This is the entry/exit system program that has been authorized since 1996 but has never been put into operation.

As Senator HUTCHISON just mentioned, we all know a huge part of the

illegal immigration problem is visa overstays. The latest estimate, in 2006, is that 4 million to 5.5 million visa overstays are illegal immigrants in this country. We cannot get a handle on that problem without the US–VISIT system knowing when people are leaving the country and, thus, whether they are overstaying their visa. Yet that is not part of the enforcement mechanism in the bill at all.

Let's vote for this amendment and make it part of the bill.

Mr. KENNEDY. Mr. President, there was no difference among all of us in trying to ensure that we were going to have a secure America. We worked very closely with Secretary Chertoff. In this legislation, we have increased it to 27,000 detention beds, 20,000 border guards, 375 miles of fencing, 275 vehicle barriers, 70 ground-based radars and cameras, sensors, and 4 unmanned aerial vehicles. We accepted the Isakson trigger, saying that the other aspects of this legislation will not go into effect until these are committed. Then we accepted the Gregg additions. We are in the process now of trying to negotiate with the administration to get mandatory spending to make sure all these are done, and done expeditiously.

The Secretary of Homeland Security thinks we have met our responsibilities. I hope the amendment will not be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. VITTER. 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

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

[Rollcall Vote No. 199 Leg.]

YEAS—48

Alexander	DeMint	Murkowski
Allard	Dole	Nelson (NE)
Baucus	Dorgan	Pryor
Bennett	Ensign	Roberts
Bond	Enzi	Rockefeller
Brownback	Grassley	Sessions
Bunning	Hagel	Shelby
Burr	Hatch	Smith
Byrd	Hutchison	Snowe
Chambliss	Inhofe	Stabenow
Coburn	Isakson	Stevens
Coleman	Landrieu	Sununu
Corker	Lincoln	Tester
Cornyn	Lott	Thune
Craig	McCaskill	Vitter
Crapo	McConnell	Webb

NAYS—49

Akaka	Cantwell	Collins
Bayh	Cardin	Conrad
Biden	Carper	Domenici
Bingaman	Casey	Durbin
Boxer	Clinton	Feingold
Brown	Cochran	Feinstein
Graham	Levin	Reid
Gregg	Lieberman	Salazar
Harkin	Lugar	Sanders
Inouye	Martinez	Schumer
Kennedy	McCain	Specter
Kerry	Menendez	Voinovich
Klobuchar	Mikulski	Warner
Kohl	Murray	Whitehouse
Kyl	Nelson (FL)	Wyden
Lautenberg	Obama	
Leahy	Reed	

NOT VOTING—2

Dodd Johnson

The amendment (No. 1339) was rejected.

Mr. KYL. 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.

AMENDMENT NO. 1202

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided on amendment No. 1202 offered by the Senator from Illinois, Mr. OBAMA.

Mr. OBAMA. Mr. President, this amendment is very simple. It sunsets after 5 years the points system that has been structured in this bill. I wish to emphasize that I think the authors of this legislation deserve credit for working diligently and coming up with a carefully balanced bill, but the points system we are transitioning to is a radical departure from the one we have had in the past. The question is, do we, after 5 years, take a look and see whether it is working properly? Is it one that is inhibiting families from unifying in this country? Is it something that is making it easier or harder for employers to operate effectively in a lawful fashion?

What this amendment simply says is that after 5 years, we will reexamine the bill.

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

Mr. OBAMA. I leave it there. I ask my colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from South Carolina is recognized for 1 minute.

Mr. GRAHAM. Mr. President, I say to my colleagues who worked to put this bill together, they know what this does. The deal is that in 8 years people will be reunited as families who never would have seen each other for maybe 30 years. We have united families in 8 years. The Z visa people have a chance to start over, but only after the backlog is cleared.

The merit-based system is the vehicle to be used after 8 years so they can come into our system and maybe one day be a citizen and get a green card. If we sunset the merit-based system at 5 years, there is no vehicle left, and to us over here, what would my colleagues say if we sunsetted the Z program in 5 years? My colleagues would walk, and they should.

This is not right. This does not help us as a country.

This destroys the vehicle to solve a problem that has been neglected for 20-something years.

I ask my colleagues to vote no for the sake of the country.

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

The question is on agreeing to amendment No. 1202.

Mr. OBAMA. 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 Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—42

Akaka	Feingold	Murray
Baucus	Hagel	Nelson (FL)
Bayh	Harkin	Nelson (NE)
Biden	Inouye	Obama
Bingaman	Kerry	Reed
Boxer	Klobuchar	Reid
Brown	Kohl	Rockefeller
Byrd	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Casey	Leahy	Stabenow
Clinton	Levin	Tester
Conrad	Lieberman	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden

NAYS—55

Alexander	Dole	McConnell
Allard	Domenici	Mikulski
Bennett	Ensign	Murkowski
Bond	Enzi	Pryor
Brownback	Feinstein	Roberts
Bunning	Graham	Salazar
Burr	Grassley	Sessions
Cardin	Gregg	Shelby
Carper	Hatch	Smith
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Specter
Cochran	Isakson	Stevens
Coleman	Kennedy	Sununu
Collins	Kyl	Thune
Corker	Lincoln	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

NOT VOTING—2

Dodd Johnson

The amendment (No. 1202) was rejected.

AMENDMENT NO. 1316

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 1316 offered by the Senator from North Dakota, Mr. DORGAN.

Mr. REID. Mr. President, will this be the last vote?

The PRESIDING OFFICER. This will be the last vote; that is correct.

The Senator from North Dakota is recognized for 1 minute.

Mr. DORGAN. Mr. President, this is a sunset of the temporary worker program in 5 years. It is a new bill, a new program, with more questions than answers. It seems to me that we ought to ask some questions at the end of 5 years.

In the fifth year, we will have 600,000 jobs assumed by temporary workers coming in; in the fourth year, 400,000 jobs, and on and on. So the question is, How many of them are going to leave? What if they do not leave? Are we going to come back to the floor with a new immigration bill, talking about illegal immigration? Why don't we sunset after 5 years to see if this has worked?

Let me make a final point as we vote. We have had a lot of discussion about immigration, but no one on the floor of the Senate is talking about the impact on American workers. All of these jobs the temporary workers will assume are going to compete with people at the bottom of the economic ladder in this country. They are called American workers as well.

Let us sunset this and evaluate what we are doing, what kind of contribution to illegal immigration this will amount to, and what impact it has on American workers. Let us sunset this at the end of 5 years.

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this is the third time we have dealt with this issue. As much as I respect the Senator from North Dakota, he doesn't care more about American workers than I do.

The fact is, if you have a secure border, workers are either going to come in through the front door or the back door. If they come in through the back door, as they are now doing, they are going to be exploited and humiliated. If they come through the front door, as a result of the fact that there is no American worker prepared to take that job, they are going to get labor protections, the prevailing wage, OSHA protections, workmen's compensation, and they are going to have those kinds of protections which they do not have now.

You may not like the temporary worker program, but we have to have predictability for a period of time. In the legislation are correcting mechanisms for this program. Let us at least give it a chance to work.

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

The PRESIDING OFFICER. All time has expired.

Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to amendment No. 1316.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

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

[Rollcall Vote No. 201 Leg.]

YEAS—49

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

NAYS—48

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

NOT VOTING—2

Dodd	Johnson

The amendment (No. 1316) was agreed to.

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

Mrs. BOXER. 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 Texas.

Mr. CORNYN. Mr. President, I know the hour is late and we have had a long day. I think it has been a very productive day. Due to the delay in getting amendments actually voted on, of course, the amendment I had voted on this morning had been pending for a full 2 weeks before we were able to secure an agreement to vote.

I ask unanimous consent to call up some of my pending amendments so we can get them pending. I ask unanimous consent that my amendment 1400, which is at the desk, be called up for immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I would have to object. We are in the process of attempting to clear up these. We have had a very full day. I want to thank the Senator from Texas for his cooperation. We will try to address these in an orderly way. We have been trying to process some of these back and forth. I think we have made extraordinary progress today. We are trying to make sure everyone's voice and interests positioned on those issues are going to have an opportunity to be heard. Now I have to object. I will work with the Senator and see if we cannot arrange time for consideration.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, I know it has been a long day. But the majority leader has filed a cloture motion which will be voted on tomorrow. There is concern that there are many amendments that have been filed which have not been allowed to be called up and be made pending.

While I think there have been some recent indications that there is more of a willingness to allow amendments to be considered, I am very concerned, because of the procedural posture we will find ourselves in very soon, that some of these amendments will not be allowed to be considered.

I am concerned as well that may very well affect how many of us are required to vote on cloture. I think there has been a recent spirit of cooperation which I hope continues. But if there is going to be an insistence on a vote on cloture, and at the same time a denial of the opportunity of many of us to call up amendments and actually have them considered and voted on, I do not think we will have any alternative but to vote against cloture.

I regret the reluctance to allow us to call up amendments continues at this time. If permitted, I want to call up at least four of my amendments: 1400, 1208, 1337, and 1399. But I understand there has been objection lodged. There likely will be objection lodged to additional unanimous consent requests.

I would note for the record here that there are a lot of other amendments that have not been allowed to be considered, and we have got a lot of work to do before we can consider that everybody has had the opportunity to call up amendments and have them voted on.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I would state for the record that last year before cloture was successfully invoked on immigration, the Senate disposed of 30 amendments with 23 rollcall votes. This year, after votes just completed, the Senate has disposed of 41 amendments, with 27 rollcall votes, 11 amendments more than when we last considered this bill under the other party's control. Not counting side-by-side alternative amendments, there have been 18 Democratic amendments offered, compared to 21 Republican amendments. Counting side by sides, it is 21 Democrats, 22 Republicans. So I would say to my friend from Texas, by standards of the last debate on the immigration bill, we have considered 11 more amendments, we have had more rollcall votes, there have been more side by sides and other votes offered from the Republican side than the Democratic side.

So I say at this point this has been a fair and complete process. It is now 12:20 in the morning. We have worked a long day; probably have 2 long days ahead of us. But to argue that Members have not had their chance to express themselves through the amendment process is not reflected in the actual vote.

Mr. CORNYN. Mr. President, I do not dispute the numbers. They are what

they are. But I would point out that this bill did not go through the Judiciary Committee. Last year when the McCain-Kennedy amendment and the bill considered in the Judiciary Committee, I believe there were 62 amendments filed. I think there were a lot more filed than that, but actually 62 amendments. So there was a process at the Judiciary Committee level last year which gave people an opportunity to have their positions heard. That has not been the case this year. I would point that out as an obvious point of distinction. I hope there is not going to be any attempt to try to force this bill through before Senators are ready to consider all or at least a reasonable number of amendments, because I do not think we will have any alternative but to vote against cloture, to allow debate to continue and allow additional amendments to be heard.

Mr. DURBIN. Mr. President, in the interests of allowing Senator CORNYN and other Senators to offer amendments, I make a unanimous consent request that cloture votes be postponed tomorrow until 4 p.m. so Senator CORNYN and others who wish to can offer amendments before the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Mr. President, reserving the right to object, I believe a demonstration of willingness to allow us to call up amendments and have them debated and actually voted on would have been reflected in the last 2 weeks. As I have pointed out, I was denied for a full 2 weeks an opportunity to have the very first amendment I called up actually scheduled for a vote. I know the distinguished deputy majority leader is acting in good faith. But I think we need to have a vote on that cloture motion at the time it is currently scheduled. So I would respectfully object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I have offered amendments on a number of occasions and had asked those amendments be made pending, and set aside the pending business to make certain amendments pending. I have had objection.

At this time I once again ask that amendment No. 1323, which we referred to as the Charlie Norwood amendment, that deals with empowering State and local law enforcement officers to participate through the normal process, if they choose, be in order.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Mr. President, it is pretty clear what has been occurring is very few amendments have had the opportunity to get a real debate. This is an important amendment. It deals with whether local law enforcement can actually participate in any meaningful way in the enforcement of Federal immigration laws. I will tell you what the facts are, with the help from my fine staff chief counsel, Cindy Hayden.

We wrote a law review article for Stanford University Law School that dealt with this issue, and it is a very important issue. It is one well-understood by the legal professionals who have been behind the scenes crafting this legislation.

The ninth circuit has held that visa overstays, which make up 40, maybe 45 percent, and in the future, if this bill becomes law, maybe more than 50 percent of the people illegally in the country, would be visa overstays.

Those persons, if involved in some traffic accident, like many of the terrorists were before 9/11—they were stopped for traffic violations by local police officers, but because that is not a normal criminal violation, as is the case for people who have come across the border, they are not detainable under the ninth circuit ruling by local police officers.

So it is a weird thing. Several other circuits seem to have held differently. But the ninth circuit case was most on point. Lawyers for police departments all over America are telling their police departments: You may not have authority to hold anybody, so even if you apprehend someone you are concerned about who could even be a terrorist, like those people involved in 9/11, or like John Malvo, who was involved in those murders, was stopped for traffic violations, we do not have a system in place to even allow local police to detain them for even a short period of time until they are turned over to the Federal authorities.

That is the way the system ought to work. There are 600,000 to 800,000 State and local law enforcement officers in America. We are not trying to mandate that they do anything. But in the course of their business, their normal duties, if they come upon people in violation of the law, they ought to be able to hold them and turn them over to the Federal authorities.

I am disappointed we are not getting to move forward on that amendment, very disappointed. We had this matter sort of fixed in Judiciary Committee last year. Then an amendment came up—somebody figured out the significance of it, and that amendment took it out. Ever since, any effort to get that to be made a part of this fix has been undermined and blocked.

I say to my colleagues, I do not believe anybody can say they have a commitment to having an enforceable immigration system if they throw roadblocks up that undermine the ability of State and local law enforcement to participate in their normal course of their duties by detaining people they come upon who are here illegally. You would think that would be an easy thing to get done. I have said before, it seems when it comes to immigration, many things can be accepted, many things people approve of. But if you come up with something that actually is very effective, that is what gets objected to. This is something that is critical. It is a testament and a test of our will and our seriousness as a body.

If we are not prepared to pass legislation like the Norwood amendment, named after former House Member Charlie Norwood from Georgia, who died recently, if we are not prepared to do that, we are not serious about this.

I will say one more thing. Time and time and time again, I have heard Members of this body say: Oh, we cannot vote for this amendment, or you must vote against that amendment. Why? Because we have an agreement. A compromise. It violates our compromise. Well, who was in on that compromise? I am frankly getting tired of that. That is not satisfactory to me.

The question really should be, is this amendment good or not good for the legitimate interests of the Nation? No one small group of people have a right to meet in secret with special interest groups and write an immigration bill and ram it down the throat of this Senate. I oppose it. It is not right. You can agree or disagree on these amendments, but do so on the merits, whether or not it actually makes sense, not on some deal made by some advocacy group or some business interest. That is not what this Senate is all about.

I hope today the people will begin to see that a small group of Senators who meet in secret and plot out a bill, that if printed in actual bill language would be 1,000 pages, don't have the power to say we can't have amendments and we can't change it, and if you do get an amendment up, we are all going to stick together and vote it down because it doesn't comply with our little compromise.

The masters of the universe are playing a tough game here. I have called them that affectionately. I respect the Members who have attempted to do what maybe they thought was right. But when you look at the bill, it is a product of a political compromise. A group of politicians met in secret and wrote a bill that is exceedingly technical, exceedingly important.

Let me tell you who was not there in this meeting. The American people were not there. Who was advocating for the American people?

I will tell you another group who was not there. That is the law enforcement agencies that are charged with enforcing our laws at the border. They weren't there. As a matter of fact, they had a press conference a couple of days ago. They were at the national press club and made a presentation. These are senior retired officials who had many decades of experience in enforcing our laws at the border. They uniformly condemn this legislation, as do the Border Patrol Agents Association. They condemn it roundly. Hugh Brien, himself an immigrant, became chief of the Border Patrol from 1986 to 1989. I started making notes on C–SPAN the night before last. I just happened to

turn it on. He said this bill is a ''sell out, a complete betrayal of the nation, a slap in the face to millions coming here legally.''

He referred to the people in 1986 who passed the 1986 act and promised it would do things as our masters and our mandarins, who said the bill was going to work and it never worked. He said:

Based on my experience, it's a disaster.

Kurt Lundgren, national chairman of the Association of Former Border Patrol Agents said this:

There are no meaningful criminal or terrorist checks in the bill.

He said:

Screening will not happen.

He said:

Congress is lying about it.

With regard to the proposal that record checks would be performed within 24 hours, he said:

There's no way records can be done in 24 hours. As to the proposal that Senator CORNYN tried to fix that allows gang members, MS–13 international gang organization groups to get amnesty by simply saying they renounce their allegiance to the gang, he said:

What planet are they from?

Jim Dorcy, an agent for 30 years and inspector general with the Department of Justice that handled investigations into all these areas involving the Border Patrol, internal investigations, he said:

The 24-hour check is a recipe for disaster.

Referring to the bill, Mr. Dorcy, 30 years with the Border Patrol said:

I call it the al-Qaida dream bill.

Roger Brandemuehl, chief of the Border Patrol from 1980 to 1986, second one I am calling on here that was chief of it, said:

We have fallen into a quagmire.

He said:

The so-called comprehensive reform is neither comprehensive nor reform.

He said:

It's flawed.

He set forth some principles that he thought would actually work. When asked had he been consulted by the masters of the universe who cobbled this bill together, a bunch of politicians who have never arrested anybody in their lives, they joked about it. They never have been consulted. Nobody wanted to know what they knew or cared about.

I will just wrap up and say I am not comfortable with the way this bill is going. I think we have been slow-walked in the way the majority leader and the group that is trying to move this bill forward is doing this. They are objecting to having amendments pending. So when cloture is filed, if an amendment is not pending, it fails. It can't be voted on postcloture. So this way they have been able to maintain control over the amendment process and will be able to maintain it, even if cloture is obtained tomorrow. I don't know what will happen tomorrow, but I know this: There are a lot of good amendments. I have seen some of the amendments Senator CORNYN has that are important. I know some of the amendments I have are important to having a good, lawful immigration system. There remain major flaws in this legislation. We should not pass it in its present form.

In rebuttal to the constant refrain that somehow this bill is going to end the lawlessness and create a lawful system, I point out that the Congressional Budget Office, just 2 years ago, issued their analysis of the bill and concluded there would only be a 25-percent reduction in the number of people coming into our country illegally. We have gone through all this, and we are only going to get a 25-percent reduction in the number of people who come here illegally, when we arrested last year over a million people. What kind of system is this?

I wish the principles and goals contained in the talking points that were bandied about early on in this process could have been achieved. I had hoped they would and said some good things about it because I thought some of the principles involved in this year's process were a bit better than last year, but the truth is, when you read the fine print, very little progress was made in those directions, and the major flaws continue. I just wish it weren't so. But that is my opinion of it. I don't think we are on the road to improving the bill. I don't think we are proceeding effectively to allow full debate and amendment.

I yield the floor.

AMENDMENT NO. 1311, AS MODIFIED, TO AMENDMENT NO. 1150

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Good morning, Mr. President.

On behalf of Senator COBURN, I call up amendment No. 1311 and ask that the amendment be modified with the changes at the desk and then be set aside.

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

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE], for Mr. COBURN and Mr. DEMINT, proposes an amendment numbered 1311, as modified.

The amendment, as modified, is as follows:

(Purpose: To require the enforcement of existing border security and immigration laws and Congressional approval before amnesty can be granted)

Strike section 1 and all that follows through page 4, line 11 and insert the following:

SECTION 1. EFFECTIVE DATE TRIGGERS.

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, the programs established by title IV, and the programs established by title VI that grant legal status to any individual or that 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, based on analysis by and in consultation with the Comptroller General, that each of the following border security and other measures are established, funded, and operational:

(1) OPERATIONAL CONTROL OF THE INTERNATIONAL BORDER WITH MEXICO.—The Secretary of Homeland Security has established and demonstrated operational control of 100 percent of the international land border between the United States and Mexico, including the ability to monitor such border through available methods and technology.

(2) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol has hired, trained, and reporting for duty 20,000 full-time agents as of the date of the certification under this subsection.

(3) STRONG BORDER BARRIERS.—There has been—

(A) installed along the international land border between the United States and Mexico as of the date of the certification under this subsection, at least—

(i) 300 miles of vehicle barriers;

(ii) 370 miles of fencing; and

(iii) 105 ground-based radar and camera towers; and

(B) deployed for use along the along the international land border between the United States and Mexico, as of the date of the certification under this subsection, 4 unmanned aerial vehicles, and the supporting systems for such vehicles.

(4) CATCH AND RETURN.—The Secretary of Homeland Security is detaining all removable aliens apprehended crossing the international land border between the United States and Mexico in violation of Federal or State law, except as specifically mandated by Federal or State law or humanitarian circumstances, and United States Immigration and Customs Enforcement has the resources to maintain this practice, including the resources necessary to detain up to 31,500 aliens per day on an annual basis.

(5) WORKPLACE ENFORCEMENT TOOLS.—In compliance with the requirements of title III of this Act, the Secretary of Homeland Security has established, and is using, secure and effective identification tools to prevent unauthorized workers from obtaining employment in the United States. Such identification tools shall include establishing—

(A) strict standards for identification documents that are required to be presented by the alien to an employer in the hiring process, including the use of secure documentation that—

(i) contains—

(I) a photograph of the alien; and

(II) biometric data identifying the alien; or

(ii) complies with the requirements for such documentation under the REAL ID Act (Public Law 109-13; 119 Stat. 231); and

(B) an electronic employment eligibility verification system that is capable of querying Federal and State databases in order to restrict fraud, identity theft, and use of false social security numbers in the hiring of aliens by an employer by electronically providing a digitized version of the photograph on the alien's original Federal or State issued document or documents for verification of that alien's identity and work eligibility.

(6) PROCESSING APPLICATIONS OF ALIENS.—The Secretary 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 required under that title.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the border security and other measures described in subsection (a) shall be completed as soon as practicable, subject to the necessary appropriations.

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until the requirements under subsection (a) are met, the President shall submit a report to Congress detailing the progress made in funding, meeting, or otherwise satisfying each of the requirements described under paragraphs (1) through (6) of subsection (a), including detailing any contractual agreements reached to carry out such measures.

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

(d) GAO REPORT.—Not later than 30 days after the certification is submitted under subsection (a), the Comptroller General shall submit a report to Congress on the accuracy of such certification.

(e) CERTIFICATION OF IMPLEMENTATION OF EXISTING PROVISIONS OF LAW.—

(1) IN GENERAL.—In addition to the requirements under subsection (a), at such time as any of the provisions described in paragraph (2) have been satisfied, the Secretary of the department or agency responsible for implementing the requirements shall certify to the President that the provisions of paragraph (2) have been satisfied.

(2) EXISTING LAW.—The following provisions of existing law shall be fully implemented, as previously directed by the Congress, prior to the certification set forth in paragraph (1):

(A) The Department has achieved and maintained operational control over the entire international land and maritime borders of the United States as required under the Secure Fence Act of 2006 (Public Law 109–367)

(B) The total miles of fence required under such Act have been constructed.

(C) All databases maintained by the Department which contain information on aliens shall be fully integrated as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722).

(D) The Department shall have implemented a system to record the departure of every alien departing the United States and of matching records of departure with the records of arrivals in the United States through the US–VISIT program as required by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note).

(E) The provision of law that prevents States and localities from adopting ''sanctuary'' policies or that prevents State and local employees from communicating with the Department are fully enforced as required by section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373).

(F) The Department employs fully operational equipment at each port of entry and uses such equipment in a manner that allows unique biometric identifiers to be compared and visas, travel documents, passports, and other documents authenticated in accordance with section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732).

(G) An alien with a border crossing card is prevented from entering the United States until the biometric identifier on the border crossing card is matched against the alien as required by section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6)).

(H) Any alien who is likely to become a public charge is denied entry into the United States pursuant to section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)).

(f) PRESIDENTIAL REVIEW OF CERTIFICATIONS.—

(1) PRESIDENTIAL REVIEW.—

(A) IN GENERAL.—Not later than 60 days after the President has received a certification, the President may approve or disapprove the certification. Any Presidential disapproval of a certification shall be made if the President believes that the requirements set forth have not been met.

(B) DISAPPROVAL.—In the event the President disapproves of a certification, the President shall deliver a notice of disapproval to the Secretary of the department or agency which made such certification. Such notice shall contain information that describes the manner in which the immigration enforcement measure was deficient, and the Secretary of the department or agency responsible for implementing said immigration enforcement measure shall continue to work to implement such measure.

(C) CONTINUATION OF IMPLEMENTATION.—The Secretary of the department or agency responsible for implementing an immigration enforcement measure shall consider such measure approved, unless the Secretary receives the notice set forth in subparagraph (B). In instances where an immigration enforcement measure is deemed approved, the Secretary shall continue to ensure that the immigration enforcement measure continues to be fully implemented as directed by the Congress.

(g) PRESIDENTIAL CERTIFICATION OF IMMIGRATION ENFORCEMENT.—

(1) IN GENERAL.—Not later than 90 days after the final certification has been approved by the President, the President shall submit to the Congress a notice of Presidential Certification of Immigration Enforcement.

(2) REPORT.—The certification required under paragraph (1) shall be submitted with an accompanying report that details such information as is necessary for the Congress to make an independent determination that each of the immigration enforcement measures has been fully and properly implemented.

(3) CONTENTS.—The Presidential Certification required under paragraph (1) shall be submitted—

(A) in the Senate, to the Majority Leader, the Minority Leader, and the chairman and ranking member of the Committee on the Judiciary, the Committee on Homeland Security and Government Affairs; and the Committee on Finance; and

(B) in the House of Representatives, to the Speaker, the Majority Leader, the Minority Leader, and the chairman and ranking member of the Committee on the Judiciary, the Committee on Homeland Security; and the Committee on Ways and Means.

(h) CONGRESSIONAL REVIEW OF PRESIDENTIAL CERTIFICATION.—

(1) IN GENERAL.—If a Presidential Certification of Immigration Enforcement is made by the President under this section, subtitle A of title IV, title V, and subtitles A through C of title VI of this Act shall not be implemented unless, during the first 90-calendar day period of continuous session of the Congress after the date of the receipt by the Congress of such notice of Presidential Certification of Immigration Enforcement, the Congress passes a Resolution of Presidential Certification of Immigration Enforcement in accordance with this subsection, and such resolution is enacted into law.

(2) PROCEDURES APPLICABLE TO THE SENATE.—

(A) RULEMAKING AUTHORITY.—The provisions under this paragraph are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a Resolution of Immigration Enforcement, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(ii) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(B) INTRODUCTION; REFERRAL.—

(i) IN GENERAL.—Not later than the first day on which the Senate is in session following the day on which any notice of Presidential Certification of Immigration Enforcement is received by the Congress, a Resolution of Presidential Certification of Immigration Enforcement shall be introduced (by request) in the Senate by either the Majority Leader or Minority Leader. If such resolution is not introduced as provided in the preceding sentence, any Senator may introduce such resolution on the third day on which the Senate is in session after the date or receipt of the Presidential Certification of Immigration Enforcement.

(ii) REFERRAL.—Upon introduction, a Resolution of Presidential Certification of Immigration Enforcement shall be referred jointly to each of the committees having jurisdiction over the subject matter referenced in the Presidential Certification of Immigration Enforcement by the President of the Senate. Upon the expiration of 60 days of continuous session after the introduction of the Resolution of Presidential Certification of Immigration Enforcement, each committee to which such resolution was referred shall make its recommendations to the Senate.

(iii) DISCHARGE.—If any committee to which is referred a resolution introduced under paragraph (2)(A) has not reported such resolution at the end of 60 days of continuous session of the Congress after introduction of such resolution, such committee shall be discharged from further consideration of such resolution, and such resolution shall be placed on the legislative calendar of the Senate.

(C) CONSIDERATION.—

(i) IN GENERAL.—When each committee to which a resolution has been referred has reported, or has been discharged from further consideration of, a resolution described in paragraph (2)(C), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall not be debatable. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until the disposition of such resolution.

(ii) DEBATE.—Debate on a resolution, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 30 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion to further limit debate shall be in

order and shall not be debatable. The resolution shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to recommit such resolution shall not be in order.

(iii) FINAL VOTE.—Immediately following the conclusion of the debate on a resolution of approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on such resolution shall occur.

(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of approval shall be limited to 1 hour of debate.

(D) RECEIPT OF A RESOLUTION FROM THE HOUSE.—If the Senate receives from the House of Representatives a Resolution of Presidential Certification of Immigration Enforcement, the following procedures shall apply:

(i) The resolution of the House of Representatives shall not be referred to a committee and shall be placed on the Senate calendar, except that it shall not be in order to consider such resolution on the calendar received by the House of Representatives until such time as the Committee reports such resolution or is discharged from further consideration of a resolution, pursuant to this title.

(ii) With respect to the disposition by the Senate with respect to such resolution, on any vote on final passage of a resolution of the Senate with respect to such approval, a resolution from the House of Representatives with respect to such measures shall be automatically substituted for the resolution of the Senate.

(3) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—

(A) RULEMAKING AUTHORITY.—The provisions of this paragraph are enacted by Congress—

(i) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House of Representatives, but applicable only with respect to the procedure to be followed in the House of Representatives in the case of Resolutions of Certification Immigration Enforcement, and such provisions supersede other rules of the House of Representatives only to the extent that they are inconsistent with such other rules; and

(ii) with full recognition of the constitutional right of the House of Representatives to change the rules (so far as relating to the procedure of the House of Representatives) at any time, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives.

(B) INTRODUCTION; REFERRAL.—Resolutions of certification shall upon introduction, be immediately referred by the Speaker of the House of Representatives to the appropriate committee or committees of the House of Representatives. Any such resolution received from the Senate shall be held at the Speaker's table.

(C) DISCHARGE.—Upon the expiration of 60 days of continuous session after the introduction of the first resolution of certification with respect to any measure, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(D) CONSIDERATION.—It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of certification after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House of Representatives shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 10 hours of debate in the House of Representatives, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(E) RECEIPT OF RESOLUTION FROM SENATE.—If the House of Representatives receives from the Senate a Resolution of Certification Immigration Enforcement, the following procedures shall apply:

(i) Such resolution shall not be referred to a committee.

(ii) With respect to the disposition of the House of Representatives with respect to such resolution—

(I) the procedure with respect to that or other resolutions of the House of Representatives shall be the same as if no resolution from the Senate with respect to such resolution had been received; but

(II) on any vote on final passage of a resolution of the House of Representatives with respect to such measures, a resolution from the Senate with respect to such resolution if the text is identical shall be automatically substituted for the resolution of the House of Representatives.

(i) DEFINITIONS.—In this section:

(1) PRESIDENTIAL CERTIFICATION OF IMMIGRATION ENFORCEMENT.—The term ''Presidential Certification of Immigration Enforcement'' means the certification required under this section, which is signed by the President, and reads as follows:

''Pursuant to the provisions set forth in section 1 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 (the 'Act'), I do hereby transmit the Certification of Immigration Enforcement, certify that the borders of the United States are substantially secure, and certify that the following provisions of the Act have been fully satisfied, the measures set forth below are fully implemented, and the border security measures set forth in this section are fully operational.''.

(2) CERTIFICATION.—The term ''certification'' means any of the certifications required under subsection (a).

(3) IMMIGRATION ENFORCEMENT MEASURE.—The term ''immigration enforcement measure'' means any of the measures required to be certified pursuant to subsection (a).

(4) RESOLUTION OF PRESIDENTIAL CERTIFICATION OF IMMIGRATION ENFORCEMENT.—The term ''Resolution of Presidential Certification of Immigration Enforcement'' means a joint resolution of the Congress, the matter after the resolving clause of which is as follows:

''That Congress approves the certification of the President of the United States submitted to Congress on _____ that the national borders of the United States have been secured and, in accordance with the provisions of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.'',

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 501 the number of positions for full-time active duty CBP officers and provide appropriate training, equipment, and support to such additional CBP officers.

Mr. COBURN. Mr. President, I rise to clarify the record of my vote on Bingaman amendment No. 1267. I intended to vote against the amendment. I do not support the amendment and I wish to explain why.

The Bingaman amendment No. 1267 would have allowed certain future legal temporary workers to renew their work visas from the United States, rather than being required to leave the country for a period of time to reapply. In order to have a true temporary worker program, workers must only come to the U.S. for a season and then return to their home country. If workers are instead permitted to stay in the U.S., they will likely establish economic and familial roots, and will not want to leave when their legal visa has expired. People who want to take part in our society should seek legal citizenship, rather than extending upon an agreement that was intended to be temporary. I encourage those who have respected our laws and want to live in our country to apply for a green card and become a U.S. citizen.

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

63RD ANNIVERSARY OF D-DAY

Mr. CHAMBLISS. Mr. President, I stand before you to honor the memory of the heroes who sacrificed their lives on the beaches of Normandy 63 years ago today. It was these brave men who stared into the face of the stark unknown and forged on to military victory. Supreme Allied Commander and future President Dwight D. Eisenhower led the decisive invasion, now known as D-day, that brought liberation throughout Europe.

It was on June 6, 1944, at 6:30 a.m., that the first assault wave of a great armada rolled onto the beaches of Normandy, France. Operation Overlord commenced and everyone involved knew there was no turning back. And while the size and scope of the operation were colossal, so were the risks. The success of the battle hinged on the element of surprise, and with literally thousands of men involved in the planning, its secrecy hinged on those same men. It is clear these men were the epitome of unfailing loyalty, courage, and solidarity. The invasion had been postponed a day due to weather, and it was only after assurances from a meteorologist that conditions would improve that General Eisenhower agreed to proceed. But still, cloudy skies caused drop zones to be overshot, and

more than half of the equipment to be parachuted in was lost. But soldiers persisted, risks paid off, and bravery triumphed over peril. On that dangerous early morning, following a treacherous English Channel crossing, 150,000 Allied troops took the shore, and 100,000 continued inland. Mr. President, 9,000 men were lost that day, but it went down in history as the decisive battle that turned the tide of the war.

I am proud to bring your attention to what these men did. And as I recognize their valor on this remarkable anniversary, I think it is both fitting and necessary to recognize the valor of our troops in battle today who are no less brave, and who face uncertainty and risk, as did those who fought for freedom in the Second World War. I wish I could stand up here and draw other comparisons between these two wars—WWII and the global war on terror—and between the threats of Nazism and terrorism, because it is without a doubt that World War II, despite our human losses, brought a unity of cause to our Nation, and that would be a great place for us to be again. But the fact is that we are in a different world and a different century; we face a different enemy, and, most of all, our Nation has tremendous differences on how to deal with this enemy.

However, as with the heroism demonstrated by our fighting forces both then and now, there are other unmistakable parallels. The invasion on D-day marked a pivotal time in history when the outcome was uncertain. The great generals going into battle had faith and trust in their troops, but knew their bold strategy carried with it great risk. Just before the invasion, MG Leroy Watson, commander of the 3rd Armored Division, sent his troops this message:

> This is the greatest military operation in the history of the world. Its success or failure will determine the course of events for the next hundred years.

General Eisenhower, also uncertain about the outcome, prepared a letter which he never had to deliver, accepting responsibility for the loss. He expected catastrophic failure and military victory. He wrote to his troops:

> My decision to attack at this time and place was based upon the best information available. The troops, the Air and the Navy did all that bravery and devotion to duty could do.

The leaders knew the danger, but also knew the consequences of failure. In Iraq, and in the fight against terrorism, we must continue to stay the course, because the stakes of not winning are too high, and, as was the case on D-day, we are again in a pivotal time in history. And again, the outcome will surely determine the course of events for the remainder of this century.

D-day was a tremendous battle, with thousands of casualties over the course of a day. It was a time of great loss for our Nation. And amidst those losses stand stories of bravery, individual valor and resounding brotherhood—stories that enveloped the historic battle and personalized it for a nation. And I can tell you that the soldiers I met in Iraq, and the troops whose stories I heard at Fort Benning and Fort Stewart, will be remembered in the annals of our Nation as warriors who are as brave, as strong, and as committed as the heroes of D-day we remember today.

And the Generals who led these brave men will also never be forgotten. World War II saw Eisenhower, Patton, Marshall and Bradley—all of these men have secured their places in history. And today and in the future we will remember the legacies of Petraeus, Odierno, McChrystal, and Fallon—generals and admirals whose leadership, ingenuity, courage and forthrightness are shaping the Iraq strategy, and no doubt its military outcome.

So in drawing these parallels, my conclusion is that in the history of war, there are some constants: the bravery of soldiers, the uncertainty of battle, the value of leadership, and the necessity of victory. These things never change. They were evident on June 6, 1944, and they are evident today. And so it is on the 63rd anniversary of D-day, the decisive battle of World War II, that I recognize the heroes who fought, lived, and died valiantly. And I thank them and their families for setting an example and standard our warriors remember on the battlefield today, and for creating a generation that is willing and able to set the same standard and example for our heroes of tomorrow. I hope that our men and women in uniform serving around the world today will draw courage from the example of those who have gone before them as they execute the responsibilities we as a nation have trusted them to carry out.

TRIBUTE TO WILLIAM ''BILL'' FRANCE, JR.

Mr. MARTINEZ. Mr. President, I wish to speak today to pay tribute to a great Floridian, Bill France, Jr.—a man who lived the American dream, a man who literally turned an idea and hard work into a multibillion dollar national exhibition we today know as NASCAR.

Bill France was a great Floridian in many other ways as well. He was someone who contributed greatly to his local community of Daytona Beach, FL, as well as to the State of Florida at large. Mr. France left us at his home in Daytona Beach, when he passed away earlier this week after a long and difficult battle with cancer.

What we in Florida know, and what the news reports confirmed immediately following his death, is that Bill made NASCAR everything it is today: The sold-out races, the national network television coverage, the regalia and the memorabilia—it all can be credited to this man and his love of the sport.

Born right here in the Nation's capital, Bill France moved as a young man with his family, Bill France, Sr., and his mother Anne to Daytona Beach, FL, in 1935 to escape the Great Depression. With $100 in his pocket, Bill, Sr., started a new life for his family in Florida, setting up an auto repair shop and quickly taking a great interest in racing. In 1938, he would set up the Daytona Beach Road Course, and from there, as they say, the rest is history.

This course he set up back in those days was so unique, and to see photographs of it is one of those things that one can only harken back to the old Florida that is no more. But the races were essentially conducted on the strip of sand in Daytona Beach. They would circle around A1A, the strip of highway that was there at the time, and then circle back around on to the beach. The spectators would sit there on the beach side and watch these cars as they raced literally on the beach.

Bill, Jr., spent his young life around the racetrack and worked toward the legacy his father had begun to build. He worked on cars, helped out during races, and beginning in 1956, he worked every day of the week for more than a year on the construction of the Daytona International Speedway.

In 1972, Bill, Jr., took the reins of the racing organization that his father had helped to found in 1948 and took the risks and made the decisions that took NASCAR to a whole new level.

The International Motorsports Hall of Fame describes it this way:

> Other than the founding of NASCAR itself, Bill, Jr.'s appointment to leadership is probably the most significant event in the history of the sanctioning body. As rule-maker, promoter, ambassador and salesman, France has set the standard by which all other forms of motor sports are measured. He has taken it from a regional sport to a national sport, and nurtured its growing popularity on television, culminating in a record-setting $2.4 billion broadcast contract.

He served for a quarter century leading NASCAR to unbelievable heights and set the stage for what it has become today.

I know I speak for hundreds of thousands of fans, the drivers, the pit crews and anyone and everyone who enjoys NASCAR, as well as Floridians and Daytona Beach residents, when I say a well deserved ''thank you'' to Bill France, Jr., for making our weekends a lot more exciting, more enjoyable, and a lot faster. Florida thanks you for your vision, Bill. We will miss you, but you leave behind a legacy we will never forget.

REMEMBERING SENATOR CRAIG THOMAS

Mr. THUNE. Mr. President, today I rise to honor Senator Craig Thomas, who, very sadly, passed away Monday evening. As all of us in the Senate know, Craig was a respected Member of this body. A number of my colleagues have made very kind remarks on the floor about their relationship with

Craig. While I have not served as long in the Senate as have many of my colleagues who knew and worked with Craig over the years, I did have an opportunity to get to know him since being elected to the Senate in 2004.

I think one of the most important things we have all witnessed with Craig's passing is the outpouring of support and stories about the people he impacted in the Senate, in Wyoming, and across the country.

Without question, the Senate is a lesser place today without Craig's presence. One of the clearest indications of any politician's popularity is his or her support back home. Craig's leadership as the senior member of the Wyoming delegation was overwhelming—primarily due to the confidence he earned from his constituents back in Wyoming. That confidence was something he fought to keep since first being elected to Congress back in 1989.

Craig's battle with leukemia was very indicative of the way he led his life and how he worked on behalf of his State and our Nation. I also believe if his diagnosis hadn't been made public following his reelection last November, I doubt anybody would have known of the battle he waged as he underwent his chemotherapy treatments.

Craig did timeless work on behalf of the citizens of Wyoming and our Nation. His absence from the Senate will be greatly felt. Kimberley and I are deeply saddened by Craig's passing and extend our prayers to Susan and her family. Craig's hard work over the years on behalf of Wyoming and our Nation is a testament to his character and gives all of us something to strive for.

Craig Thomas was a man of the people. He was a Wyoming original. He represented the very heart and soul of the people of his State and of our Nation. He personified hard work and integrity. He was a ''what you see is what you get'' kind of a guy. Wyoming and America are a better place because of his service.

Mr. FEINGOLD. Mr. President, I join the many Senators who have paid tribute to our colleague Craig Thomas. Many of my colleagues have come to the floor since Senator Thomas's passing, and it is clear how many friends he had in this Chamber and how well everyone thought of him and the work he did.

We all knew him as a hard-working Member of the Senate who quickly earned his colleagues' respect. That respect was grounded in the way Craig Thomas served his country throughout his life. He spent 4 years in the U.S. Marine Corps and served in the Wyoming State Legislature, the U.S. House of Representatives, and since 1995, the U.S. Senate.

During his years in the Senate, Senator Thomas served Wyoming with great dedication. Raised on a ranch, Senator Thomas understood the concerns of rural Americans, and I appreciated his efforts in the Senate to stand up for the people who keep our rural communities strong. That is an important concern in my State, and I know it is in Wyoming as well.

I was very pleased to work with him to improve competition and fair treatment for farmers and ranchers. I know that he was committed to giving farmers and ranchers a fair shake in the marketplace, and his constituents appreciated that dedication.

Senator Thomas also worked on a range of health care issues important to rural Americans. He well understood the challenges that people in rural areas face as they seek access to health care services and helped to address those concerns. The Senate benefited from his leadership as cochair of the Senate's Rural Health Caucus, where he showed tremendous commitment to these issues. He led the push to maintain full funding for several rural health discretionary programs, and I am grateful for his efforts. That was just one of the many ways he contributed to the work of the Senate and served the people of Wyoming.

As we remember Senator Thomas, we can all be grateful for the life he led and his outstanding service to the Senate and to our country. To his wife, his family, his staff, and his many friends, I offer my condolences and my deepest sympathies.

Ms. STABENOW. Mr. President, I rise to join others in paying tribute to a wonderful colleague, Senator Craig Thomas. Tragically, last night, he lost his battle with leukemia. I want to send my heartfelt condolences to his wife Susan, his children, Patrick, Greg, Peter, and Lexie, and to his staff.

Since January, I had the pleasure to serve with Senator Thomas on the Finance Committee. I found him to be a hard-working Senator and very concerned about his constituents' struggling to get health care in rural areas.

I also had a chance to work with him last year on the Michigan Lighthouse and Maritime Heritage Act. This legislation sets up a process whereby the National Park Service would work with the State of Michigan to create a lighthouse tourist trail.

As my colleagues know, he was chairman of the National Parks Subcommittee, which had jurisdiction over this legislation. During consideration of this bill, he was helpful to me and the people of Michigan even though these lighthouses are thousands of miles away from his home. He held a hearing on this legislation, worked with me to get it to the floor and ultimately to the President's desk.

On behalf of the people of Michigan, we appreciate his support of this legislation.

Senator Thomas was a wonderful man—kind and decent to everyone. We will all miss him.

Mr. COLEMAN. Mr. President, with a combination of great sadness and admiration, I join my colleagues in honoring the life of Craig Thomas, a person of strength, passion, and integrity.

Those who have had the blessing of traveling to the State of Wyoming appreciate its amazing beauty and variety. Craig Thomas reflected the geography of his State. He could be as peaceful and serene as Wyoming's rolling prairie grass lands, and he could be as striking and powerful as its majestic mountains.

Growing up, he learned the creative dynamic of frontier life: rugged individualism joined with an ethic of neighbor-helping-neighbor when the need was great.

In this sometimes stuffy and frustrating Washington world, he was a fresh breeze of unconventionality. He maintained his Wyoming vision of life throughout many years in this city, and the people of Wyoming deeply appreciated his strong immunity to the political disease called Potomac Fever.

Craig Thomas lived a very meaningful life and made the State and country he loved a better place to live in. From his young days as a marine to his last days as a Senator, his heart was service and he put everything he had into making a difference for generations to come.

Because of his service here, our national parks are a legacy that will be passed to future generations in better shape than he found them. Because of his fiscal conservatism, fewer dollars of debt will be passed on to our children. Because of his vision and integrity, a model of public service will be available to those who come after.

Laurie and I send our prayers to the Thomas family. We thank them and the people of Wyoming for sharing Senator Thomas with the Nation.

Every one of us on this floor can learn a lesson from his life and remember Craig Thomas by living the values and commitments he taught us.

Mr. ROCKEFELLER. Mr. President, when Craig Thomas passed away on Monday evening, the U.S. Senate lost more than a Member; our institution has lost a good man and I a good friend—someone who was proud to be called an American cowboy. Sharon and I extend our deepest sympathy to his wife Susan, his family, his friends, his staff, and the people of Wyoming whom he served with such complete dedication.

Over the last few years, I worked closely with Senator Thomas. I came to know him well and came to respect him enormously. We both represented small, rural States with critical constituencies—his most emblematic being the farmer, mine the miner. We both maintained a deep commitment to our home States. Perhaps most importantly, we both had a history of public service.

Throughout our careers, I would say that we had a very good partnership. We served together on the Senate Finance Committee and fought to make this country more independent of foreign energy, to promote the development of clean coal technologies, and to preserve the rural American lifestyle.

Through it all, I greatly liked and admired Senator Thomas and appreciated him for the fine human being he was. He was a man of strong principle, one who knew the bottom line and didn't hesitate to consult his colleagues on the other side of the aisle. What I will remember most about him, however, wasn't his ability to work with his so-called foes or our tough fights in the Senate, but for his deep affinity for the beauty of this country.

In fact, over the years, when I have traveled to Wyoming and looked up at that towering, earthly skyline of the Grand Tetons, I have often thought of Craig.

Craig, after all, was perhaps one of the people who shared my deep love of the Grand Tetons. It was in those mountains and the Gros Ventre that we found a common bond. Together, we exchanged our marvels about the alpine lakes, the cutting glaciers, wind-swept glaciers and sparkling rivers.

I will never forget his advice on enjoying the beauty of Jackson Hole or his stories about long horseback rides or camping in the cool shadows of the mountains. I will never forget his interest in the wildlife and his appreciation for the foliage. Nor will I forget how passionately he protected the autonomy of the park, and how much he cherished the culture and beauty of his home.

Senator Craig Thomas held my deepest respect; and, to his family and the people of Wyoming, I offer my deepest sympathies. He was a valuable public servant, a true fighter and a friend—and, more than anything, a true American.

Mr. SHELBY. Mr. President, I rise today to pay tribute to our colleague, our friend, and a great statesman, Senator Craig Thomas.

It is a somber day in the Senate Chamber as we mourn this loss.

His passing leaves a significant mark on the many lives he touched throughout his life. On behalf of myself and my wife Annette, I send my deepest sympathies to his wife Susan, his four children, and the entire Thomas family.

Craig was an influential force in the Senate for the people of Wyoming, as well as a thoughtful leader on national issues.

Craig served the people of Wyoming with distinction and honor.

His roots in the State ran deep, and Wyoming had no greater advocate. He has built his reputation as a fiscal conservative while focusing on the unique issues affecting the American west.

He was honest, humble, good natured, and loyal. It was these characteristics that he brought to the Senate and to his work. He was an effective leader because he believed you could get a lot accomplished when you did not care who took the credit.

Craig was committed to the values and principles he believed in deeply. He loved his State, and it showed. He was committed to protecting our Nation's natural resources, improving the lives of those in rural America, and a leader in advocating a sound national energy policy.

It was my true privilege to have served with Craig over the past 13 years in the Senate. While we continue to mourn his passing, we should try to carry on with the same determination and energy he brought every day to the challenges he faced.

He will be remembered as a dedicated American, a marine, a public servant, and the quintessential American cowboy who gave so much of his life in service to the Nation.

I offer my thoughts and prayers to those close to Craig in this difficult time, especially to his family.

ENERGY INDEPENDENCE

Ms. KLOBUCHAR. Mr. President, today I come to the floor to discuss some of the changes that need to be made to our national energy policy. The simple truth is, our country is headed down the wrong energy path. Our current path has led to record-high electricity and gas prices. These prices are not only hurting ordinary families, they are also hurting businesses who are seeing their costs go up dramatically. The growth of energy-intensive industries such as manufacturing is actually being stunted due to skyrocketing electricity costs. We already know the negative global impacts our current energy path is having on our environment. It is clear we can't continue down this energy path anymore. It is not good policy. It is not good economic policy, and it is not good environmental policy.

Mr. President, I will be introducing a bill that will lead the Nation down a path to a better, cleaner, more independent energy economy, a path that takes us away from higher electric bills and leads to new opportunities for investment and innovation, more jobs, and more economic development. As the chart beside me illustrates, 52 percent of our electricity is currently generated from coal; 15 percent is from natural gas; 3 percent from petroleum; 20 percent from nuclear; 7 percent from hydro; and 3 percent from renewable energy. Clearly, this is not a diversified energy portfolio. Clearly, something needs to be done about rising energy costs.

It is estimated that Americans will spend over $200 billion more on energy this year than last year. That is an increase of nearly 25 percent. The bill will allow us to meet our future electricity needs. It will allow us to diversify our electricity supply. It will allow us to reduce the vulnerability of our energy system, and it will allow us to stabilize electricity prices, protect the environment, and most of all, stimulate the economies of rural America.

It is time to act. It is time to pass an aggressive renewable electricity standard, one requiring that all electricity providers would have to generate or purchase 25 percent of their electricity from renewable sources by the year 2025. Twenty-two States throughout the country have already demonstrated the value of establishing renewable electricity standards.

This chart shows what is going on around the country. I am looking at Rhode Island, to try one State, a 16-percent standard by 2019. You see California, 20 percent by 2010. You see Washington, 15 percent by 2020. All over the country, we see a change afoot. The checkered States are ones that have voluntary goals, such as Illinois. The striped States have standard goals, and the green States actually have standards put into law.

While the States are already heading down the path toward the new ''green economy,'' the Federal Government has not even made it to the trail head. The Federal Government is stuck in the fossil age.

I am proud to say my State of Minnesota is further down the path than any other State. In February, the Democratic Minnesota State legislature passed and our Republican Governor signed into law what is considered the Nation's most aggressive standard for promoting renewable energy in electricity production. It is a ''25-by-25'' standard. By the year 2025, the State's energy companies are required to generate 25 percent of their electricity from renewable sources such as wind, water, solar, and biomass. The standard is even higher for the State's largest utility, Excel Energy, which must reach 30 percent by 2020. The CEO has been in my office and said it is going to be tough but they are going to make it, and they are going to be able to meet this goal without raising rates.

I admire what the States and communities and businesses are doing across the country. I admire them for their inspiration, and I admire them for their initiative. There is a famous phrase: the ''laboratories of democracy.'' That is how Supreme Court Justice Louis Brandeis described the special role of States in our Federal system.

In this model, States are where new ideas emerge, where policymakers can experiment, where innovative proposals can be tested.

Brandeis wrote over 70 years ago:

> It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

But he did not mean for this to serve as an excuse for inaction by the Federal Government. Good ideas and successful innovations are supposed to emerge from the laboratory and serve as a model for national policy and action. That is now our responsibility in Congress.

The courage we are seeing in the States, as they deal with global warming, climate change, should be matched by courage in Washington, DC. We

should be prepared to act on a national level, especially when the States and local communities are showing us the way.

Now there is an opportunity for the Federal Government to act. It is time for the Federal Government to begin moving toward an aggressive national standard—on par with Minnesota's 25-by-25 standard.

There are many economic benefits of this aggressive standard. Yet, perhaps most importantly, an aggressive national standard opens the door to a new electricity industry that will bring thousands of jobs and pump billions of dollars into our economy.

Over the last 20 years, America's renewable energy industries—and the wind industry in particular—have achieved significant technological advancements. The industries for solar, wind, and biomass energy systems are expanding at rates exceeding 30 percent annually.

The clean water revolution is still in its infancy. I think of it like the beginnings of the computer revolution when the computer used to take up an entire room. Now they are much cheaper, and they are much more efficient. That is what is happening with our green technology. But it will not happen unless we get into the act and set the standards as they should be.

Businesses are coming on board. CEOs of major corporations such as DuPont, Duke Energy, and General Electric see the opportunities. High-tech entrepreneurs in our country want to develop the green technologies before they do it in India and Japan. It is already starting.

Nationally, venture capital investments in ''green'' or ''clean'' technologies have increased dramatically. Last year, venture capital investment in green technologies reached an impressive $2.9 billion. From 2001 to 2006, there was a 243 percent increase in green technology venture capital investments.

Not only is clean technology the fastest growing venture capital sector, it is now the third largest category—behind only biotech and computer software.

The economic benefits are not just limited to high-risk investors. In September of 2004, the Union of Concerned Scientists used the Energy Information Administration's National Energy Modeling System to examine the costs and benefits of an aggressive national standard. Their analysis found an aggressive national standard would reduce electric and natural gas prices and provide significant economic benefits for all of America.

For example, as you can see from this chart, an aggressive national standard would create 355,000 new jobs—nearly twice as many as generating electricity from fossil fuels.

We would see economic development, such as $72.6 billion in new capital investment; $16.2 billion in income to farmers, ranchers, and rural landowners; $5 billion in new local tax revenue. We would see consumer savings. We would see $49 billion in lower electricity and natural gas bills. We would have a healthier environment. We would see reductions in global warming, pollution equal to taking nearly 71 million cars off the road. We would see less air pollution, less damage to land, and better water use.

So while traditional manufacturing jobs continue to move away from the United States, the country now has an opportunity to become a global hub of new, high-quality jobs in manufacturing and other high-skill areas, while generating environmental benefits at the same time.

So the future looks bright. Never before have we seen such strong interest and growth in renewable energy and energy-efficiency technologies. But the question we face is this: Does the United States want to be a leader in creating the new green technologies and the new green industries of the future? Or are we going to sit back and watch the opportunities pass us by?

In this country, we have the fields to grow the energy that will keep this Nation moving. And we have the wind energy to propel our economy forward. Right here in the United States, we have the science, we have the universities, we have the technological know-how, and we have the financial capital to harness our own homegrown energy.

It is time to act. The only thing holding us back is complacency. A national renewable energy standard will be a major contributor in driving innovation in green technologies.

Now, I know there are critics of a national standard. These critics—who I believe are stuck in the fossil age—believe an aggressive standard would negatively affect the reliability of an energy system. Yet, these critics seem to forget that numerous countries in Europe, including Spain, Germany, and Denmark—where wind power supplies over 30 percent of their electricity—have seen no adverse impacts on the reliability of their systems.

In fact, a renewable electricity standard can actually increase the overall reliability of an electric system. It can diversify our electricity sources so we are not so reliant on energy sources such as natural gas that are vulnerable to periodic shortages or other supply interruptions.

Not only is a national standard more reliable and good for the economy, it will also, of course, protect the environment and public health. Electricity production has a significant impact on our environment. Today, electricity accounts for more than 26 percent of smog-producing emissions, one-third of toxic mercury emissions, and some 40 percent of climate-changing greenhouse gases.

An aggressive standard will reduce CO_2 emissions by 434 million metric tons per year by 2020—reductions of 15 percent below current levels. This, as I said, is equivalent to taking nearly 71 million cars off the road.

A couple of weeks ago, Minnesota's own Tom Friedman had a cover story in the New York Times magazine about ''The Power of Green.'' It should be required reading for anyone who cares not only about the future of our environment but also our economic future and our future national security. He talked about the need in this area for setting the standards. When you set the standards, and people can see off into the future, we will see the investment. People say: Well, why do you have a standard set at 2025? Obviously, our bill is going to have a standard growing each year. But the reason you want to go out to 2025 is you want American businesses and capitalists and people involved in this to understand if they invest, where they are going.

In his article, Tom Friedman asks: ''How do our kids compete in a flatter world? How do they thrive in a warmer world? How do they survive in a more dangerous world?''

The answer is in making the most of the economic and technological opportunities to reduce our dependence on fossil fuels and the greenhouse gas pollution that comes from it.

Friedman says clean energy technology is going to be ''the next great global industry.'' Well, if that is the case—and I believe he is right—then we need to make America the leader. We cannot afford to sit back and watch the opportunities pass us by.

As I mentioned before, we are seeing unprecedented interest and growth in renewable energy technologies. But at the same time, we are no longer the world leader in two important clean energy fields. We rank third in wind power production, behind Denmark and Spain. We are third in solar power installed, behind Germany and Japan.

Ironically, these countries surpassed us largely by adopting technologies that had first been developed right here in the United States. We came up with the right ideas, but we did not capitalize on these innovations with adequate policies to spur deployment. Our foreign competition was able to leapfrog over American businesses because these other countries have government-driven investment incentives, aggressive renewable energy targets, and other bold national policies.

Friedman proposes a ''Green New Deal''—''one in which government's role is not funding projects, as in the original New Deal, but seeding basic research, providing loan guarantees where needed, and setting standards, taxes and incentives that will spawn'' all kinds of new technologies.

I agree. It is about leading the new economy. It is about making America the global environmental leader, instead of a laggard. It is about creating a better economy for the next generation by inventing a whole new industry, which will not only give us the clean power industrial assets to preserve our American dream but also give us the technologies that billions of

others need to realize our own dreams without destroying the planet.

It is about not being complacent. It is about getting on a new energy path. I believe an aggressive renewable electricity standard leads us down that path.

I urge all of my colleagues to support an aggressive standard. I suggest Minnesota's standard: 25 percent by 2025 for renewable electricity. It is a start down the path.

TRIBUTE TO FORMER CONGRESSMAN PARREN J. MITCHELL

Mr. KERRY. Mr. President, today I rise to pay tribute to a fallen pillar of the movement to extend equal opportunity to thousands of African-American and minority businesses throughout our Nation: Congressman Parren J. Mitchell.

With the passing of former Congressman Mitchell on May 28, 2007, our country has lost one of its legendary advocates for minority business owners, a giant who knew that the struggle for civil rights and equal opportunity would be decided in America's board rooms as well as its voting booths and lunch counters.

Congressman Mitchell fought with heart, grit, integrity, and determination to level the playing field so more minority firms could do business with the Federal Government. He didn't just serve as chairman of the House Small Business Committee, he served as Congress's conscience. He also was founder and chairman of the Minority Business Enterprise Legal Defense and Education Fund.

Congressman Mitchell's life was an incredible story of courage and resolve. He became the first African-American graduate student at the University of Maryland when he challenged the university's policy of segregation. He was the first African American elected to Congress from the State of Maryland. He was the first African American elected to Congress who lived below the Mason-Dixon line since 1898. And he was the first African American to chair the House Small Business Committee.

Congressman Mitchell's work on that committee has left a legacy that is as long and impressive as his commitment to equal opportunity for all of our nation's citizens. Many of his policies made it possible for the rise of the minority business community. In 1976, he attached an amendment to a public works bill stipulating that cities and States receiving Federal grants had to award 10 percent of the money to minority-owned businesses. That year he also managed to pass a law requiring contractors to document their goals in contracting with minority-owned companies. In 1980, he was able to successfully amend the Surface Transportation Assistance Act to require 10 percent of the money to be set aside for minority businesses.

On May 22, 2007, in the Senate Committee on Small Business and Entrepreneurship we held a hearing to look at the state of minority small businesses. And while the witnesses at the hearing revealed that there have been many gains for minority businesses, they also revealed that there is still more that needs to be done. I believe that the accomplishments of those who testified at the hearing would have made Congressman Mitchell proud. I also believe that the testimony about discriminatory practices that still confront minority businesses would have confirmed for him as it did for me that there are still more hills to climb.

The challenge now is to climb those hills by creating opportunities for minority businesses that will do justice to the memory of Congressman Mitchell. As we move forward in the Senate Committee on Small Business and Entrepreneurship, the best way to do that is to pass laws that expand opportunities for all Americans who have been shut out or left behind.

VOTE EXPLANATIONS

Mr. BROWNBACK. Mr. President, I regret that on May 24 I was unable to vote on the motion to concur in House amendment to Senate amendment to H.R. 2206, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007. Regarding vote No. 181, I would have voted in favor of the motion to concur in House amendment to Senate amendment to H.R. 2206. My vote would not have altered the result of this motion.

Mr. President, I also regret that on May 24 I was unable to vote on certain provisions of S. 1348, the Comprehensive Immigration Reform Act of 2007. I wish to address these votes so that the people of the great State of Kansas, who elected me to serve them as U.S. Senator, may know my position.

Regarding vote No. 176, on amendment No. 1186, I would have voted in favor of this amendment. My vote would not have altered the final result of this vote.

Regarding vote No. 177, on amendment No. 1158, I would have voted in favor of this amendment. My vote would not have altered the final result of this vote.

Regarding vote No. 178, on amendment No. 1181, I would not have voted in favor of this amendment. My vote would not have altered the final result of this vote.

Regarding vote No. 179, on amendment No. 1223, I would have voted in favor of this amendment. My vote would not have altered the final result of this vote.

Regarding vote No. 180, on amendment No. 1157, I would not have voted in favor of this amendment. My vote would not have altered the final result of this vote.

HONORING OUR ARMED FORCES

FIRST LIEUTENANT KEITH NEAL HEIDTMAN

Mr. DODD. Mr. President, every Memorial Day, words fight a losing battle against action. Each year, as spring warms into summer, we pause our lives and bow our heads in safety, and grope for words to honor the men and women who have made that safety possible. Inevitably, we fail; we say ''fallen'' when we mean ''killed''; we say ''sacrifice'' for those who died unwillingly, in great pain. I believe we do so because we want to find a register for our voice to match the heroism of their work, but, also, because high words shield us from the immediacy of death in war. Even as we remember, we can't help looking away.

But some lack that luxury. They are in Iraq and Afghanistan, and they are living the war we speak about. For 10 American soldiers in Iraq, Memorial Day was their last day.

Last week, the Senate was out of session in commemoration of Memorial Day, but now that we have returned, I want to honor the memory of one of those 10 soldiers: Army 1LT. Keith Neil Heidtman. He was a native of Norwich and a graduate of the University of Connecticut. He was 24 years old. On Monday, May 28, the helicopter he was copiloting crashed, likely brought down by enemy fire. Early the next morning, an Army chaplain brought the news to Lieutenant Heidtman's family.

For Maureen and Arthur Robidoux, his mother and stepfather, for Kerry Heidtman, his father, for Chris Heidtman, his uncle, and for Keely Heidtman, his older sister, memories will never fill the place of the live they loved. ''If you had to pick your son, this is who you would pick,'' said Chris Heidtman. ''He was handsome, he was bright''. A star baseball player and a distinguished ROTC cadet, Lieutenant Heidtman volunteered for pilot training upon his graduation in 2005.

He learned the value of service from his parents, both public servants themselves: his mother at the State Department of Children and Families, and his father in a State child-support program. His death reminds us that the highest service carries the highest cost. ''We're sending our finest, and we're losing them,'' said Lieutenant Heidtman's uncle.

So today we honor one of our finest, who wore our uniform and died long before his time. Next Memorial Day, his name will join the rolls of our dead. I pray that by then time will have soaked up his family's tears. Next spring, we will bow our heads and look for words to do him justice. I don't believe those words exist. His best memorial will be in our silence.

WAR CRIMES TRIAL

Mr. FEINGOLD. Mr. President, earlier this week in a special chamber of the Special Court for Sierra Leone, based in The Hague, proceedings began in the trial of former Liberian President Charles Taylor, who is accused of crimes against humanity, war crimes, and serious violations of international

law committed during Sierra Leone's 11-year civil war. Tens of thousands died in this conflict that ended in 2002, and more than a third of Sierra Leone's 6 million people were forced to flee. His trial is expect to have significant impact across Sierra Leone but also throughout neighboring countries as his raging brutality was in no way confined by national borders.

For over a decade, the people of Sierra Leone and Liberia not only suffered from deprivation and displacement at the hands of Charles Taylor, but they also endured forced recruitment of child soldiers, widespread and brutal sexual violence, and horrifying murders and mutilations. Those responsible for these crimes abandoned all human decency in their quest for power and wealth.

I have long been a strong supporter of accountability mechanisms around the world—and in particular Sierra Leone's Special Court and Truth and Reconciliation Commission. I have worked to ensure that the United States provides appropriate financial and political support for such important institutions, which are crucial to building a framework for the rule of law in postconflict countries. I commend the court for taking its mandate seriously and for following the evidence where it led—directly to a sitting head of state.

Despite Charles Taylor's unwillingness to appear at the opening of yesterday's trial, the message this critical trial sends—to current and would-be corrupt, violent, and brutal leaders—is momentous: the international community will no longer stand silently by but will support efforts to break the worst cycles of violence and impunity. When the trial continues later this month in The Hague, it is essential that international fair trial standards are adhered to, that robust and transparent outreach programs continue uninterrupted so the trial remains as accessible as possible to those most affected by the conflict and that great care is taken to ensure the security of victims, witnesses, and their families.

While I welcome the proceedings in The Hague, more needs to be done on behalf of the people of Sierra Leone and Liberia. True accountability for the horrific atrocities they endured will only be achieved when the rule of law is respected at every level in the governments of both countries and all citizens have access to justice. Great steps forward have been taken, but much more work remains. I will continue to press the United States and the international community not to desert the people of Sierra Leone—or the region—as they work to reconcile their grievances and seek to heal from one of Africa's worst conflicts.

CONQUER CHILDHOOD CANCER ACT

Mr. WYDEN. Mr. President, I would like to take a few moments to talk about 8-year-old Jenessa Byers, known as ''Boey'' by her friends and family.

Last year, Boey was diagnosed with a very rare childhood cancer called rhabdomyosarcoma. Showing tremendous courage and strength as she underwent radiation and chemotherapy, Boey battled the cancer into remission. Unfortunately, that cancer returned and Boey is back in treatment undergoing radiation and chemotherapy once again.

While I was in Oregon over the recess, I had a chance to visit with Boey and her family at the Children's Cancer Center at Doernbecher Children's Hospital, as well as with other children at the hospital who are battling a variety of childhood cancers. Boey refers to herself as a warrior in the fight against cancer, and there is no doubt about it, Boey is a warrior. As I witnessed firsthand when I visited her last week, she is fighting the cancer as hard as she can. This in itself makes Boey a very brave and very special little girl.

But what makes her especially amazing is that in spite of what she is going through, Boey has been working tirelessly to help other children who are also battling cancer. Each month, she donates special bears and handmade cards titled ''Be Strong'' to other children at the hospital. The day before her eighth birthday last month, Boey participated as a survivor in the American Cancer Society's Relay for Life, for which she raised over $500. In addition, she has raised money to help fight cancer on a local radiothon, and she has raised awareness using her own videos, which she has posted on YouTube.

Because of Boey's incredible compassion and determination to help the other children fighting cancer, she was recently asked to be a spokesperson for Doernbecher Children's Hospital. On May 31, she spoke about her experiences at a reception for the Children's Miracle Network. Just this past weekend, she was featured in a segment of the Doernbecher Children's Miracle Network Telethon.

While I was visiting Boey, she asked me to cosponsor the Conquer Childhood Cancer Act. Introduced by Senators REED and COLEMAN, this act would provide critical resources for the treatment, prevention, and cure of childhood cancer. The act would authorize $150 million over a 5-year period to expand support for biomedical research programs of the existing National Cancer Institute-designated multicenter national infrastructure for pediatric cancer research. It would also establish a population-based national childhood cancer registry; enable researchers to more accurately study the incidence of childhood cancers and long-term effects of treatments; and provide funding for informational and educational services to families coping with a diagnosis of childhood cancer. The Conquer Childhood Cancer Act brings hope to the more than 12,500 children who are diagnosed with cancer each year, as well as more than 40,000 children and adolescents currently being treated for childhood cancers.

On behalf of Boey and the other courageous and wonderful children I met at Doernbecher Children's Hospital recently, and every child with cancer, I would like to announce that I am cosponsoring the Conquer Childhood Cancer Act. I will be working with my colleagues to get this bill signed into law so that we can find a cure for childhood cancer once and for all.

D-DAY ANNIVERSARY

Mr. BIDEN. Mr. President, I would like to take a moment to recognize the great sacrifices made by our Nation's veterans on the anniversary of D–day and to once again highlight the need for all of us to do more for those serving today.

On this day 63 years ago, 3,393 American troops gave their lives on the beaches of Normandy defending the freedom of America and its allies. These brave young men sacrificed themselves to stop an empire born of hatred from consuming Europe and fought to prove that freedom and justice would never bow to terror and intolerance. Their valor and service will forever endure in our Nation's memory.

Today, a new generation faces new challenges. The nearly 170,000 American troops currently serving in Iraq and Afghanistan exemplify the kind of courage and dedication that has defined the American military throughout our history. And for the sacrifices they are willing to make, we in the Senate, our colleagues in the House, the military leadership, the President, and the American people have an absolute moral obligation to provide our servicemen and women with the best possible protection when we send them to war.

I know that when President Roosevelt sent his men into battle, he did not simply pay lipservice to their courage, he made sure that they had the strongest artillery, the best gear, and the most advanced equipment available. He did not worry that the landing craft he needed for D–day would not be needed when the war ended. He made equipping the force the entire Nation's top priority. Calling on the patriotism of American businessmen to ensure military needs were met before all else. And so I ask why—a half century later—we cannot do the same for our troops today.

Today, improvised explosive devices, IEDs, are the single greatest threat to the lives of our troops, causing 70 percent of U.S. casualties in Iraq. The military has indicated that mine resistant ambush protected, MRAP, vehicles, which provide four to five times more protection than up-armored Humvees, will reduce casualties from IEDs by two-thirds. These vehicles have already been tested fully at Aberdeen Proving Center and our allies have been using similar technologies in the field for years.

So why, then, are these critical vehicles not already in the field?

We learned recently that in February of 2005, Marine commanders in Iraq realized that they needed vehicles designed specifically to defeat the IED threat and asked the Pentagon to build them. Yet 2 years later their request remains unfulfilled. Secretary Gates has indicated that MRAPs compete with other defense spending, which may make it difficult to produce all we need. I just don't get that logic. I can see no greater use of our dollars than getting American troops the best possible protection that exists today. This Nation can afford to do that and whatever else is necessary to do right by our military men and women and their families.

At a later date we will get to the bottom of what happened in 2005, but our first order of business today should be making sure that we get our troops the technology they need as soon as possible. That will require a genuine assessment of how many MRAPs are needed in the field and how much it will cost to build that critically needed inventory.

We also need to provide our troops with all the latest in tested technology to defend against the new weapons which insurgents are using in Iraq: shaped charges called EFPs, or explosively formed penetrators/projectiles, those shaped-charges which hit our vehicles from the side with devastating effect. We cannot wait another 2 years to field technology to protect against these devices when Americans are dying today.

Today I ask of my colleagues, of the President, of our military commanders, and of the American people, that we pay respect to American servicemembers with more than words. We have the ability and the obligation to do more and we must.

Mr. MARTINEZ. Mr. President, 63 years ago today, many brave Americans and other allied forces members were dropped out over the frigid North Atlantic coastline of Normandy; numerous others stormed the beaches from the sea. Ultimately, well over 100,000 determined Allied troops were involved in one of the most remarkable and well orchestrated military events in history. D–day was among the greatest victories of World War II. June 6, 1944 is a day all lovers of freedom should hold on high. We cannot ever forget the sacrifice and meaning of that day.

Were it not for the supreme leadership—both here and abroad—of President Franklin D. Roosevelt, Prime Minister Winston Churchill, General Dwight D. Eisenhower, and many other government and military leaders—and a patriotic citizenry—we might be living in a starkly different world today. D–day does not just signify singular success; it symbolizes the power of our fearless democracy and way of life. This triumph—not only on D–day, but in the war effort at large—helped to further a clear message made by an earlier American President, one who was considering the weight of World War I. As Woodrow Wilson remarked a generation earlier, ''The world must be made safe for democracy.'' The events of June 6, 1944, helped to make the world a safer place. Victory would not have come about without the smart and strong dedication of our military.

We must take it upon ourselves as Americans, and as grateful citizens, to continue to thank the brave patriots who served in what has become a legacy of freedom; we thank them for their service and their sacrifice. Every generation faces new challenges and must accept the consequences of inaction. We are better off for the actions of the Greatest Generation. Across the beaches of Omaha, Utah, Juno, Gold, and others, our brave Allied troops sacrificed mightily on June 6, 1944. That sacrifice lives on.

For all those veterans of D–day, and for that matter, any campaign of World War II, thank you. You helped to make the world safe for democracy. Your victorious struggle of more than 60 years ago makes this Nation proud and grateful. Thank you for your dedication and sacrifice.

LOS ALAMOS NATIONAL LABORATORY

Mr. DOMENICI. Mr. President, I wish to congratulate Los Alamos National Laboratory for its part in completing the 100th genome sequence. Like the Human Genome Project, this achievement serves as a constant reminder of the possibilities before us and a step forward in scientific knowledge. The scientists of Los Alamos National Lab constantly achieve excellence through their various endeavors, and I am proud of their contribution to this vast project. This well-deserved recognition highlights their continuing dedication to serving this country through research in health and environment-related fields.

Los Alamos National Laboratory has championed the advancement of national security for over 60 years. In the tumultuous times of World War II, it stood as our Nation's front line in acquiring a superior tool with which we could be certain that freedom would prevail. However, once its mission was complete it continued to pursue the advancement of American security and research. What began as an installation solely focused on the creation of an atomic bomb has developed into a diverse and advanced institution dedicated to securing our nuclear ordinance, combating the effectiveness of weapons of mass destruction, and addressing many problems in areas such as energy and health.

Los Alamos National Laboratory serves as one of five national laboratories working with the Department of Energy to sequence genomes. Labeled the Joint Genome Institute, this group of research institutions first helped to complete the Human Genome Project, which has since been called one of the greatest scientific advances of our time. The benefits of this outstanding achievement are many. For example, we can now match organ donors and recipients with less uncertainty and even diagnose disease more efficiently.

Over the years, the mission of the Genome Project has oriented itself towards other vital interests. The Joint Genome Institute is now targeting specific animals and microbes with traits that, if harnessed, could aid in areas such as biotechnology, alternative fuels, and the environment. For example, the organism just completed has shown potential in aiding the cleanup of uranium-contaminated areas. This application would greatly benefit Los Alamos itself, which has several radioactive wastesites.

In the past, I have strongly supported the research of Los Alamos National Laboratory and the advancement of the Genome Project and have helped each of them secure defense and biotechnology funding. In return, their research has yielded important advances in areas such as health, energy, and the environment. Furthermore, the continuing excellence of Los Alamos National Laboratory has led to the creation of many jobs in the northern New Mexico region. Los Alamos continues to succeed in its purpose of national service, and I am pleased to offer my support and congratulations for their contribution to the 100th mark in the Genome Project.

ADDITIONAL STATEMENTS

100th ANNIVERSARY OF HETTINGER, NORTH DAKOTA

• Mr. CONRAD. Mr. President, today I wish to recognize a community in North Dakota that is celebrating its 100th anniversary. On July 3–8, the residents of Hettinger will gather to celebrate their community's history and founding.

Hettinger is a vibrant community in southwest North Dakota. Hettinger holds an important place in North Dakota's history. The townsite was founded in 1907, and Erastus A. Williams of Bismarck, whose son-in-law was Mathias Hettinger, was credited with naming the community. It became the county seat of Adams County in 1907. The post office was established in May 17, 1907, and Hettinger was organized into a city in 1916. One of the last living survivors of the Titanic, Ole Abelseth, was a longtime resident of Hettinger.

Today, Hettinger is a magnet for outdoor enthusiasts who come to enjoy bird watching, fishing, and big game hunting. Nearby Mirror Lake offers camping and other outdoor activities for all ages. In 2004, Hettinger was recognized as Hometown of the Year by the Bismarck Tribune and it received the North Dakota Capital Community Designation by the Federal Home Loan

Bank, which recognized Hettinger's vision and planning in sustaining and revitalizing the local economy.

The people of Hettinger are enthusiastic about their community and the quality of life it offers. Hettinger has a wonderful centennial celebration planned that includes dances, a steak fry, a lumberjack show, a parade, a horseshoe tournament, class reunions, and a whisker growing contest. The week long celebration will definitely be one to remember.

Mr. President, I ask the U.S. Senate to join me in congratulating Hettinger, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Hettinger 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 Hettinger that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Hettinger has a proud past and a bright future.●

125TH ANNIVERSARY OF ELLENDALE, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to recognize a community in North Dakota that will be celebrating its 125th anniversary. From June 28 to July 1, the residents of Ellendale will gather to celebrate their community's history and founding.

Ellendale is a community of about 1,550 on the border between North and South Dakota. It was founded in 1881 in anticipation of the Milwaukee Road Railroad. It was the first white settlement in the county and, as the first stop on the railroad in the region, it became a great distributing point for settlers' supplies. It was named in honor of the wife of Milwaukee Road Rail Road official S. S. Merrill.

Today, Ellendale is the county seat of Dickey County. It is also home to an Opera House which, at one time, was the largest between Minneapolis and Seattle. The Organization of the People in Ellendale for the Restoration of the Arts hopes to reopen the Opera House, which is currently undergoing restoration, so that it can, once again, have live productions. In addition, the Cole Memorial Museum hosts numerous artifacts and memorabilia showcasing the Ellendale area.

For those who call Ellendale home, it is a comfortable place to live, work, and play. The people of Ellendale are enthusiastic about their community and the quality of life it offers. Nearby Pheasant Lake offers a wealth of recreational opportunities from fishing to boating to camping. The community has a wonderful quasquicentennial weekend planned that includes school reunions, a Walk of Fame inductee banquet, a golf tournament, and a Historical Pageant.

Mr. President, I ask the U.S. Senate to join me in congratulating Ellendale, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Ellendale 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 Ellendale that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Ellendale has a proud past and a bright future.●

100TH ANNIVERSARY OF BOWMAN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to recognize a community in North Dakota that will be celebrating its 100th anniversary. From June 29–July 4, the residents of Bowman will gather to celebrate their community's history and founding.

Bowman is a quaint town of about 1,500 people nestled in the southwest corner of North Dakota. It was founded in 1907 and is named after William Bowman, the territorial legislator, after whom the county is also named.

Today, Bowman is the county seat of Bowman County. It is also home to the Pioneer Trails Regional Museum, which preserves the rich history of the community and surrounding area. Bowman lies in an area of the state that has a number of fossils that are millions of years old. In fact, within the last few years, paleontologists uncovered the fossils of a tyrannosaurus rex. Bowman also plays host to the Bowman County Fair, an annual day fair with live music, games, and other events that adults and children can enjoy.

For those who call Bowman home, it is a comfortable place to live, work, and play. The people of Bowman are enthusiastic about their community and the quality of life it offers. Bowman won the City of the Year 2006 award from the North Dakota League of Cities. The community has a wonderful centennial weekend planned that includes school reunions, a golf tournament, local musical entertainment, and much more.

Mr. President, I ask the U.S. Senate to join me in congratulating Bowman, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Bowman 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 Bowman that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Bowman has a proud past and a bright future.●

HONORING THE F.A. PEABODY COMPANY

● Ms. SNOWE. Mr. President, today I recognize a tremendous small business from my home State of Maine that was recently designated as the 2007 Eastern Region Small Business of the Year by the United States Chamber of Commerce. Established in 1927 by Frank A. Peabody, the F.A. Peabody Company, based in Houlton, ME, has grown over the last 80 years to meet the insurance, investment, and real estate needs of Mainers. From the number of employees, to the number of locations, and even the services the company provides to the residents of northern Maine, F.A. Peabody's expansion has been a crowning achievement of small business in Aroostook County and, indeed, all of northern and eastern Maine. This award is a fitting recognition of F.A. Peabody's past accomplishments, and its continued superb work for Maine.

F.A. Peabody began as a property casualty insurance agency for Aroostook County, and grew to represent 20 insurance companies. As time progressed, the company expanded to meet other needs in the community, including investment management, real estate brokerage, and travel services. A truly diversified operation, F.A. Peabody has gone further in recent years by administering mortuary trusts and providing broadband internet to businesses and individuals from the counties of Maine's northern potato fields to its eastern shoreline. In light of a lack of broadband internet in Aroostook County earlier this decade, F.A. Peabody decided to take action and become a broadband internet service provider.

Collectively, F.A. Peabody employs over 70 people, and has a wellness program to award employees with bonuses and gifts. Chris and Bob Anderson, president and chief financial officer, respectively, of F.A. Peabody, carry on the company's commitment to Maine's positive, pro-growth small business community.

F.A. Peabody is truly a success story, and a bright example of what small businesses can accomplish with measured expansion and consistent determination. I congratulate F.A. Peabody on all of its accomplishments and, in particular, for garnering the attention of the U.S. Chamber of Commerce. This award is well-deserved, and I am confident that F.A. Peabody's strong, outstanding achievements will continue for years to come as a source of pride for all of Maine. I wish F.A. Peabody and its employees continued success.●

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:38 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1675. An act to suspend the requirement 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.

H.R. 1676. An act to reauthorize the program of the Secretary of Housing and Urban Development for loan guarantees for Indian housing.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

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–2132. A communication from the Assistant to the Board, Legal Division, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks'' (ID No. R–1271) received on June 4, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–2133. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Regulations Governing Securities Held in Treasury Direct'' (31 CFR Part 363) received on May 30, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–2134. A communication from the Secretary of Commerce, transmitting, the report of a draft bill intended to reauthorize the Coral Reef Conservation Act of 2000; to the Committee on Commerce, Science, and Transportation.

EC–2135. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation: Technical Revisions or Amendments to Update Clauses'' (RIN1991–AB62) received on May 30, 2007; to the Committee on Energy and Natural Resources.

EC–2136. 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; South Carolina: Revisions to State Implementation Plan; Clarification'' (FRL No. 8321–4) received on May 31, 2007; to the Committee on Environment and Public Works.

EC–2137. 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; Texas; Revision to the Texas State Implementation Plan Regarding a Negative Declaration for the Synthetic Organic Chemical Manufacturing Industry Batch Processing Source Category in El Paso County'' (FRL No. 8321–7) received on May 31, 2007; to the Committee on Environment and Public Works.

EC–2138. 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; Virginia; Redesignation of the Hampton Roads 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory'' (FRL No. 8320–9) received on May 31, 2007; to the Committee on Environment and Public Works.

EC–2139. 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; Virginia; Redesignation of the Richmond-Petersburg 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan and 2002 Base-Year Inventory'' (FRL No. 8320–8) received on May 31, 2007; to the Committee on Environment and Public Works.

EC–2140. 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 Iowa'' (FRL No. 8320–3) received on May 31, 2007; to the Committee on Environment and Public Works.

EC–2141. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to a flood damage reduction project that was authorized for Chesterfield, Missouri; to the Committee on Environment and Public Works.

EC–2142. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Aggregation of MECs Under Section 72(e)(11)'' (Rev. Rul. 2007–38) received on June 1, 2007; to the Committee on Finance.

EC–2143. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Certain Mid-Year Changes to a Section 401(k) Safe Harbor Plan'' (Announcement 2007–59) received on June 1, 2007; to the Committee on Finance.

EC–2144. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Substitute Mortality Tables'' (Rev. Proc. 2007–37) received on June 1, 2007; to the Committee on Finance.

EC–2145. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Conservation Contributions'' (Notice 2007–50) received on June 1, 2007; to the Committee on Finance.

EC–2146. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treatment Under Section 367(b) of Property Used to Purchase Parent Stock from Parent Shareholders in Certain Triangular Reorganizations'' (Notice 2007–48) received on June 1, 2007; to the Committee on Finance.

EC–2147. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, an annual report relative to the Supplemental Security Income Program; to the Committee on Finance.

EC–2148. A communication from the White House Liaison, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a nomination for the position of Administrator, received on June 5, 2007; to the Committee on Finance.

EC–2149. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the manufacture of the AN/APS–137B(V)5 Radar for the Japanese Maritime Self-Defense Force; to the Committee on Foreign Relations.

EC–2150. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Low Income Home Energy Assistance Program of fiscal year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–2151. A communication from the Assistant Secretary, Office of Management, Department of Education, transmitting, pursuant to law, an annual report relative to the Department's use of category rating; to the Committee on Health, Education, Labor, and Pensions.

EC–2152. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Semiannual Report of the Commission's Inspector General for the period of October 1, 2006, through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2153. A communication from the Secretary of Labor, transmitting, pursuant to law, the Semiannual Report of the Department's Inspector General for the period October 1, 2006, through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2154. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the Semiannual Report of the Organization's Inspector General for the period of October 1, 2006, through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2155. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Semiannual Report of the Board's Inspector General for the period of October 1, 2006, through April 30, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2156. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''NARA Reproduction Fees'' (RIN3095–AB49) received on May 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2157. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, the report of the authorization of Colonel James C. McConville to wear the authorized insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–2158. A communication from the Principal Deputy Under Secretary of Defense (Policy), transmitting, pursuant to law, the Defense Intelligence Agency's 2007 Annual Report relative to the threat posed to the United States by weapons of mass destruction, ballistic missiles and cruise missiles; to the Committee on Armed Services.

EC–2159. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Belarus that was declared in Executive Order 13405 of June 16, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–2160. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Cincinnati, transmitting, pursuant to law, the management report relative to the Bank's system of internal controls employed during fiscal year

2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–2161. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Interim Rule to Temporarily Close the Bottomfish Fishery in the Main Hawaiian Islands to End Overfishing'' (RIN0648–AV49) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2162. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Processor Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA23) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2163. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments'' (RIN0648–XA16) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2164. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Decrease in the Commercial Trip Limit for Golden Tilefish in the South Atlantic'' (RIN0648–XA21) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2165. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Advanced Technology Program Notice of Availability of Funds and Announcement of Public Meetings'' (RIN0693–ZA74) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2166. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NIST Consortium/Consortia for Post-Complementary Metal Oxide Semiconductor Nanoelectronics Research Program; Availability of Funds'' (RIN0693–ZA75) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2167. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Precision Measurement Grants Program; Availability of Funds'' (RIN0693–ZA70) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2168. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''NIST Center for Neutron Research and Neutron Scattering, and Sample Environment Equipment Financial Assistance Programs; Availability of Funds'' (RIN0693–ZA73) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2169. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Summer Undergraduate Research Fellowships Gaithersburg and Boulder Programs; Availability of Funds'' (RIN0693–ZA71) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2170. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Measurement, Science and Engineering Grants Programs; Availability of Funds'' (RIN0693–ZA72) received on June 5, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2171. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Office of Surface Mining Reclamation and Enforcement for fiscal year 2006; to the Committee on Energy and Natural Resources.

EC–2172. A communication from the Regulatory Analyst, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Protection of Eagles; Definition of 'Disturb''' (RIN1018–AT94) received on June 4, 2007; to the Committee on Environment and Public Works.

EC–2173. A communication from the Commissioner, Social Security Administration, transmitting, a draft bill intended to make amendments to the Old-Age, Survivors, and Disability Insurance program and the Supplemental Security Income program; to the Committee on Finance.

EC–2174. A communication from the Director, Office of Personnel Management, transmitting, a legislative proposal entitled ''Federal Employees Health Benefits Improvements Act of 2007''; to the Committee on Homeland Security and Governmental Affairs.

EC–2175. A communication from the Director, Office of Personnel Management, transmitting, a legislative proposal entitled ''Locality Pay Extension Act of 2007''; to the Committee on Homeland Security and Governmental Affairs.

EC–2176. A communication from the Chief, Trade and Commercial Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Extension of Import Restrictions Imposed on Archaeological and Ethnological Materials from Peru'' (RIN1505–AB79) received on June 4, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2177. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Semiannual Report of the Office's Inspector General for the period of October 1, 2006, through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2178. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the Semiannual Report of the Administration's Inspector General for the period of October 1, 2006, through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2179. A communication from the Principal Deputy Assistant Attorney General, Department of Justice, transmitting, a legislative proposal intended to enhance the Department's ability to protect Americans from violent crime and terrorism; to the Committee on the Judiciary.

EC–2180. A communication from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary for Health, received on June 5, 2007; to the Committee on Veterans' Affairs.

EC–2181. A communication from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Operations, Preparedness, Security and Law Enforcement Functions, received on June 5, 2007; to the Committee on Veterans' Affairs.

EC–2182. A communication from the Secretary, Judicial Conference of the United States, transmitting, the report of a draft bill intended to authorize additional resources in the United States bankruptcy courts; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. LEAHY, Mr. DURBIN, Mr. LAUTENBERG, Mrs. CLINTON, Mr. BROWN, Mr. KERRY, Mr. DODD, Mrs. MURRAY, Mr. FEINGOLD, and Mrs. BOXER):

S. 1553. A bill to provide additional assistance to combat HIV/AIDS among young people, and for other purposes; to the Committee on Foreign Relations.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1554. A bill to comprehensively address challenges relating to energy independence, air pollution, and climate change facing the United States; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mrs. CLINTON, Mrs. MURRAY, and Mrs. BOXER):

S. 1555. A bill to establish certain duties for pharmacies to ensure provision of Food and Drug Administration-approved contraception, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself, Ms. CANTWELL, Mr. LIEBERMAN, Mr. WYDEN, Mr. KERRY, Mr. AKAKA, Mrs. MURRAY, and Mr. DODD):

S. 1556. A bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Ms. COLLINS, Mr. MENENDEZ, Mr. COCHRAN, Mr. WHITEHOUSE, and Mr. CASEY):

S. 1557. A bill to amend part B of title IV of the Elementary and Secondary Education Act of 1965 to improve 21st Century Community Learning Centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COLEMAN:

S. 1558. A bill to amend title 14, United States Code, to strengthen requirements related to security breaches of data involving the disclosure of sensitive personal information; to the Committee on Homeland Security and Governmental Affairs.

By Mr. THUNE:

S. 1559. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to reauthorize the provision of telemedicine and distance learning services in rural areas; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself, Mr. DOMENICI, and Mr. KENNEDY):

S. 1560. A bill to amend the Public Health Service Act to improve the quality and availability of mental health services for children and adolescents; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAPO (for himself and Mr. DORGAN):

S. Res. 221. A resolution supporting National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. SMITH):

S. Res. 222. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE (for himself, Mr. KENNEDY, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Mr. AKAKA, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. STEVENS, Mr. LIEBERMAN, and Mr. WYDEN):

S. Res. 223. A resolution recognizing the efforts and contributions of the members of the Monuments, Fine Arts, and Archives program under the Civil Affairs and Military Government Sections of the United States Armed Forces during and following World War II who were responsible for the preservation, protection, and restitution of artistic and cultural treasures in countries occupied by the Allied armies; considered and agreed to.

By Mr. DeMINT:

S. Con. Res. 35. A concurrent resolution declaring June 6 a national day of prayer and rededication for the men and women of the United States Armed Forces and their mission; to the Committee on Rules and Administration.

By Mr. CASEY (for himself, Mr. SPECTER, Mr. DURBIN, and Mr. OBAMA):

S. Con. Res. 36. A concurrent resolution supporting the goals and ideals of National Teen Driver Safety Week; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. DOMENICI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 185

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 185, a bill to restore habeas corpus for those detained by the United States.

S. 469

At the request of Mr. BAUCUS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 469, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 548

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 548, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 597

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 597, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 626

At the request of Mr. KENNEDY, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 691

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 691, a bill to amend title XVIII of the Social Security Act to improve the benefits under the Medicare program for beneficiaries with kidney disease, and for other purposes.

S. 771

At the request of Mr. HARKIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 771, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 773

At the request of Mr. WARNER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 961

At the request of Mr. NELSON of Nebraska, the name of the Senator from New York (Mrs. CLINTON) 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 name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor 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. 994

At the request of Mr. TESTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 994, a bill to amend title 38, United States Code, to eliminate the deductible and change the method of determining the mileage reimbursement rate under the beneficiary travel program administered by the Secretary of Veteran Affairs, and for other purposes.

S. 999

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 999, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1173

At the request of Mrs. BOXER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1173, a bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1224

At the request of Mr. ROCKEFELLER, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1224, a bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes.

S. 1239

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1239, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2013, and for other purposes.

S. 1254

At the request of Ms. MIKULSKI, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 1254, a bill to amend title II of the Social Security Act to provide that the reductions in social security

benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1340

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1340, a bill to amend title XVIII of the Social Security Act to provide Medicare beneficiaries with access to geriatric assessments and chronic care coordination services, and for other purposes.

S. 1382

At the request of Mr. REID, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from North Carolina (Mrs. DOLE) 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 Connecticut (Mr. DODD) 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. 1405

At the request of Mr. BROWNBACK, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1405, a bill to enhance the ability of community banks to foster economic growth and serve their communities, boost small businesses, increase individual savings, and for other purposes.

S. 1430

At the request of Mr. OBAMA, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor 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 Mississippi (Mr. COCHRAN) 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. 1444

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1444, a bill to provide for free mailing privileges for personal correspondence and parcels sent to members of the Armed Forces serving on active duty in Iraq or Afghanistan.

S. 1450

At the request of Mr. KOHL, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1450, a bill to authorize appropriations for the Housing Assistance Council.

S. 1457

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mrs. BOXER) and the Senator from Mississippi (Mr. COCHRAN) 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. 1464

At the request of Mr. FEINGOLD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1464, a bill to establish a Global Service Fellowship Program, and for other purposes.

S. 1494

At the request of Mr. DOMENICI, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of 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.

S. 1529

At the request of Mr. HARKIN, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of 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.

S. 1542

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1542, a bill to establish State infrastructure banks for education, and for other purposes.

S. 1543

At the request of Mr. BINGAMAN, the names of the Senator from Nevada (Mr. REID), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alaska (Mr. STEVENS), the Senator from Colorado (Mr. SALAZAR), the Senator from Montana (Mr. TESTER), the Senator from Maine (Ms. SNOWE) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1543, a bill to establish a national geothermal initiative to encourage increased production of energy from geothermal resources, and for other purposes.

S. CON. RES. 31

At the request of Mr. FEINGOLD, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Con. Res. 31, a concurrent resolution expressing support for advancing vital United States interests through increased engagement in health programs that alleviate disease and reduce premature death in developing nations, especially through programs that combat high levels of infectious disease improve children's and women's health, decrease malnutrition, reduce unintended pregnancies, fight the spread of HIV/AIDS, encourage healthy behaviors, and strengthen health care capacity.

S. RES. 85

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 85, a resolution expressing the sense of the Senate regarding the creation of refugee populations in the Middle East, North Africa, and the Persian Gulf region as a result of human rights violations.

S. RES. 203

At the request of Mr. MENENDEZ, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 203, a resolution calling on the Government of the People's Republic of China to use its unique influence and economic leverage to stop genocide and violence in Darfur, Sudan.

AMENDMENT NO. 1183

At the request of Mrs. CLINTON, the names of the Senator from Nevada (Mr. REID) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 1183 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1194

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of amendment No. 1194 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1197

At the request of Mr. DEMINT, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Tennessee (Mr. CORKER) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 1197 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1199

At the request of Mr. DODD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of amendment No. 1199 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1202

At the request of Mr. OBAMA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 1202 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1267

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1267 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1313

At the request of Mr. WEBB, the name of the Senator from North Dakota (Mr.

DORGAN) was added as a cosponsor of amendment No. 1313 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1314

At the request of Mr. GRAHAM, the names of the Senator from Colorado (Mr. SALAZAR), the Senator from California (Mrs. FEINSTEIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 1314 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. LEAHY, Mr. DURBIN, Mr. LAUTENBERG, Mrs. CLINTON, Mr. BROWN, Mr. KERRY, Mr. DODD, Mrs. MURRAY, Mr. FEINGOLD, and Mrs. BOXER):

S. 1553. A bill to provide additional assistance to combat HIV/AIDS among young people, and for other purposes; to the Committee on Foreign Relations.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator SNOWE to introduce legislation to strengthen our international HIV prevention efforts and empower the people on the ground who are fighting this disease to design the most effective and appropriate HIV prevention program.

The bill is cosponsored by Senator LEAHY, Senator DURBIN, Senator CLINTON, Senator LAUTENBERG, Senator BROWN, Senator KERRY, Senator BOXER, Senator DODD, Senator MURRAY, and Senator FEINGOLD.

This bill simply strikes the provision in the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 that mandates that at least 33 percent of HIV prevention funding in the President's Emergency Plan for AIDS Relief, PEPFAR, be set aside ''abstinence-until-marriage'' programs.

Let me be clear from the beginning: this bill does not prohibit the administration from funding ''abstinence-until-marriage'' programs.

In fact, if the bill becomes law, the administration would still be able to spend all of our HIV prevention funding on abstinence-until-marriage programs if it decided do so.

This bill is about giving the administration and HIV/AIDS workers the flexibility to design the most effective HIV prevention program without having to worry about artificial earmarks that are based on politics, not science.

Indeed, in the fight against the HIV/AIDS pandemic, we cannot afford to tie ourselves down with undue restrictions.

Worldwide, 40 million people are infected with HIV. Each day, approximately 12,000 people are newly infected with HIV. In 2006, there were 4.3 million new HIV infections around the world, 2.8 million in sub-Saharan Africa alone. Sub-Saharan Africa is home to almost two-thirds of the estimated 40 million people currently living with HIV.

Across sub-Saharan Africa, the prevalence rate for the adult population is 6 percent. Mr. President, 2.1 million adults and children died of AIDS in 2005.

Despite these devastating numbers, according to UNAIDS, less than one in five people at risk for infection of HIV have access to basic prevention services. Studies have shown that two-thirds of new HIV infections could be averted with effective prevention programs.

Clearly, we still have a long ways to go to rein in this disease.

The 2003 HIV/AIDS legislation recognized that prevention, along with care and treatment, is an essential component of that fight and demands a multipronged approach. It endorsed the ''ABC'' model for prevention of the sexual transmission of HIV: abstain, be faithful, use condoms.

Yet instead of allowing HIV/AIDS workers and doctors the ability to use all of the prevention tools at their disposal to respond to local needs, we required them to spend at least 33 percent on ''abstinence-until marriage'' programs.

The question has to been asked: Why 33 percent? Why not 15 percent? Why not 50 percent? What scientific study concluded that 33 percent of HIV prevention funds for abstinence only programs was appropriate?

There was no study and it begs the question: when you are fighting a pandemic that has already cost so many lives, who should decide how to allocate funding among different types of HIV prevention programs, Congress or the people with the knowledge and expertise on how to fight this disease?

I support abstinence programs as a critical part of our HIV prevention programs. But mandating an earmark has negative consequences for other effective tools.

It means less money for funds to prevent mother-to-child transmission, less money to promote a comprehensive prevention message to high risk groups such as sexually active youth, and fewer funds to protect the blood supply.

Indeed, the evidence clearly shows that the one-third earmark has inhibited the ability of local communities to design a multipronged HIV prevention program that works best for them.

Last year, the Government Accountability Office issued a report that found ''significant challenges'' associated with meeting the abstinence-until-marriage programs. The report concluded that the 33 percent abstinence spending requirement is squeezing out available funding for other key HIV prevention programs such as mother-to-child transmission and maintaining a health blood supply.

Country teams that are not exempted from the one-third earmark have to spend more than 33 percent of prevention funds on abstinence-until-marriage activities, sometimes at the expense of other programs, in order for the administration to meet the overall 33 percent earmark.

The spending requirement limited or reduced funding for programs directed to high-risk groups, such as sexually active youth and the majority of country teams on the ground reported that meeting the spending requirement ''challenges their ability to develop interventions that are responsive to local epidemiology and social norms.''

Last month, a congressionally mandated review by the Institute of Medicine on the first 3 years of the President's Emergency Plan for AIDS Relief also found significant problems with the abstinence earmark. It concluded: there is no evidence to support a 33 percent abstinence only earmark; the 33 percent earmark does not allow country teams on the ground the flexibility they need to respond to local needs.

Our bill seeks to address the problems highlighted in the GAO and the Institute of Medicine reports and provide local communities the necessary flexibility to achieve the goal we all share: stopping the spread of HIV, especially among young people.

Simply put, our bill balances congressional priorities with public health needs. Under our legislation, country teams can take into account country needs including cultural differences, epidemiology, population age groups and the stage of the epidemic in designing the most effective prevention program.

One size does not fit all. A prevention program in one country may look a lot different than a prevention program in another country.

A May 2003 report from the Bill and Melinda Gates Foundation and Henry J. Kaiser Foundation highlights that proven prevention programs include behavior change programs, including delay in the initiation of sexual activity, faithfulness and correct and consistent condom use; testing and treatment for sexually transmitted diseases; promoting voluntary counseling and testing; harm reduction programs for IV drug users; preventing the transmission of HIV from mother to child; increasing blood safety; empowering women and girls; controlling infection in health care settings; and devising programs geared towards people living with HIV.

For example, studies have shown that combining drugs with counseling and instruction on use of such drugs reduces mother-to-child transmission by 50 percent.

Such cost effective programs are not related to abstinence and should not be constrained by the 33 percent earmark on funds for prevention.

I understand the importance of teaching abstinence. It is and will remain a key part of our strategy in preventing the spread of HIV.

But let us listen to the words of someone with firsthand experience about the challenges sub-Saharan African countries face in combating HIV/AIDS and the constraints the ''abstinence-until-marriage'' earmark places on those efforts.

In an August 19, 2005, op-ed in the New York Times, Babatunde Osotimehin, chairman of the National Action Committee on AIDS in Nigeria, wrote:

Abstinence is one critical prevention strategy, but it cannot be the only one. Focusing on abstinence assumes young people can choose whether to have sex. For adolescent girls in Nigeria and in many other countries, this is an inaccurate assumption. Many girls fall prey to sexual violence and coercion. . . . When dealing with AIDS, we must address the realities and use a multipronged approach to improving education and health systems, one that can reach all of our people.

He concludes:

National governments must have the freedom to employ the very best strategies at our disposal to help our people.

I could not agree more.

If we want to help the girls of Nigeria and the youth of sub-Saharan Africa, we cannot limit the information they receive about keeping them safe from acquiring HIV.

We do not have time to lose. I urge my colleagues to support this legislation and support a pro-abstinence, multipronged approach to preventing the spread of HIV.

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. 1553

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 ''HIV Prevention Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The President's Emergency Plan for AIDS Relief (in this Act referred to as ''PEPFAR'') is an unprecedented effort to combat the global AIDS epidemic, with $9,000,000,000 targeted for initiatives in 15 focus countries.

(2) The PEPFAR prevention goal is to avert 7,000,000 HIV infections in the 15 focus countries—most in sub-Saharan Africa, where heterosexual intercourse is by far the predominant mode of HIV transmission.

(3) According to the Joint United Nations Programme on HIV/AIDS, young people between the ages of 15 and 24 years old are ''the most threatened by AIDS'' and ''are at the centre of HIV vulnerability''. Globally, young people between the ages of 10 and 24 years old account for ½ of all new HIV cases each year. About 7,000 young people in this cohort contract the virus every day.

(4) A recent review funded by the United States Agency for International Development found that sex and HIV education programs that encourage abstinence but also discuss the use of condoms do not increase sexual activity as critics of sex education have long alleged. Sex education can help delay the initiation of intercourse, reduce the frequency of sex and the number of sexual partners, and also increase condom use.

(5) The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7601 et seq.) requires that at least ⅓ of all prevention funds be reserved for abstinence-until-marriage programs.

(6) A congressionally mandated review by the Institute of Medicine of the first 3 years of PEPFAR unequivocally recommends greater flexibility in the global fight against AIDS. The March 2007 Institute of Medicine report entitled ''PEPFAR Implementation: Progress and Promise'' calls for greater emphasis on prevention than the law currently allows and says that ''removal of the abstinence-until-marriage'' earmark, among other changes, ''could enhance the quality, accountability, and flexibility'' of prevention efforts.

(7) The Institute of Medicine report further found that the abstinence-until-marriage earmark ''has greatly limited the ability of Country Teams to develop and implement comprehensive prevention programs that are well integrated with each other and with counseling and testing, care and treatment programs and that target those populations at greatest risk''.

(8) The Institute of Medicine report also found that the earmark has ''limited PEPFAR's ability to tailor its activities in each country to the local epidemic and to coordinate with . . . the countries' national plans''.

(9) The Institute of Medicine report is in keeping with the conclusions of a report issued in 2006 by the Government Accountability Office. The GAO report, entitled ''Spending Requirement Presents Challenges for Allocating Funding under the President's Emergency Plan for AIDS Relief '', found ''significant challenges'' associated with meeting the earmark for abstinence-until-marriage programs.

(10) The Government Accountability Office found that a majority of country teams report that fulfilling the requirement presents challenges to their ability to respond to local epidemiology and cultural and social norms.

(11) The Government Accountability Office found that, although some country teams may be exempted from the abstinence-until-marriage spending requirement, country teams that are not exempted have to spend more than the 33 percent of prevention funds on abstinence-until-marriage activities—sometimes at the expense of other programs.

(12) The Government Accountability Office found that, as a result of the abstinence-until-marriage spending requirement, some countries have had to reduce planned funding for Prevention of Mother-to-Child Transmission programs, thereby limiting services for pregnant women and their children.

(13) The Government Accountability Office found that the abstinence-until-marriage spending requirement limited or reduced funding for programs directed to high-risk groups, such as services for married discordant couples, sexually active youth, and commercial sex workers.

(14) The Government Accountability Office found that the abstinence-until-marriage spending requirement made it difficult for countries to fund medical and blood safety activities.

(15) The Government Accountability Office found that, because of the abstinence-until-marriage spending requirement, some countries would likely have to reduce funding for condom procurement and condom social marketing.

(16) In addition, the Government Accountability Office found that ⅔ of focus country teams reported that the policy for implementing PEPFAR's ABC model (defined as ''Abstain, Be faithful, use Condoms'') is unclear and open to varying interpretations, causing confusion about which groups may be targeted and whether youth may receive the ABC message.

(17) The Government Accountability Office found that the ABC guidance does not clearly delineate permissible ''C'' activities under the ABC model. Program staff reported that they feel ''constrained'' by restrictions on promoting or marketing condoms to youth. Other country teams reported confusion about whether PEPFAR funds may be used for broad condom social marketing, even to adults in a generalized epidemic.

(18) Young people are our greatest hope for changing the course of the AIDS epidemic. According to the World Health Organization, ''[f]ocusing on young people is likely to be the most effective approach to confronting the epidemic, particularly in high prevalence countries''.

SEC. 3. ENSURING BALANCED FUNDING FOR HIV PREVENTION METHODS.

(a) SENSE OF CONGRESS ON ABSTINENCE-UNTIL-MARRIAGE FUNDING REQUIREMENT.—Section 402(b)(3) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7672(b)(3)) is amended by striking '', of which such amount at least 33 percent should be expended for abstinence-until-marriage programs''.

(b) ELIMINATION OF ABSTINENCE-UNTIL-MARRIAGE FUNDING REQUIREMENT.—Section 403(a) of such Act (22 U.S.C. 7673(a)) is amended by striking the second sentence.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1554. A bill to comprehensively address challenges relating to energy independence, air pollution, and climate change facing the United States; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Energy Independence, Clean Air, and Climate Security Act of 2007. This legislation takes an integrated approach that is much needed and long overdue if we are to address effectively three intertwined issues of crucial importance to our Nation's economy and security and to the health of our people and our planet. I am very pleased to be joined on this legislation by Senator LIEBERMAN, a true leader on energy, climate change, and environmental issues.

The majority leader has announced the Senate may well take up a broad package of energy legislation next week. The bill I am introducing today lays out my own vision of how our Nation can best address its energy problems.

If Mark Twain were with us today, it is not hard to imagine he would rephrase his famous quip about the weather to something along the lines of: Everyone talks about climate change and energy independence, but nobody does anything about it.

Since the actions we take to reduce our dependence on foreign oil, to clean our air, and to reduce our contribution to climate change all affect each other, it is necessary we develop a comprehensive strategy for all three of these challenges.

Indeed, since the oil embargo of 1973, through 17 Congresses and 7 different Presidents, energy efficiency and energy independence have generated a lot

of talk, some pretty good ideas, and a lot of promises but not enough concerted, determined, coordinated action. During these 34 years, our Nation's imports of foreign oil have soared from less than 35 percent to more than 60 percent, leaving us dangerously reliant on unstable regions of the world in order to fuel our Nation and our economy.

In addition to our increased reliance on foreign oil, we are also consuming more and more electricity. As demand puts increasing pressure on supply, electricity prices have soared. In the summer, when air-conditioners struggle to keep up with rising temperatures, we run the risk of blackouts, brownouts, and price spikes.

At the same time, our greenhouse gas emissions have soared, leading to virtually indisputable evidence that human activity is contributing to climate change. In the United States, emissions of the primary greenhouse gas, carbon dioxide, have risen more than 20 percent since 1990. Globally, carbon dioxide concentrations in the atmosphere now far exceed the natural range over the last 650,000 years. We know this from scientific analyses of ice cores and other evidence.

According to the Intergovernmental Panel on Climate Change, the increase in greenhouse gas emissions has already increased global temperatures and has likely contributed to more extreme weather events, such as droughts and floods. These emissions will continue to change the climate, causing warming in most regions and likely causing more floods, droughts, and an increase in the intensity of hurricanes.

Climate change is not the only environmental problem caused by fossil fuel use. The quality of our air also suffers. Although we have made some important strides in improving air quality since the 1970s, we have not done enough. Fossil fuel use is the primary cause of mercury pollution, smog, and acid rain that continue to plague our Nation. Indeed, air pollution causes thousands of asthma attacks and costs many lives annually.

The time has come to address our air quality, climate change, high energy prices, and dangerous reliance on foreign oil. The legislation I am introducing today is, I believe, the first Senate bill that would address all these problems in a single, integrated approach. There have been many bills introduced that address one of these problems. This is an attempt to have a comprehensive approach and to recognize that each of these problems affects the other.

My legislation focuses primarily on two sectors of the economy: electricity and transportation. Together, these two sectors account for 73 percent of carbon dioxide emissions. Electricity generation accounts for more than 40 percent of our carbon dioxide emissions. More than 80 percent of these emissions are attributable to coal-fired powerplants. Coal-fired powerplants are also the single largest source of mercury pollution, smog, and acid rain. Between 1990 and 2004, emissions from these sectors increased by 27 percent.

My legislation requires utilities to reduce carbon dioxide emissions to 1990 levels by the year 2020, while also addressing the emissions that cause smog, acid rain, and mercury pollution. It includes a renewable portfolio standard which would help to diversify our electricity supplies and energy efficiency resource standards that the Alliance to Save Energy estimates would save consumers, over time, billions of dollars on their electricity bills.

The transportation sector, which relies almost entirely on oil, is not only partly responsible for our dangerous reliance on foreign oil but also accounts for 33 percent of carbon dioxide emissions. My legislation would help to reduce emissions from this sector through a combination of provisions such as CAFE standards for automobiles and heavy-duty trucks, tax incentives for consumers to encourage them to purchase hybrid and alternative fueled vehicles, incentives for manufacturers to produce the next generation of energy-efficient vehicles, and a low carbon fuel standard that will help to replace some gasoline with biofuels. Taken together, these provisions will substantially reduce our reliance on foreign oil, while reducing greenhouse gas emissions by hundreds of millions of tons.

I wish to make clear the choice is not between hobbling our Nation's economy and protecting our environment. This legislation is based on the principle that research, development, and implementation of new approaches to energy independence and environmental stewardship will provide a powerful new stimulus for our economy. All too often, we are confronted with proposals to address one issue that only aggravate another problem. The integrated approach I am proposing will help us break through that impasse.

This legislation does not attempt to reinvent the wheel. In fact, it incorporates several good ideas from my colleagues that have been introduced as separate bills, many of which I have cosponsored, such as the Ten-in-Ten and other CAFE bills, the DRIVE Act, and the Clean Power Act. It includes provisions of legislation I have introduced to address abrupt climate change and to eliminate certain tax credits for the oil industry. It contains many of the excellent energy efficiency provisions in the Energy for Our Future Act introduced by Representative CHRIS SHAYS in the House.

My bill is also complementary with the McCain-Lieberman Climate Stewardship and Innovation Act. We need to pass that bill in order to establish a nationwide cap and trade program for addressing climate change. However, the regulations to implement that could take many years. The legislation I am proposing today will help us take some early action to help achieve the targets in the McCain-Lieberman bill.

I believe the first step toward energy independence is to make better, more efficient use of our current energy supplies. The first title of this bill tackles that issue on several fronts.

It would implement the ''Ten-in-Ten'' legislation I have co-sponsored with Senators FEINSTEIN and SNOWE to increase fuel economy standards to 35 miles per gallon by 2016. It would then go a step further and increase CAFE standards to 45 miles per gallon by 2025. This provision would save approximately 2.5 million barrels of oil per day.

It would help consumers buy more fuel-efficient cars by repealing the phase-out of the tax credit for hybrid vehicles, which is scheduled to sunset at the end of 2009. It would also require light trucks that use diesel fuel to meet more stringent EPA emission standards in order to qualify for the lean-burn credit.

Public transportation is one of the most effective ways we can get more passenger miles per gallon. This legislation would promote the development and use of public transportation by subsidizing fares, encouraging employers to assist their employees with fares, and authorizing funding to build energy-efficient and environmentally friendly modes of transport, such as clean buses and light rail.

It would direct the Department of Transportation to designate 20 Transit-Oriented Development Corridors in urban areas by 2015, and 50 by 2025. These TOD Corridors would be developed with the aid of grants to state and local governments to construct or improve facilities for motorized transit, bicycles, and pedestrians. These provisions would be funded by an authorization of $500 million per year from 2007 through 2016.

We must do more to encourage the development and manufacture of energy-efficient vehicles. This legislation would create a 20-percent investment tax credit for automobile manufacturers, and a fuel economy achievement credit for manufacturers that have a combined fleet fuel economy that exceeds that of their 2005 model year. This credit would begin at 5 percent next year and rise to 50 percent in 2015.

And we must do more to help existing vehicles be as energy efficient as possible. This legislation would direct the DOT to create a National Tire Fuel Efficiency Program that would include tire testing and labeling, energy-efficient tire promotions through incentives and information, and the creation of minimum fuel economy standards for tires. These standards would establish the maximum technically feasible and cost-effective fuel savings without adversely affecting tire safety or average tire life.

Heavy-duty vehicles move our economy. This legislation would keep them on the move while helping to reduce both fuel consumption and emissions.

It would require DOT to develop a testing and assessment program to determine what is feasible to improve the efficiency of heavy vehicles, and then to develop the appropriate fuel-economy standards. It also would provide a tax credit of up to $3,500 for the purchase of idling reduction technology for heavy vehicles.

In order for the Federal Government to lead by example, this legislation would require the Secretary of Energy to issue regulations for federal fleets covered by the Energy Policy Act of 1992 to reduce petroleum consumption by 30 percent from a 1999 baseline by 2016.

Title II of my legislation focuses on increasing our energy independence and reducing our emissions from the transportation sector through the use of alternative fuels.

Renewable fuels offer great potential to help us achieve greater energy independence. This legislation would help us realize that potential by establishing a clean, renewable fuels performance standard. The performance standard would require fuel providers to increase the volume of clean, low-carbon, renewable fuels by up to 35 billion gallons by 2025, unless EPA finds that the increase is technically infeasible or is likely to result in adverse impacts.

This legislation would expand existing tax credits for ethanol to include cellulosic biomass. While there has been a great deal of focus on using corn-based ethanol in order to decrease our reliance upon foreign oil, there are other renewable, plant-based energy sources that are more environmentally friendly and have greater potential to reduce greenhouse gas emissions.

Researchers at the University of Maine have been at the forefront of applying a research technique known as ''Life Cycle Analysis.'' Life Cycle Analysis is a unique interdisciplinary research tool that analyzes the energy requirements and environmental footprint involved with the manufacture, use, and disposal of a material. This technique is ideal for identifying fuels which have the lowest environmental impact and the greatest potential for reducing greenhouse gas emissions, while reducing our dependence on foreign oil.

My legislation would authorize $275 million over five years for research that would use Life Cycle Analysis in order to identify and develop new biotechnologies. These technologies will help move our petroleum-based economy toward a renewable, sustainable forest bio-economy.

Environmental stewardship must go beyond the tailpipes of our vehicles to the smokestacks of our power plants. Title III of my legislation builds upon the Clean Power Act that I introduced in the last Congress with Senators JEFFORDS and LIEBERMAN. I have, however, modified this provision to provide assistance to small businesses struggling with high electricity costs. I have also included increased funding for important conservation programs such as Forest Legacy, in order to help wildlife adapt to the impacts of climate change.

This legislation would cut all four major power plant pollutants over the next six years. Sulfur dioxide and nitrogen oxides, which cause smog, acid rain, and asthma attacks, would be cut by 75 percent. Toxic mercury emissions would be cut by 90 percent from 1999 levels, and carbon dioxide, which forms the heat-trapping blanket that contributes to global warming, would be cut to 1990 levels.

These reductions would do more than provide long-term protection for our environment; they also would produce dramatic and immediate health gains for our people. According to the EPA, quick and decisive cuts in nitrogen and sulfur emissions from power plants would save 18,700 lives every year, avoid 366,000 asthma attacks, and prevent $100 billion in health care costs. In addition, these cuts would combat the acid rain that is spoiling some of our Nation's most treasured parks and wilderness areas.

The Centers for Disease Control has concluded that 4.9 million women of childbearing age have elevated levels of mercury, and that 322,000 newborns are at risk of neurological damage from mercury exposure. This provision preserves our national commitment to reduce toxic threats to pregnant women and to children by requiring meaningful reductions and by prohibiting trading.

The Clean Power Act incorporated into this legislation closes the grandfather loophole that exempts dirty, aging power plants from cleanup. Every power plant will be required to meet the most modern pollution control standards by either the plant's 40th year of operation or by the fifth year of the enactment of this legislation.

The Clean Power Act uses market mechanisms, such as buying and selling pollution allowances known as ''emissions trading.'' As I have already stated, under my bill, this trading will not be allowed for toxic mercury. Nor will it be allowed if it enables a power plant to pollute at a level that damages public health or the environment.

Power plants are the largest source of our Nation's contribution to global warming; as I stated earlier, they account for some 40 percent of our carbon dioxide emissions. This legislation would return carbon dioxide emissions to 1990 levels. By providing electricity producers with regulatory certainty now about future pollution-reduction requirements, this legislation would allow smarter investments and more cost-efficient planning.

As with existing motor vehicles, we must make more efficient use of the energy we now produce to heat our homes and power our lights. This legislation would double funding for the Department of Energy Weatherization Program, reaching $1.4 billion for 2008. It also would provide predictable funding for the valuable Energy Star Program, which helps consumers buy energy efficient appliances, and would extend the renewable electricity tax credit through 2011 and the residential investment tax credit for solar and energy efficient buildings through 2012.

This legislation also includes an Energy Efficiency Performance Standard for utilities. This provision requires utilities to achieve energy efficiency improvements. This provision would help consumers save on their electricity bills. By way of example, in California, where a similar provision was employed, utilities achieved energy savings at a cost of around 2–4 cents per kilowatt hour. According to the Alliance to Save Energy, an Energy Efficiency Performance Standard could save consumers $64 billion in net savings, and avoid the need to build 400 power plants, preventing 320 million metric tons of carbon dioxide emissions.

In addition, my legislation includes a renewable portfolio standard which would require utilities to generate 20 percent of their electricity from environmentally sound renewable energy sources by the year 2020. For example, biomass electricity generated under this provision must be done using sustainable forest practices.

This legislation will help Americans save on utility bills, and make our tax code fairer, too. Title V would eliminate two major tax credits that benefit large oil and gas companies: tax credits for intangible drilling costs and for excess percentage over cost depletions. This would save the taxpayers billions of dollars over the next five years.

This legislation also would help us better understand and assess climate change. During the last three years, I have had the opportunity to meet in the field with some of the world's foremost climate scientists. I have traveled to Ny-Alesund, Norway, the northernmost community in the world, where I saw the dramatic loss of sea-ice cover and the retreating Arctic glaciers. I have seen the same alarming changes in Alaska. Just a year ago, I went to the other end of the world and met with researchers—including a team from the University of Maine's outstanding Climate Change Institute—in Antarctica. These regions are the canary in the coal mine, and the changes taking place provide a warning we cannot ignore.

Nor can we forestall taking action by arguing over the precise extent of climate change and the human contribution to it. The answer to scientific uncertainty is additional research. Title VI of my legislation would authorize $60 million for abrupt climate change research. Studies suggest that the climate can change dramatically within a very short period of time. An abrupt climate change triggered by the ongoing buildup of greenhouse gases could cause catastrophic droughts and floods.

Understanding and predicting climate change are enormous scientific challenges. A great deal more scientific research is necessary in order to better understand the potential risk of abrupt climate change, and this legislation would provide the resources that are so urgently required.

There are few issues of greater concern to my constituents in my home state of Maine than our nation's ongoing and escalating reliance on foreign oil, and the damage our vehicle and power plant emissions are doing to the environment. They bear the brunt of wildly fluctuating and steadily increasing energy prices. They know the harm this dependence causes to our national security, and they know the harm our current energy usage causes to the air they breathe. And although a bone-chilling, winter nor'easter may bring a new round of jokes about the possible benefits of global warming, they know that human-caused climate change is no laughing matter. They know we must be better stewards of our planet.

I believe that all Americans—whether they live in the sunny south or a winter wonderland—share these concerns. They have heard enough talk; they want us to act. Americans deserve to breathe clean air, pay reasonable gasoline and electricity prices, live in a world with a stable climate future, and have the peace of mind that comes with secure energy supplies. The Energy Independence, Clean Air, and Climate Security Act offers a comprehensive, integrated approach to these issues.

In conclusion, let me describe the six titles very briefly.

The first title of my bill would increase energy independence and reduce greenhouse gas emissions by improving the efficiency of our transportation sector. The second title would accomplish similar goals by replacing some gasoline with alternative fuels. The third title would reduce emissions of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides from powerplants. The fourth title would help to reduce heat and electricity bills and diversify our electricity supply through a combination of energy efficiency and renewable energy provisions. The fifth title would help save taxpayers money through the elimination of certain tax breaks for the oil industry. Finally, the sixth title would authorize $60 million for abrupt climate change research to help us better understand this phenomenon.

I am particularly excited about renewable fuels. I think there is a lot we could do to expand the tax break for ethanol to include cellulosic biomass. There is very exciting research being done at the University of Maine which has been in the forefront of applying a research technique known as ''Life Cycle Analysis,'' which is a tool that analyzes the energy requirements and environmental footprint involved in the manufacture, use, and disposal of a material. It is ideal for identifying fuels which have the lowest environmental impact and the greatest potential for reducing greenhouse gas emissions while reducing our dependence on foreign oil. This technology will help us move our petroleum-based economy toward a renewable, sustainable, forest bioeconomy.

This is a complex bill. I appreciate the indulgence of my colleagues.

By Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Ms. COLLLNS, Mr. MENENDEZ, Mr. COCHRAN, Mr. WHITEHOUSE, and Mr. CASEY):

S. 1557. A bill to amend part B of title IV of the Elementary and Secondary Education Act of 1965 to improve 21st Century Community Learning Centers; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today, joined by my colleague Senator ENSIGN, to introduce the Improving 21st Century Community Learning Centers Act of 2007, which will provide children with safe, healthy, and academically focused afterschool programs. This bill is endorsed by the Afterschool Alliance, an organization representing more than 20,000 public, private, and nonprofit afterschool providers who are dedicated to expanding access to high quality afterschool programs, as well as many other national and local organizations.

More than 14 million children enrolled in kindergarten through 12th grade spend time unsupervised in the hours after school. Between the hours of 3 p.m. and 6 p.m., while parents are at work, kids are most likely to experiment with risky behaviors. To the contrary, students who regularly attend afterschool programs have better grades and behavior in school, better peer relations and emotional adjustment, and lower incidences of drug use, violence, and pregnancy. America's families rely on afterschool programs to give their children the opportunity to be engaged in high quality learning activities that will enhance their children's success in school and in life.

The Improving 21st Century Community Learning Centers Act of 2007 is designed to do three things: enhance program quality and sustainability, address the obesity epidemic by including physical fitness and wellness programs in the list of possible programming activities, and encourage service learning. First, our bill provides States with tools designed to sustain high quality afterschool programs by allowing program grantees to renew their grants based on their program performance. The legislation also gives States the option to expand their technical assistance functions to further improve the quality of afterschool programs.

Second, this bill will increase opportunities for children and young people to be more physically active. As obesity reaches epidemic proportions in our society, allowing for such opportunities is critical in ensuring our children's overall health. Obesity is among the easiest medical conditions to recognize, but among the most difficult to treat. The annual cost to society for obesity is estimated at nearly $100 billion. Physical activity and wellness programs are critical to our overall health and well-being.

Third, this bill encourages children to be involved in service learning and youth development activities. Service learning integrates student designed service projects with academic studies. This type of program has been shown to strengthen student engagement, enhance student achievement, lower drop out and suspension rates, develop workforce and leadership skills and provide opportunities for team work. The Improving 21st Century Community Learning Centers Act will help build the character and work ethic of our children and youth.

Finally, it is of paramount importance that we adequately fund our afterschool programs. Currently, afterschool programs have served, at most, only 1.4 million children. It is critical that we provide more opportunities for youth to be engaged in high quality afterschool programming.

The Improving 21st Century Community Learning Centers Act provides a critical first step toward ensuring the health, safety, and education of our Nation's children. I hope that my colleagues will join me in supporting this important 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. 1557

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 ''21st Century Community Learning Centers Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) More than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States are unsupervised after the school day ends.

(2) 6,500,000 children are in after school programs but an additional 15,300,000 would participate if such a program were available.

(3) After school programs inspire learning. In academic year 2003–2004, 45 percent of all 21st Century Community Learning Centers program participants had improved their reading grades, and 41 percent improved their mathematics grades.

(4) In academic year 2003-2004 teachers reported that a majority of students who participated in 21st Century Community Learning Centers programs demonstrated improved student behavior, particularly in the areas of academic performance, homework completion, and class participation.

(5) A growing body of research also suggests that children who participate in after school programs attend school more regularly, are more likely to stay in school, and are better prepared for college and careers.

(6) Benefits of after school programs extend beyond the classroom. Communities

with after school programs have reported reduced vandalism and juvenile crime.

(7) After school programs help working families. One study estimates that decreased worker productivity due to stress and absenteeism caused by issues related to after school care arrangements costs employers $496 to $1,984 per employee, per year, depending on the annual salary of the employee. The total cost to the business industry is estimated to be between $50,000,000,000 and $300,000,000,000 annually in lost job productivity.

(8) While students in the United States are falling behind in science, technology, engineering, and mathematics (STEM), more than 90 percent of after school programs funded by 21st Century Community Learning Centers offer STEM activities, providing more time for children and youth to gain skills and build interest in the STEM fields. Evaluations of after school programs offering STEM activities to students have found increases in the reading, writing, and science skills proficiency of these students. Children who participate in such programs show more interest in science careers, and are more likely to have engaged in science activities just for fun.

(9) Data from 73 after school studies indicate that after school programs employing evidence-based approaches to improving students' personal and social skills were consistently successful in producing multiple benefits for students, including improvements in students' personal, social, and academic skills, as well as students' self-esteem.

(10) Teens who do not participate in after school programs are nearly 3 times more likely to skip classes than teens who do participate. The teens who do not participate are also 3 times more likely to use marijuana or other drugs, and are more likely to drink alcohol, smoke cigarettes, and engage in sexual activity. In general, self care and boredom can increase the likelihood that a young person will experiment with drugs and alcohol by as much as 50 percent.

(11) A 2006 study predicts that by the year 2010 more than 46 percent of school-age children in the Americas will be overweight and 1 in 7 such children will be obese. A study of after school program participants in 3 elementary schools found that after school participants were significantly less likely to be obese at the 3-year follow-up physical exam and were more likely to have increased acceptance among their peers. After school programs provide children and youth with opportunities to engage in sports and other fitness activities.

(12) After school programs have been identified as effective venues for improving nutrition, nutrition education, and physical activity at a time when just 20 percent of youth in grades 9 through 12 consume the recommended daily servings of fruits and vegetables.

(13) After school programs also provide children and youth with opportunities for service learning, a teaching and learning approach that integrates student-designed service projects that address community needs with academic studies. With structured time to reflect on their service experience, these projects can strengthen student engagement, enhance students' academic achievement, lower school drop out and suspension rates, and help develop important workforce skills that employers are looking for, including leadership skills, critical thinking, teamwork, and oral and written communication.

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301).

SEC. 4. 21ST CENTURY COMMUNITY LEARNING CENTERS.

(a) PURPOSE.—Section 4201 (20 U.S.C. 7171) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''service learning and nutrition education,'' after ''youth development activities,''; and

(B) by striking ''recreation programs'' and inserting ''physical fitness and wellness programs''; and

(2) in subsection (b)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) ALLOTMENTS TO STATES.—Section 4202 (20 U.S.C. 7172) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(2) in subsection (c)(3)—

(A) in the matter preceding subparagraph (A), by striking ''3 percent'' and inserting ''5 percent''; and

(B) by adding at the end the following:

''(E) Supporting State-level efforts and infrastructure to ensure the quality and availability of after school programs.''.

(c) AWARD DURATION.—Section 4204(g) (20 U.S.C. 7174(g)) is amended by striking the period and inserting '', and are renewable for a period of not less than 3 years and not more than 5 years based on grant performance.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 4206 (20 U.S.C. 7176) is amended to read as follows:

''SEC. 4206. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2008 and each of the 5 succeeding fiscal years.''.

Mr. ENSIGN. Mr. President, I rise today to introduce the Improving 21st Century Community Learning Centers Act of 2007 with my colleague, Senator CHRIS DODD.

The Improving 21st Century Community Learning Centers Act of 2007 will go a long way toward providing our Nation's children with safe, healthy, and academically focused aftershool programs. Mr. President, 21st century community learning centers provide students in rural and inner-city public schools with access to homework centers, tutors, mentors, and drug and alcohol prevention counseling, as well as cultural and recreational activities.

Today, 14.3 million children go home alone when the school day ends, including over 40,000 kindergartners and almost 4 million middle school students. With less than half of the children in afterschool programs, the parents of another 15.3 million children say their children would participate in afterschool—if a program were available. The 21st Century Community Learning Centers Program is a critical resource to children, families, and communities in their struggle to meet the need for high-quality afterschool programs.

The 21st Century Community Learning Centers Program is a worthwhile and necessary investment—evaluations show that these investments are having a great impact on children's academic achievement and behavior. In 2003–2004, 45 percent of all program participants had improved their reading grades and 41 percent improved their math grades. Teachers reported that a majority of the students participating in the programs improved their academic performance, improved their school attendance, completed more homework on time and to the teacher's satisfaction, and improved their class participation. Beyond the academic gains, these programs are making kids and communities safer by reducing vandalism and juvenile crime. It is important that we provide our children with access to high-quality, safe, and enriching environments in the hours after the school day.

When my colleagues and I passed the No Child Left Behind Act in 2002 it included a bipartisan commitment to quality afterschool programs and investment in the 21st Century Community Learning Centers Program. The learning centers are currently funded at $981 million and serve about 1 million children, yet this is just a fraction—7 percent—of the children who are eligible for the program and need access to high-quality afterschool programs. Improving 21st Century Community Learning Centers Act of 2007 will address this need and provide our children with the sustainable afterschool opportunities that they deserve.

Recent evaluations of 21st Century Community Learning Center Programs show that participating students are improving both their academic performance and social behavior in and out of the classroom. Yet maintaining quality programs takes constant effort and resources. This legislation increases the investments in quality that are critical to ensuring that programs not only contribute to children's academic and social development but also give young people the opportunities that will ensure their college and workplace readiness in the future.

As the father of three and as a former latch-key kid myself, I understand the benefits of providing children with a place to go and activities to help them excel. I am committed to ensuring that our schools have the assistance they need to ensure that our children leave the public education system as well-rounded individuals. Children attending public schools should not only be proficient in reading, writing, and arithmetic but also be skillful in music, art, and athletics. It is my sincere hope that my colleagues in the Senate will recognize this important need and cosponsor the Improving 21st Century Community Learning Centers Act of 2007.

By Mr. DODD (for himself, Mr. DOMENICI, and Mr. KENNEDY):

S. 1560. A bill to amend the Public Health Service Act to improve the quality and availability of mental health services for children and adolescents; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD, Mr. President, I rise today to introduce bipartisan legislation with my colleagues, Senators DOMENICI and KENNEDY, that seeks to meet the mental health needs of children and adolescents.

I believe that the task of ensuring the emotional well-being and resiliency of our young people is one of paramount importance. We all know that mental health is a critical component contributing to a child's general health and ability to grow both intellectually and physically. Yet, the task of ensuring the mental health of children and adolescents is not an easy one. In fact, it is arguably one of the most difficult and largely unspoken tasks facing our Nation today.

According to the Substance Abuse and Mental Health Services Administration SAMHSA, 1 in 10 children and adolescents suffer from mental health disorders serious enough to cause some level of impairment. Out of these young people, only one in five receive the specialty mental health services they require.

These startling statistics prompted former Surgeon General Dr. David Satcher to convene a conference in 1999 that examined the mental health needs of children. The conference, composed of some of the Nation's leading experts in mental and public health published a seminal report that concluded that ''. . . the burden of suffering experienced by children with mental illness and their families has created a health crisis in this country.'' The report further concluded that ''. . . there is broad evidence that the Nation lacks a unified infrastructure to help children suffering from mental illness.''

The ''burden of suffering'' described in Surgeon General Satcher's report is a burden endured by millions of children, adolescents, and their families in Connecticut and across our Nation. Throughout my Senate career, I have heard from families who have shared with me their personal stories in struggling to care for their children. Their stories have fueled my belief that child and adolescent mental health needs to be a top priority.

Recognizing the fragmentation of the Nation's mental health delivery system, Surgeon General Satcher's report concluded that one fundamental way to meet the mental health needs of children and adolescents is to ''. . . move towards a community-based mental health delivery system that balances health promotion, disease prevention, early detection, and universal access to care.'' The report further stated eight goals to ensure the resiliency of children and adolescents. These goals were: first, to promote public awareness of children's mental health issues and reduce the stigma often associated with mental illness; second, to continue to develop, disseminate, and implement scientifically proven prevention and treatment services in the field of children's mental health; third, to improve the assessment and recognition of mental health needs in children; fourth, to eliminate racial, ethnic and socioeconomic disparities in access to mental health care services; fifth, to improve infrastructure for children's mental health services, including support for scientifically proven interventions across professions; sixth, to increase access to and coordination of quality mental health care services; seventh, to train frontline providers to recognize and manage mental health issues, and educate mental health care providers about scientifically proven prevention and treatment services, and; finally, to monitor the access to and coordination of quality mental health care services.

In 2002, President Bush established the President's New Freedom Commission on Mental Health to study three obstacles identified by the President that prevent Americans with mental illness from getting the care they require. These obstacles were identified as the stigma that too often surrounds mental health care, a lack of mental health parity, and the fragmented mental health delivery system. In 2003, the President's New Freedom Commission issued a report that made a series of recommendations on how the Nation's mental health system could be transformed for the better. Like Surgeon General Satcher's report, this publication also set forth a series of goals. They were: first, to ensure that Americans understand that mental health is essential to overall health; second, to ensure that mental health care is consumer- and family-driven; third, to eliminate disparities in mental health care services; fourth, to ensure that early mental health screening, assessment, and referral services are common practices; fifth, to ensure that excellent mental health care is delivered and research is accelerated; and finally, to ensure that technology is used to access mental health care and information.

I describe these two reports because the legislation I am introducing with my colleagues today seeks to address the recommendations they espouse. The Child and Adolescent Mental Health Resiliency Act of 2007 authorizes $205 million in an effort to meet five principal objectives.

The first objective is to increase access to, and improve the quality of, mental health care services delivered to children and adolescents. Our legislation seeks to meet this objective in several ways.

First, it authorizes a new grant of $50 million for states to develop and implement a comprehensive mental health plan exclusively for children and adolescents that provides community-based mental health early intervention and prevention services and relevant support services, such as primary health care, education, transportation and housing. The plan would have to meet a set of core operational and evaluative requirements and would have to be developed through extensive outside consultation with children and adolescents, their families, advocates and health professionals.

Second, our legislation authorizes two matching grants of $22.5 million each for community health centers, many of which primarily serve low-income populations, and primary health care facilities, such as a pediatrician's office, to provide community-based mental health services in coordination with community mental health centers and/or trained mental health professionals.

Third, our legislation authorizes a new grant of $22.5 million for states, localities and private nonprofit organizations, for example, school districts, to provide community-based mental health services in schools and appropriate mental health training activities to relevant school and health professionals.

Fourth, our legislation authorizes a new grant of $20 million for States, localities and private nonprofit organizations to provide community-based mental health services specifically for at-risk mothers and their children.

Fifth, our legislation authorizes a new grant of $10 million for States, localities and private nonprofit organizations to provide community-based mental health services for children and adolescents in juvenile justice systems.

Sixth, our legislation authorizes $10 million for the Secretary of Health and Human Services to establish, run and evaluate a demonstration project that improves the ability of local case managers to work across the mental health, public health, substance abuse, child welfare, education, juvenile justice and social services systems in a State.

Finally, our legislation requires States to meet their statutory obligations to fund fully mental health screening services under the Early and Periodic Screening, Diagnostic and Treatment Services Program. It also requires current successful initiatives, such as the Comprehensive Community Mental Health Services for Children with Serious Emotional Disturbance Program, the Community Mental Health Services Performance Partnership block grant, the Community Mental Health Services block grant, and the Jail Diversion Program, to expand their scope with respect to certain reporting, evaluative, and service activities.

The second objective our legislation seeks to meet is ensuring greater public awareness and greater family participation in mental health services decisionmaking. Toward this end, our legislation does the following:

First, it authorizes a new grant of $10 million for States, localities and private nonprofit organizations to develop policies that enable families of children and adolescents with mental health disorders to have increased control and choice over mental health services provided and received through a publicly funded mental health system.

Second, it authorizes a new grant of $10 million for private nonprofit organizations to provide information on child and adolescent mental health disorders, services, support services and respite care to families of children and adolescents with or who are at risk for mental health disorders.

Third, it authorizes a new grant of $10 million for private nonprofit organizations to develop community coalitions and public education activities that promote child and adolescent resiliency.

In addition, our legislation authorizes $10 million to establish two new technical assistance centers. These centers are designed to collect and disseminate information on mental health disorders, mental health disorder risk factors, mental health services, mental health service access, relevant support services, reducing the inappropriate use of seclusion and restraints, and family participation in mental health service decision-making, exclusively for children and adolescents with or at risk of mental health disorders.

The third objective that this legislation seeks to meet is for the Federal Government to develop a policy specifically designed to meet the unique mental health needs of children and adolescents. The legislation authorizes $10 million for the establishment of an interagency coordinating committee consisting of all Federal officials whose departments or agencies oversee mental health activities for children and adolescents. Modeled after language in the Garrett Lee Smith Memorial Act, our legislation requires the coordinating committee to consult with outside parties, develop a Federal policy exclusively pertaining to child and adolescent mental health, and report annually to Congress on specific challenges and solutions associated with comprehensively addressing the mental health needs of children and adolescents. It also gives the committee flexibility to develop and implement joint demonstration projects that bolster appropriate mental health care services to children and adolescents.

The fourth and final objective that this legislation seeks to meet is increasing the amount of research into child and adolescent mental health. Only through intensive research can we develop evidence-based best practices that allow us to develop services that fully meet the mental health needs of our children. Toward that end, our legislation authorizes a new grant of $12.5 million for States, localities, institutions of higher education and private nonprofit organizations to identify and research current service, training and information awareness gaps in mental health delivery systems for children and adolescents. Our legislation also authorizes $12.5 million to enhance comprehensive Federal research and evaluation of promising best practices, existing disparities, psycho-tropic medications, trauma, recovery and rehabilitation, and co-occurring disorders as they relate to child and adolescent mental health.

I have begun working with my colleagues on the Committee on Health, Education, Labor, and Pensions to reauthorize the Substance Abuse and Mental Health Services Administration. It is my hope that this legislation can contribute to that reauthorization effort.

I would like to conclude by saying that this legislation, while comprehensive, is a first step, not a complete solution, towards fully meeting the challenge of ensuring the resiliency of our children and adolescents. We need to continue working together—young people, families, doctors, counselors, nurses, teachers, advocates, and policymakers, since we all have a stake, either professional or personal, on this issue. Only by working together can we develop effective and compassionate ways through which every young person in this Nation is given a solid foundation upon which to reach his or her dreams in life. I sincerely hope that my colleagues will join us in this important effort.

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. 1560

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 ''Child and Adolescent Mental Health Resiliency Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—STATE AND COMMUNITY ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS
Sec. 101. Grants concerning comprehensive state mental health plans.
Sec. 102. Grants concerning early intervention and prevention.
Sec. 103. Activities concerning mental health services in schools.
Sec. 104. Activities concerning mental health services under the early and periodic screening, diagnostic, and treatment services program.
Sec. 105. Activities concerning mental health services for at-risk mothers and their children.
Sec. 106. Activities concerning interagency case management.
Sec. 107. Grants concerning consumer and family participation.
Sec. 108. Grants concerning information on child and adolescent mental health services.
Sec. 109. Activities concerning public education of child and adolescent mental health disorders and services.
Sec. 110. Technical assistance center concerning training and seclusion and restraints.
Sec. 111. Technical assistance centers concerning consumer and family participation.
Sec. 112. Comprehensive community mental health services for children and adolescents with serious emotional disturbances.
Sec. 113. Community mental health services performance partnership block grant.
Sec. 114. Community mental health services block grant program.
Sec. 115. Grants for jail diversion programs.
Sec. 116. Activities concerning mental health services for juvenile justice populations.
TITLE II—FEDERAL INTERAGENCY COLLABORATION AND RELATED ACTIVITIES
Sec. 201. Interagency coordinating committee concerning the mental health of children and adolescents.
TITLE III—RESEARCH ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS
Sec. 301. Activities concerning evidence-based or promising best practices.
Sec. 302. Federal research concerning adolescent mental health.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, mental health is a critical component of children's learning and general health.

(2) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, 1 in 10 children and adolescents suffer from mental illness severe enough to cause some level of impairment.

(3) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, only 1 in 5 children and adolescents who suffer from severe mental illness receive the specialty mental health services they require.

(4) According to the World Health Organization, childhood neuropsychiatric disorders will rise by more than 50 percent by 2020, internationally, to become 1 of the 5 most common causes of morbidity, mortality, and disability among children.

(5) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, the burden of suffering experienced by children with mental illness and their families has created a health crisis in this country.

(6) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, there is broad evidence that the nation lacks a unified infrastructure to help children suffering from mental illness.

(7) According to the President's New Freedom Commission on Mental Health, President George Bush identified 3 obstacles preventing Americans with mental illness from getting the care they require: stigma that surrounds mental illness, unfair treatment limitations and financial requirements placed on mental health benefits in private health insurance, and the fragmented mental health service delivery system.

(8) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, 1 way to ensure that the country's health system meets the mental health needs of children is to move towards a community-based mental health delivery system that balances health promotion, disease prevention, early detection, and universal access to care.

(9) According to the President's New Freedom Commission on Mental Health, transforming the country's mental health delivery system rests on 2 principles: services and

treatments must be consumer and family-centered, and care must focus on increasing a person's ability to successfully cope with life's challenges, on facilitating recovery, and building resiliency.

(10) According to the Surgeon General's Conference on Children's Mental Health: A National Action Agenda, the mental health and resiliency of children can be ensured by methods that promote public awareness of children's mental health issues and reduce stigma associated with mental illness, continue to develop, disseminate, and implement evidence-based and promising prevention and treatment services in the field of children's mental health, improve the assessment of and recognition of mental health needs in children, eliminate racial, ethnic, and socioeconomic disparities in access to mental healthcare services, improve the infrastructure for children's mental health services, including support for evidence-based and promising interventions across professions, increase access to and coordination of quality mental healthcare services, train frontline providers to recognize and manage mental health issues and educate mental healthcare providers about evidence-based and promising prevention and treatment services, and monitor the access to and coordination of quality mental healthcare services.

(11) According to the President's New Freedom Commission on Mental Health, the country's mental health delivery system can be successfully transformed by methods that ensure Americans understand that mental health is essential to overall health, ensure mental health care is consumer and family-driven, eliminate disparities in mental healthcare services, ensure early mental health screening, assessment, and referral services are common practices, ensure that excellent mental health care is delivered and research is accelerated, and ensure that technology is used to access mental health care and information.

TITLE I—STATE AND COMMUNITY ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS

SEC. 101. GRANTS CONCERNING COMPREHENSIVE STATE MENTAL HEALTH PLANS.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb–31 et seq.) is amended by inserting after section 520A, the following:

"SEC. 520B. COMPREHENSIVE STATE MENTAL HEALTH PLANS.

''(a) GRANTS.—The Secretary, acting through the Center for Mental Health Services, shall award a 1-year, non-renewable grant to, or enter into a 1-year cooperative agreement with, a State for the development and implementation by the State of a comprehensive State mental health plan that exclusively meets the mental health needs of children and adolescents, including providing for early intervention, prevention, and recovery oriented services and supports for children and adolescents, such as mental and primary health care, education, transportation, and housing.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under this section a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a certification by the governor of the State that the governor will be responsible for overseeing the development and implementation of the comprehensive State mental health plan; and

''(2) the signature of the governor of the State.

''(c) REQUIREMENTS.—The Comprehensive State Plan shall include the following:

''(1) An evaluation of all the components of the current mental health system in the State, including the estimated number of children and adolescents requiring and receiving mental health services, as well as support services such as primary health care, education, and housing.

''(2) A description of the long-term objectives of the State for policies concerning children and adolescents with mental disorders. Such objectives shall include—

''(A) the provision of early intervention and prevention services to children and adolescents with, or who are at risk for, mental health disorders that are integrated with school systems, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, primary care programs, foster care systems, child welfare systems, and other child and adolescent support organizations;

''(B) a demonstrated collaboration among agencies that provide early intervention and prevention services or a certification that entities will engage in such future collaboration;

''(C) implementing or providing for the evaluation of children and adolescents mental health services that are adapted to the local community;

''(D) implementing collaborative activities concerning child and adolescent mental health early intervention and prevention services;

''(E) the provision of timely appropriate community-based mental health care and treatment of children and adolescents in child and adolescent-serving settings and agencies;

''(F) the provision of adequate support and information resources to families of children and adolescents with, or who are at risk for, mental health disorders;

''(G) the provision of adequate support and information resources to advocacy organizations that serve children and adolescents with, or who are at risk for, mental health disorders, and their families;

''(H) identifying and offering access to services and care to children and adolescents and their families with diverse linguistic and cultural backgrounds;

''(I) identifying and offering equal access to services in all geographic regions of the State;

''(J) identifying and offering appropriate access to services in geographical regions of the State with above-average occurrences of child and adolescent mental health disorders;

''(K) identifying and offering appropriate access to services in geographical regions of the State with above-average rates of children and adolescents with co-occurring mental health and substance abuse disorders;

''(L) offering continuous and up-to-date information to, and carrying out awareness campaigns that target children and adolescents, parents, legal guardians, family members, primary care professionals, mental health professionals, child care professionals, health care providers, and the general public and that highlight the risk factors associated with mental health disorders and the life-saving help and care available from early intervention and prevention services;

''(M) ensuring that information and awareness campaigns on mental health disorder risk factors, and early intervention and prevention services, use effective and culturally-appropriate communication mechanisms that are targeted to and reach children and adolescents, families, schools, educational institutions, juvenile justice systems, substance abuse programs, mental health programs, primary care programs, foster care systems, child welfare systems, and other child and adolescent support organizations;

''(N) implementing a system to ensure that primary care professionals, mental health professionals, and school and child care professionals are properly trained in evidence-based best practices in child and adolescent mental health early intervention and prevention, treatment and rehabilitation services and that those professionals involved with providing early intervention and prevention services are properly trained in effectively identifying children and adolescents with or who are at risk for mental health disorders;

''(O) the provision of continuous training activities for primary care professionals, mental health professionals, and school and child care professionals on evidence-based or promising best practices;

''(P) the provision of continuous training activities for primary care professionals, mental health professionals, and school and child care professionals on family and consumer involvement and participation;

''(Q) conducting annual self-evaluations of all outcomes and activities, including consulting with interested families and advocacy organizations for children and adolescents.

''(3) A cost-assessment relating to the development and implementation of the State plan and a description of how the State will measure performance and outcomes across relevant agencies and service systems.

''(4) A timeline for achieving the objectives described in paragraph (2).

''(5) An outline for achieving the sustainability of the objectives described in paragraph (2).

''(d) APPLICATION OF OTHER REQUIREMENTS.—The authorities and duties of State mental health planning councils provided for under sections 1914 and 1915 with respect to State mental health block grant planning shall apply to the development and the implementation of the comprehensive State mental health plan.

''(e) PARTICIPATION AND IMPLEMENTATION.—

''(1) PARTICIPATION.—In developing and implementing the comprehensive State mental health plan under a grant or cooperative agreement under this section, the State shall ensure the participation of the State agency heads responsible for child and adolescent mental health, substance abuse, child welfare, medicaid, public health, developmental disabilities, social services, juvenile justice, housing, and education.

''(2) CONSULTATION.—In developing and implementing the comprehensive State mental health plan under a grant or cooperative agreement under this section, the State shall consult with—

''(A) the Federal interagency coordinating committee established under section 401 of the Child and Adolescent Mental Health Resiliency Act of 2007;

''(B) State and local agencies, including agencies responsible for child and adolescent mental health care, early intervention and prevention services under titles IV, V, and XIX of the Social Security Act, and the State's Children's Health Insurance Program under title XXI of the Social Security Act;

''(C) State mental health planning councils (described in section 1914);

''(D) national, State, and local advocacy organizations that serve children and adolescents with or who are at risk for mental health disorders and their families;

''(E) relevant national medical and other health professional and education specialty organizations;

''(F) children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

''(G) families and friends of children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

''(H) families and friends of children and adolescents who have attempted or completed suicide;

''(I) qualified professionals who possess the specialized knowledge, skills, experience, training, or relevant attributes needed to serve children and adolescents with or who are at risk for mental health disorders and their families; and

''(J) third-party payers, managed care organizations, and related employer and commercial industries.

''(3) SIGNATURE.—The Governor of the State shall sign the comprehensive State mental health plan application and be responsible for overseeing the development and implementation of the plan.

''(f) SATISFACTION OF OTHER FEDERAL REQUIREMENTS.—A State may utilize the comprehensive State mental health plan that meets the requirements of this section to satisfy the planning requirements of other Federal mental health programs administered by the Secretary, including as the Community Mental Health Services Block Grant and the Children's Mental Health Services Program, so long as the requirements of such programs are satisfied through the plan.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 102. GRANTS CONCERNING EARLY INTERVENTION AND PREVENTION.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

''PART K—MISCELLANEOUS MENTAL HEALTH PROVISIONS

''SEC. 597. GRANTS FOR MENTAL HEALTH ASSESSMENT SERVICES.

''(a) IN GENERAL.—The Secretary shall award 5-year matching grants to, or enter into cooperative agreements with, community health centers that receive assistance under section 330 to enable such centers to provide child and adolescent mental health early intervention and prevention services to eligible children and adolescents, and to provide referral services to, or early intervention and prevention services in coordination with, community mental health centers and other appropriately trained providers of care.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a community health center that receives assistance under section 330;

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

''(3) provide assurances that the entity will have appropriately qualified behavioral health professional staff to ensure prompt treatment or triage for referral to a speciality agency or provider; and

''(4) provide assurances that the entity will encourage formal coordination with community mental health centers and other appropriate providers to ensure continuity of care.

''(c) IDENTIFICATION.—In providing services with amounts received under a grant or cooperative agreement under this section, an entity shall ensure that appropriate screening tools are used to identify at-risk children and adolescents who are eligible to receive care from a community health centers.

''(d) MATCHING REQUIREMENT.—With respect to the costs of the activities to be carried out by an entity under a grant or cooperative agreement under this section, an entity shall provide assurances that the entity will make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount that is not less than $1 for each $1 of Federal funds provided under the grant or cooperative agreement.

''SEC. 597A. GRANTS FOR PRIMARY CARE AND MENTAL HEALTH EARLY INTERVENTION AND PREVENTION SERVICES.

''(a) IN GENERAL.—The Secretary shall award 5-year matching grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, or private nonprofit organizations to enable such entities to provide assistance to mental health programs for early intervention and prevention services to children and adolescents with, or who are at-risk of, mental health disorders and that are in primary care settings.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, a public organization, or private nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to—

''(1) provide appropriate child and adolescent mental health early intervention and prevention assessment services;

''(2) provide appropriate child and adolescent mental health treatment services;

''(3) provide monitoring and referral for specialty treatment of medical or surgical conditions for children and adolescents ; and

''(4) facilitate networking between primary care professionals, mental health professionals, and child care professionals for—

''(A) case management development;

''(B) professional mentoring; and

''(C) enhancing the provision of mental health services in schools.

''(d) MATCHING REQUIREMENTS.—With respect to the costs of the activities to be carried out by an entity under a grant or cooperative agreement under this section, an entity shall provide assurances that the entity will make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount that is not less than $1 for each $1 of Federal funds provided under the grant or cooperative agreement.

''SEC. 597B. GRANTS FOR MENTAL HEALTH AND PRIMARY CARE EARLY INTERVENTION AND PREVENTION SERVICES.

''(a) IN GENERAL.—The Secretary shall award 5-year matching grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, or private nonprofit organizations to enable such entities to provide assistance to primary care programs for children and adolescents with, or who are at-risk of, mental health disorders who are in mental health settings.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, or a private nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to—

''(1) provide appropriate primary health care services, including screening, routine treatment, monitoring, and referral for specialty treatment of medical or surgical conditions;

''(2) provide appropriate monitoring of medical conditions of children and adolescents receiving mental health services from the applicant and refer them, as needed, for specialty treatment of medical or surgical conditions; and

''(3) facilitate networking between primary care professionals, mental health professionals and child care professionals for—

''(A) case management development; and

''(B) professional mentoring.

''(d) MATCHING FUNDS.—With respect to the costs of the activities to be carried out by an entity under a grant or cooperative agreement under this section, an entity shall provide assurances that the entity will make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount that is not less than $1 for each $1 of Federal funds provided under the grant or cooperative agreement.

''SEC. 597C. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out sections 597, 597A, and 597B, $45,000,000 for fiscal year 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 103. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES IN SCHOOLS.

(a) EFFORTS OF SECRETARY TO IMPROVE THE MENTAL HEALTH OF STUDENTS.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall—

(1) encourage elementary and secondary schools and educational institutions to address mental health issues facing children and adolescents by—

(A) identifying children and adolescents with, or who are at-risk for, mental health disorders;

(B) providing or linking children and adolescents to appropriate mental health services and supports; and

(C) assisting families, including providing families with resources on mental health services for children and adolescents and a link to relevant local and national advocacy and support organizations;

(2) collaborate on expanding and fostering a mental health promotion and early intervention strategy with respect to children and adolescents that focuses on emotional well being and resiliency and fosters academic achievement;

(3) encourage elementary and secondary schools and educational institutions to use positive behavioral support procedures and functional behavioral assessments on a school-wide basis as an alternative to suspending or expelling children and adolescents with or who are at risk for mental health needs; and

(4) provide technical assistance to elementary and secondary schools and educational institutions to implement the provisions of paragraphs (1) through (3).

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall award

grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, private nonprofit organizations, elementary and secondary schools, and other educational institutions to provide directly or provide access to mental health services and case management of services in elementary and secondary schools and other educational settings.

(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under paragraph (1) an entity shall—

(A) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, a public organization, a private nonprofit organization, an elementary or secondary school, or an educational institution; and

(B) 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 entity will—

(i) provide directly or provide access to early intervention and prevention services in settings with an above average rate of children and adolescents with mental health disorders;

(ii) provide directly or provide access to early intervention and prevention services in settings with an above average rate of children and adolescents with co-occurring mental health and substance abuse disorders; and

(iii) demonstrate a broad collaboration of parents, primary care professionals, school and mental health professionals, child care processionals including those in educational settings, legal guardians, and all relevant local agencies and organizations in the application for, and administration of, the grant or cooperative agreement.

(3) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this subsection to provide—

(A) mental health identification services;

(B) early intervention and prevention services to children and adolescents with or who are at-risk of mental health disorders; and

(C) mental health-related training to primary care professionals, school and mental health professionals, and child care professionals, including those in educational settings.

(c) COUNSELING AND BEHAVIORAL SUPPORT GUIDELINES.—The Secretary of Education, in collaboration with the Secretary of Health and Human Services, shall develop and issue guidelines to elementary and secondary schools and educational institutions that encourage such schools and institutions to provide counseling and positive behavioral supports, including referrals for needed early intervention and prevention services, treatment, and rehabilitation to children and adolescents who are disruptive or who use drugs and show signs or symptoms of mental health disorders. Such schools and institutions shall be encouraged to provide such services to children and adolescents in lieu of suspension, expulsion, or transfer to a juvenile justice system without any support referral services or system of care.

(d) STUDY.—

(1) IN GENERAL.—The Government Accountability Office shall conduct a study to assess the scientific validity of the Federal definition of a child or adolescent with an ''emotional disturbance'' as provided for in the regulations of the Department of Education under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and whether, as written, such definition now excludes children and adolescents inappropriately through a determination that those children and adolescents are ''socially maladjusted''.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall submit to the appropriated committees of Congress a report concerning the results of the study conducted under paragraph (1).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to supercede the provisions of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), including the requirement of prior parental consent for the disclosure of any education records; and

(2) to modify or affect the parental notification requirements for programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $22,500,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.

SEC. 104. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES UNDER THE EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES PROGRAM.

(a) NOTIFICATION.—The Secretary of Health and Human Services, acting through the Director of the Centers for Medicare and Medicaid Services, shall notify State Medicaid agencies of—

(1) obligations under section 1905(r) of the Social Security Act with respect to the identification of children and adolescents with mental health disorders and of the availability of validated mechanisms that aid pediatricians and other primary care professionals to incorporate such activities; and

(2) information on financing mechanisms that such agencies may use to reimburse primary care professionals, mental health professionals, and child care professionals who provide mental health services as authorized under such definition of early and period screening, diagnostic, and treatment services.

(b) REQUIREMENTS.—State Medicaid agencies who receive funds for early and period screening, diagnostic, and treatment services funding shall provide an annual report to the Secretary of Health and Human Services that—

(1) analyzes the rates of eligible children and adolescents who receive mental health identification services of the type described in subsection (a)(1) under the medicaid program in the State;

(2) analyzes the ways in which such agency has used financing mechanisms to reimburse primary care professionals, mental health professionals, and child care professionals who provide such mental health services;

(3) identifies State program rules and funding policies that may impede such agency from meeting fully the Federal requirements with respect to such services under the medicaid program; and

(4) makes recommendations on how to overcome the impediments identified under paragraph (3).

SEC. 105. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES FOR AT-RISK MOTHERS AND THEIR CHILDREN.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following:

"SEC. 511. ENHANCING MENTAL HEALTH SERVICES FOR AT-RISK MOTHERS AND THEIR CHILDREN.

''(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, tribal organizations, public organizations, and private nonprofit organizations to provide appropriate mental health promotion and mental health services to at-risk mothers, grandmothers who are legal guardians, and their children.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, a public organization, or a private nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—Amounts received under a grant or cooperative agreement under this section shall be used to—

''(1) provide mental health early intervention, prevention, and case management services;

''(2) provide mental health treatment services; and

''(3) provide monitoring and referral for specialty treatment of medical or surgical conditions.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $20,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 106. ACTIVITIES CONCERNING INTERAGENCY CASE MANAGEMENT.

Part L of title V of the Public Health Service Act, as added by section 102, is amended by adding at the end the following:

"SEC. 597D. INTERAGENCY CASE MANAGEMENT.

''(a) IN GENERAL.—The Secretary shall establish a program to foster the ability of local case managers to work across the mental health, substance abuse, child welfare, education, and juvenile justice systems in a State. As part of such program, the Secretary shall develop a model system that—

''(1) establishes a training curriculum for primary care professionals, mental health professionals, school and child care professionals, and social workers who work as case managers;

''(2) establishes uniform standards for working in multiple service systems; and

''(3) establishes a cross-system case manager certification process.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 107. GRANTS CONCERNING CONSUMER AND FAMILY PARTICIPATION.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 106, is further amended by adding at the end the following:

"SEC. 597E. CONSUMER AND FAMILY CONTROL IN CHILD AND ADOLESCENT MENTAL HEALTH SERVICE DECISIONS.

''(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, States, political subdivisions of States, consortium of political subdivisions, and tribal organizations for the development of policies and mechanisms that enable consumers and families to have increased control and choice over child and adolescent mental health services received through a publicly-funded mental health system.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a State, a political subdivision of a State, a consortia of political subdivisions, or a tribal organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to carry

out the activities described in subsection (a). Such activities may include—

''(1) the facilitation of mental health service planning meetings by consumer and family advocates, particularly peer advocates;

''(2) the development of consumer and family cooperatives; and

''(3) the facilitation of national networking between State political subdivisions and tribal organizations engaged in promoting increased consumer and family participation in decisions regarding mental health services for children and adolescents.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 108. GRANTS CONCERNING INFORMATION ON CHILD AND ADOLESCENT MENTAL HEALTH SERVICES.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 107, is further amended by adding at the end the following:

''SEC. 597F. INCREASED INFORMATION ON CHILD AND ADOLESCENT MENTAL HEALTH SERVICES.

''(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, private nonprofit organizations to enable such organizations to provide information on child and adolescent mental health and services, consumer or parent-to-parent support services, respite care, and other relevant support services to—

''(1) parents and legal guardians of children or adolescents with or who are at risk for mental health disorders; and

''(2) families of adolescents with or who are at risk for mental health disorders.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a private, nonprofit organization; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 109. ACTIVITIES CONCERNING PUBLIC EDUCATION OF CHILD AND ADOLESCENT MENTAL HEALTH DISORDERS AND SERVICES.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 108, is further amended by adding at the end the following:

''SEC. 597G. ACTIVITIES CONCERNING PUBLIC EDUCATION OF CHILD AND ADOLESCENT MENTAL HEALTH DISORDERS AND SERVICES.

''(a) EDUCATIONAL CAMPAIGN.—The Secretary shall develop, coordinate, and implement an educational campaign to increase public understanding of mental health promotion, child and adolescent emotional well-being and resiliency, and risk factors associated with mental health disorders in children and adolescents.

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants to, or enter into cooperative agreements with, public and private nonprofit organizations with qualified experience in public education to build community coalitions and increase public awareness of mental health promotion, child and adolescent emotional well-being and resiliency, and risk factors associated with mental health disorders in children and adolescents.

''(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under paragraph (1), an entity shall—

''(A) be a public or private nonprofit organization; and

''(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(3) USE OF FUNDS.—Amounts received under a grant or contract under this subsection shall be used to—

''(A) develop community coalitions to support the purposes of paragraph (1); and

''(B) develop and implement public education activities that compliment the activities described in subsection (a) and support the purposes of paragraph (1).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 110. TECHNICAL ASSISTANCE CENTER CONCERNING TRAINING AND SECLUSION AND RESTRAINTS.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 109, is further amended by adding at the end the following:

''SEC. 597H. TECHNICAL ASSISTANCE CENTER CONCERNING SECLUSION AND RESTRAINTS.

''(a) SECLUSION AND RESTRAINTS.—Acting through the technical assistance center established under subsection (b), the Secretary shall—

''(1) develop and disseminate educational materials that encourage ending the use of seclusion and restraints in all facilities or programs in which a child or adolescent resides or receives care or services;

''(2) gather, analyze, and disseminate information on best or promising best practices that can minimize conflicts between parents, legal guardians, primary care professionals, mental health professionals, school and child care professionals to create a safe environment for children and adolescents with mental health disorders; and

''(3) provide training for primary professionals, mental health professionals, and school and child care professionals on effective techniques or practices that serve as alternatives to coercive control interventions, including techniques to reduce challenging, aggressive, and resistant behaviors, that require seclusion and restraints.

''(b) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

''(1) local and national advocacy organizations that serve children and adolescents who may require the use of seclusion and restraints, and their families;

''(2) relevant national medical and other health and education specialty organizations; and

''(3) qualified professionals who possess the specialized knowledge, skills, experience, and relevant attributes needed to serve children and adolescents who may require the use of seclusion and restraints, and their families.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 111. TECHNICAL ASSISTANCE CENTERS CONCERNING CONSUMER AND FAMILY PARTICIPATION.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 110, is further amended by adding at the end the following:

''SEC. 597I. TECHNICAL ASSISTANCE CENTERS CONCERNING CONSUMER AND FAMILY PARTICIPATION.

''(a) GRANTS.—The Secretary shall award 5-year grants to, or enter into cooperative agreements with, private nonprofit organizations for the development and implementation of three technical assistance centers to support full consumer and family participation in decision-making about mental health services for children and adolescents.

''(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a) an entity shall—

''(1) be a private, nonprofit organization that demonstrates the ability to establish and maintain a technical assistance center described in this section; and

''(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(c) USE OF FUNDS.—An entity shall use amounts received under a grant or cooperative agreement under this section to establish a technical assistance center of the type referred to in subsection (a). Through such center, the entity shall—

''(1) collect and disseminate information on mental health disorders and risk factors for mental health disorders in children and adolescents;

''(2) collect and disseminate information on available resources for specific mental health disorders, including co-occurring mental health and substance abuse disorders;

''(3) disseminate information to help consumers and families engage in illness self management activities and access services and resources on mental health disorder self-management;

''(4) support the activities of self-help organizations;

''(5) support the training of peer specialists, family specialists, primary care professionals, mental health professionals, and child care professionals;

''(6) provide assistance to consumer and family-delivered service programs and resources in meeting their operational and programmatic needs; and

''(7) provide assistance to consumers and families that participate in mental health system advisory bodies, including state mental health planning councils.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 112. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCES.

Section 561 of the Public Health Service Act (42 U.S.C. 290ff) is amended—

(1) in subsection (b)(1)(A), by inserting before the semicolon the following: ''and provides assurances that the State will use grant funds in accordance with the comprehensive State mental health plan submitted under section 520B''; and

(2) in subsection (b), by adding at the end the following:

''(4) REVIEW OF POSSIBLE IMPEDIMENTS.—A State may use amounts received under a grant under this section to conduct an interagency review of State mental health program rules and funding policies that may impede the development of the comprehensive State mental health plan submitted under section 520B.''.

SEC. 113. COMMUNITY MENTAL HEALTH SERVICES PERFORMANCE PARTNERSHIP BLOCK GRANT.

Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x–2(b)) is amended by adding at the end the following:

''(6) PERFORMANCE MEASURES.—The plan requires that performance measures be reported for adults and children separately.

''(7) OTHER MENTAL HEALTH SERVICES.—In addition to reporting on mental health services funded under a community mental

health services performance partnership block grant, States are encouraged to report on all mental health services provided by the State mental health agency.''.

SEC. 114. COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Section 1912(b) of the Public Health Service Act (42 U.S.C. 300x–2(b)) is amended by adding at the end the following:

''(8) CO-OCCURRING TREATMENT SERVICES.—The plan provides for a system of support for the provision of co-occurring treatment services, including early intervention and prevention, and integrated mental health and substance abuse and services, for children and adolescents with co-occurring mental health and substance abuse disorders. Services shall be provided through the system under this paragraph in accordance with the Substance Abuse Prevention Treatment Block Grant program under subpart II.''.

(b) GUIDELINES FOR INTEGRATED TREATMENT SERVICES.—Section 1915 of the Public Health Service Act (42 U.S.C. 300x–4) is amended by adding at the end the following:

''(c) GUIDELINES FOR INTEGRATED TREATMENT SERVICES.—The Secretary shall issue written policy guidelines for use by States that describe how amounts received under a grant under this subpart may be used to fund integrated treatment services for children and adolescents with mental health disorders and with co-occurring mental health and substance abuse disorders.

''(d) MODEL SERVICE SYSTEMS FORUM.—The Secretary, in consultation with the Attorney General, shall periodically convene forums to develop model service systems and promote awareness of the needs of children and adolescents with co-occurring mental health disorders and to facilitate the development of policies to meet those needs.''.

(c) SUBSTANCE ABUSE GRANTS.—Section 1928 of the Public Health Service Act (42 U.S.C. 300x–28) is amended by adding at the end the following:

''(e) CO-OCCURRING TREATMENT SERVICES.—A State may use amounts received under a grant under this subpart to provide a system of support for the provision of co-occurring treatment services, including early intervention and prevention, and integrated mental health and substance abuse services, for children and adolescents with co-occurring mental health and substance abuse disorders. Services shall be provided through the system under this paragraph in accordance with the Community Mental Health Services Block Grant program under subpart I.

''(f) GUIDELINES FOR INTEGRATED TREATMENT SERVICES.—The Secretary shall issue written policy guidelines, for use by States, that describe how amounts received under a grant under this section may be used to fund integrated treatment for children and adolescents with co-occurring substance abuse and mental health disorders, including the transitioning to adulthood.''.

SEC. 115. GRANTS FOR JAIL DIVERSION PROGRAMS.

Section 520G of the Public Health Service Act (42 U.S.C. 290bb–38)—

(1) in subsection (a), by striking ''up to 125'';

(2) in subsection (d)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(5) provide appropriate community-based mental health and co-occurring mental illness and substance abuse services to children and adolescents determined to be at risk of contact with the law; and

''(6) provide for the inclusion of emergency mental health centers as part of jail diversion programs.''; and

(3) in subsection (h), by adding at the end the following: ''As part of such evaluations, the grantee shall evaluate the effectiveness of activities carried out under the grant and submit reports on such evaluations to the Secretary.''.

SEC. 116. ACTIVITIES CONCERNING MENTAL HEALTH SERVICES FOR JUVENILE JUSTICE POPULATIONS.

(a) GRANTS.—The Secretary shall award grants to, or enter into cooperative agreements with, States, tribal organizations, political subdivisions of States, consortia of political subdivisions, public organizations, and private nonprofit organizations to provide mental health promotions and mental health services to children and adolescents in juvenile justice systems.

(b) APPLICATION.—To be eligible to receive a grant or cooperative agreement under subsection (a), an entity shall—

(1) be a State, a tribal organization, a political subdivision of a State, a consortia of political subdivisions, a public organization, or a private nonprofit organization; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant or cooperative agreement under this section shall be used to—

(1) provide mental health early intervention, prevention, and case management services;

(2) provide mental health treatment services; and

(3) provide monitoring and referral for specialty treatment of medical or surgical conditions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.

TITLE II—FEDERAL INTERAGENCY COLLABORATION AND RELATED ACTIVITIES

SEC. 201. INTERAGENCY COORDINATING COMMITTEE CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in collaboration with the Federal officials described in subsection (b), shall establish an interagency coordinating committee (referred to in this section as the ''Committee'') to carry out the activities described in this section relating to the mental health of children and adolescents.

(b) FEDERAL OFFICIALS.—The Federal officials described in this subsection are the following:

(1) The Secretary of Education.

(2) The Attorney General.

(3) The Surgeon General.

(4) The Secretary of the Department of Defense.

(5) The Secretary of the Interior.

(6) The Commissioner of Social Security.

(7) Such other Federal officials as the Secretary determines to be appropriate.

(c) CHAIRPERSON.—The Secretary shall serve as the chairperson of the Committee.

(d) DUTIES.—The Committee shall be responsible for policy development across the Federal Government with respect to child and adolescent mental health.

(e) COLLABORATION AND CONSULTATION.—In carrying out the activities described in this Act, and the amendments made by this Act, the Secretary shall collaborate with the Committee (and the Committee shall collaborate with relevant Federal agencies and mental health working groups responsible for child and adolescent mental health).

(f) CONSULTATION.—In carrying out the activities described in this Act, and the amendments made by this Act, the Secretary and the Committee shall consult with—

(1) State and local agencies, including agencies responsible for child and adolescent mental health care, early intervention and prevention services under titles V and XIX of the Social Security Act, and the State Children's Health Insurance Program under title XXI of the Social Security Act;

(2) State mental health planning councils (as described in section 1914);

(3) local and national organizations that serve children and adolescents with or who are at risk for mental health disorders and their families;

(4) relevant national medical and other health professional and education specialty organizations;

(5) children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

(6) families and friends of children and adolescents with mental health disorders and children and adolescents who are currently receiving early intervention or prevention services;

(7) families and friends of children and adolescents who have attempted or completed suicide;

(8) qualified professionals who possess the specialized knowledge, skills, experience, training, or relevant attributes needed to serve children and adolescents with or who are at risk for mental health disorders and their families; and

(9) third-party payers, managed care organizations, and related employer and commercial industries.

(g) POLICY DEVELOPMENT.—In carrying out the activities described in this Act, and the amendments made by this Act, the Secretary shall—

(1) coordinate and collaborate on policy development at the Federal level with the Committee, relevant Department of Health and Human Services, Department of Education, and Department of Justice agencies, and child and adolescent mental health working groups; and

(2) consult on policy development at the Federal level with the private sector, including consumer, medical, mental health advocacy groups, and other health and education professional-based organizations, with respect to child and adolescent mental health early intervention and prevention services.

(h) REPORTS.—

(1) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit to the appropriate committees of Congress a report that includes—

(A) the results of an evaluation to be conducted by the Committee to analyze the effectiveness and efficacy of current activities concerning the mental health of children and adolescents;

(B) the results of an evaluation to be conducted by the Committee to analyze the effectiveness and efficacy of the activities carried out under grants, cooperative agreements, collaborations, and consultations under this Act, the amendments made by this Act, and carried out by existing Federal agencies;

(C) the results of an evaluation to be conducted by the Committee to analyze identified problems and challenges, including—

(i) fragmented mental health service delivery systems for children and adolescents;

(ii) disparities between Federal agencies in mental health service eligibility requirements for children and adolescents;

(iii) disparities in regulatory policies of Federal agencies concerning child and adolescent mental health;

(iv) inflexibility of Federal finance systems to support evidence-based child and adolescent mental health;

(v) insufficient training of primary care professionals, mental health professionals, and child care professionals;

(vi) disparities and fragmentation of collection and dissemination of information concerning child and adolescent mental health services;

(vii) inability of State Medicaid agencies to meet Federal requirements concerning child and adolescent mental health under the early and period screening, diagnostics and treatment services requirements under the medicaid program under title XIX of the Social Security Act; and

(viii) fractured Federal interagency collaboration and consultation concerning child and adolescent mental health;

(D) the recommendations of the Secretary on models and methods with which to overcome the problems and challenges described in subparagraph (B).

(2) ANNUAL REPORT.—Not later than 1 year after the date on which the initial report is submitted under paragraph (1), an annually thereafter, the Committee shall submit to the appropriate committees of Congress a report concerning the results of updated evaluations and recommendations described in paragraph (1).

(i) FLEXIBLE JOINT-FUNDING PROGRAMS.—

(1) IN GENERAL.—In carrying out the activities described in subsection (h), Federal officials participating in the Committee may, notwithstanding any other law, enter into interagency agreements for the purposes of establishing flexible joint-funding programs, and each official may allocate discretionary funds appropriated to that agency to such flexible joint-funding programs.

(2) PROGRAM PURPOSES.—Flexible joint funding programs as described in paragraph (1) may include demonstration projects that address and eliminate the—

(A) fragmented mental health service delivery systems for children and adolescents;

(B) disparities between Federal agencies in mental health service eligibility requirements for children and adolescents;

(C) disparities in regulatory policies of Federal agencies concerning child and adolescent mental health;

(D) inflexibility of Federal finance systems to support evidence-based child and adolescent mental health;

(E) insufficient training of primary care professionals, mental health professionals, and child care professionals;

(F) disparities and fragmentation of collection and dissemination of information concerning child and adolescent mental health services; and

(G) inability of State Medicaid agencies to meet Federal requirements concerning child and adolescent mental health under the early and period screening, diagnostics, and treatment services requirements under the Medicaid program under title XIX of the Social Security Act.

(j) PERSONNEL MATTERS.—

(1) STAFF AND COMPENSATION.—Except as provided in paragraph (2), the Secretary may employ, and fix the compensation of an executive director and other personnel of the Committee 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.

(2) MAXIMUM RATE OF PAY.—The maximum rate of pay for the executive director and other personnel employed under paragraph (1) shall not exceed the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.

TITLE III—RESEARCH ACTIVITIES CONCERNING THE MENTAL HEALTH OF CHILDREN AND ADOLESCENTS

SEC. 301. ACTIVITIES CONCERNING EVIDENCE-BASED OR PROMISING BEST PRACTICES.

Part K of title V of the Public Health Service Act, as added by section 102 and amended by section 111, is further amended by adding at the end the following:

"SEC. 597J. ACTIVITIES CONCERNING EVIDENCE-BASED OR PROMISING BEST PRACTICES.

''(a) GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants to, and enter into cooperative agreements with, States, political subdivisions of States, consortia of political subdivisions, tribal organizations, institutions of higher education, or private nonprofit organizations for the development of child and adolescent mental health services and support systems that address widespread and critical gaps in a needed continuum of mental health service-delivery with a specific focus on encouraging the implementation of evidence-based or promising best practices.

''(2) APPLICATION.—To be eligible to receive a grant or cooperative agreement under paragraph (1) an entity shall—

''(A) be a State, a political subdivision of a State, a consortia of political subdivisions, a tribal organization, an institution of higher education, or a private nonprofit organization; and

''(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(3) USE OF FUNDS.—Amounts received under a grant or cooperative agreement under this subsection shall be used to provide for the development and dissemination of mental health supports and services described in paragraph (1), including—

''(A) early intervention and prevention services, treatment and rehabilitation particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

''(B) referral services;

''(C) integrated treatment services, including family therapy, particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

''(D) colocating primary care and mental health services in rural and urban areas;

''(E) mentoring and other support services;

''(F) transition services;

''(G) respite care for parents, legal guardians, and families; and

''(H) home-based care.

''(b) TECHNICAL ASSISTANCE CENTER.—The Secretary shall establish a technical assistance center to assist entities that receive a grant or cooperative agreement under subsection (a) in—

''(1) identifying widespread and critical gaps in a needed continuum of child and adolescent mental health service-delivery;

''(2) identifying and evaluating existing evidence-based or promising best practices with respect to child and adolescent mental health services and supports;

''(3) improving the child and adolescent mental health service-delivery system by implementing evidence-based or promising best practices;

''(4) training primary care professionals, mental health professionals, and child care professionals on evidence-based or promising best practices;

''(5) informing children and adolescents, parents, legal guardians, families, advocacy organizations, and other interested consumer organizations on such evidence-based or promising best practices; and

''(6) identifying financing structures to support the implementation of evidence-based or promising best practices and providing assistance on how to build appropriate financing structures to support those services.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $12,500,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SEC. 302. FEDERAL RESEARCH CONCERNING ADOLESCENT MENTAL HEALTH.

Part K of title V of the Public Health Service Act, as added by section 201 and amended by section 301, is further amended by adding at the end the following:

"SEC. 597K. FEDERAL RESEARCH CONCERNING ADOLESCENT MENTAL HEALTH.

''(a) BEST PRACTICES.—The Secretary shall provide for the conduct of research leading to the identification and evaluation of evidence-based or promising best practices, including—

''(1) early intervention and prevention mental health services and systems, particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

''(2) mental health referral services;

''(3) integrated mental health treatment services, particularly for children and adolescents with co-occurring mental health and substance abuse disorders;

''(4) mentoring and other support services;

''(5) transition services; and

''(6) respite care for parents, legal guardians, and families of children and adolescents.

''(b) IDENTIFICATION OF EXISTING DISPARITIES.—The Secretary shall provide for the conduct of research leading to the identification of factors contributing to the existing disparities in children and adolescents mental health care in areas including—

''(1) evidence-based early intervention and prevention, diagnosis, referral, treatment, and monitoring services;

''(2) psychiatric and psychological epidemiology in racial and ethnic minority populations;

''(3) therapeutic interventions in racial and ethnic minority populations;

''(4) psychopharmacology;

''(5) mental health promotion and child and adolescent emotional well-being and resiliency;

''(6) lack of adequate service delivery systems in urban and rural regions; and

''(7) lack of adequate reimbursement rates for evidence-based early intervention and prevention, diagnosis, referral, treatment, and monitoring services.

''(c) PSYCHOTROPIC MEDICATIONS.—The Secretary shall provide for the conduct of research leading to the identification of the long-term effects of psychotropic medications and SSRIs and other pyschotropic medications for children and adolescents.

''(d) TRAUMA.—The Secretary shall provide for the conduct of research leading to the identification of the long-term effects of trauma on the mental health of children and adolescents, including the effects of—

''(1) violent crime, particularly sexual abuse;

''(2) physical or medical trauma;

''(3) post-traumatic stress disorders; and

''(4) terrorism and natural disasters.

''(e) ACUTE CARE.—The Secretary shall provide for the conduct of research leading to

the identification of factors contributing to problems in acute care. Such research shall address—

''(1) synthesizing the acute care knowledge data base;

''(2) assessing existing capacities and shortages in acute care;

''(3) reviewing existing model programs that exist to ensure appropriate and effective acute care;

''(4) developing new models when appropriate; and

''(5) proposing workable solutions to enhance the delivery of acute care and crisis intervention services.

''(f) RECOVERY AND REHABILITATION.—The Secretary shall provide for the conduct of research leading to the identification of methods and models to enhance the recovery and rehabilitation of children and adolescents with mental health disorders.

''(g) CO-OCCURRING DISORDERS.—The Secretary shall provide for the conduct of research leading to the identification of methods and models to enhance services and supports for children and adolescents with co-occurring mental health and substance abuse and disorders.

''(h) COST OF UNTREATED MENTAL HEALTH DISORDERS.—The Secretary shall provide for the conduct of research assessing long-term financial costs of mental health disorders left untreated in children and adolescents.

''(i) RESEARCH COLLABORATION.—The Secretary shall provide for the conduct of research that reviews existing scientific literature on the relationship between mental and physical health, particularly identifying new methods and models to enhance the balance between mental and physical health in children and adolescents.

''(j) COLLABORATION.—In carrying out the activities under this section, the Secretary shall collaborate with the Federal interagency coordinating committee established under section 201 of the Child and Adolescent Mental Health Resiliency Act of 2007, and relevant Federal agencies and mental health working groups responsible for child and adolescent mental health.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $12,500,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 through 2012.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 221—SUPPORTING NATIONAL PERIPHERAL ARTERIAL DISEASE AWARENESS MONTH AND EFFORTS TO EDUCATE PEOPLE ABOUT PERIPHERAL ARTERIAL DISEASE

Mr. CRAPO (for himself and Mr. DORGAN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 221

Whereas peripheral arterial disease is a vascular disease that occurs when narrowed arteries reduce blood flow to the limbs;

Whereas peripheral arterial disease is a significant vascular disease that can be as serious as a heart attack or stroke;

Whereas peripheral arterial disease affects approximately 8,000,000 to 12,000,000 Americans;

Whereas 1 in 5 patients with peripheral arterial disease will experience cardiovascular death, heart attack, stroke, or hospitalization within 1 year;

Whereas the survival rate for individuals with peripheral arterial disease is worse than the outcome for many common cancers;

Whereas peripheral arterial disease is a leading cause of lower limb amputation in the United States;

Whereas many patients with peripheral arterial disease have walking impairment that leads to a diminished quality of life and functional capacity;

Whereas a majority of patients with peripheral arterial disease are asymptomatic and less than half of individuals with peripheral arterial disease are aware of their diagnoses;

Whereas African-American ethnicity is a strong and independent risk factor for peripheral arterial disease, and yet this fact is not well known to those at risk;

Whereas effective treatments are available for people with peripheral arterial disease to reduce heart attacks, strokes, and amputations and to improve quality of life;

Whereas many patients with peripheral arterial disease are still untreated with proven therapies;

Whereas there is a need for comprehensive educational efforts designed to increase awareness of peripheral arterial disease among medical professionals and the greater public in order to promote early detection and proper treatment of this disease to improve quality of life, prevent heart attacks and strokes, and save lives and limbs; and

Whereas September 2007 is an appropriate month to observe National Peripheral Arterial Disease Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease;

(2) acknowledges the critical importance of peripheral arterial disease awareness to improve national cardiovascular health;

(3) supports raising awareness of the consequences of undiagnosed and untreated peripheral arterial disease and the need to seek appropriate care as a serious public health issue; and

(4) calls upon the people of the United States to observe the month with appropriate programs and activities.

SENATE RESOLUTION 222—SUPPORTING THE GOALS AND IDEALS OF PANCREATIC CANCER AWARENESS MONTH

Mrs. CLINTON (for herself and Mr. SMITH) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 222

Whereas over 37,170 people will be diagnosed with pancreatic cancer this year in the United States;

Whereas pancreatic cancer is the 4th most common cause of cancer death in the United States;

Whereas 75 percent of pancreatic cancer patients die within the first year of their diagnosis and only 5 percent survive more than 5 years, making pancreatic cancer the deadliest of any cancer;

Whereas there has been no significant improvement in survival rates in the last 25 years and pancreatic cancer research is still in the earliest scientific stages;

Whereas there are no early detection methods and minimal treatment options for pancreatic cancer;

Whereas when symptoms of pancreatic cancer generally present themselves, it is too late for an optimistic prognosis, and the average survival rate of those diagnosed with metastasis of the disease is only 3 to 6 months;

Whereas the incidence rate of pancreatic cancer is 40 to 50 percent higher in African Americans than in other ethnic groups; and

Whereas it would be appropriate to observe November as Pancreatic Cancer Awareness Month to educate communities across the Nation about pancreatic cancer and the need for research funding, early detection methods, effective treatments, and treatment programs: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of Pancreatic Cancer Awareness Month.

Mrs. CLINTON. Mr. President, I rise today to introduce a resolution which supports the goals and ideals of Pancreatic Cancer Awareness Month. This resolution is an important step toward bringing the public awareness, funding for research, and congressional attention that is essential for addressing one of the most lethal cancers we face as a Nation.

I doubt that there is one person who hasn't lost a friend or family member to cancer, or knows someone who has. The American Cancer Society tells us that pancreatic cancer is the fourth leading cause of cancer death in the United States. The reality is that pancreatic cancer will take over 33,000 American lives this year, more than 2,330 in New York. And yet, there are no early detection methods and our best treatment is a surgical procedure that is more than 70 years old.

I believe that we can do better. This resolution encourages communities across the country to use the month of November to bring attention to what we have left to tackle. We need research dollars to create early detection methods, to find effective treatments, and to raise awareness about this deadly disease.

I am proud to introduce the Pancreatic Cancer Awareness Month resolution today, and I hope my colleagues will join me in supporting this critical health issue.

Mr. SMITH. Mr. President, I rise today in support of a resolution that recognizes November as National Pancreatic Cancer Awareness Month. I am pleased to be joining my colleague, Senator CLINTON, in introducing this resolution, which represents a way to educate communities across the Nation about pancreatic cancer and the need for increased research funding, early detection methods, and effective treatments and programs.

Like many Americans, I have seen the ramifications of cancer first hand. I support this resolution in honor and loving memory of the millions of Americans who have been diagnosed with pancreatic cancer and their families, and for my mother, Jessica Udall Smith, whom I lost to pancreatic cancer.

Pancreatic cancer is hard to detect in its early stages as it doesn't cause symptoms right away. Also, because the pancreas is hidden behind other organs, health care providers cannot see or feel the tumors during routine

exams. Because there are no early detection methods, pancreatic cancer often is found late and spreads quickly.

This year, more than 37,000 Americans will receive a diagnosis of pancreatic cancer and for over 33,000 of them, it will be their killer. While overall cancer death rates have declined, the number of people diagnosed with pancreatic cancer is actually increasing. It is projected that this year, 440 Oregonians will die from pancreatic cancer. That represents a 17-percent increase in pancreatic cancer deaths in Oregon over the last 3 to 4 years.

Individuals fighting pancreatic cancer continue to face discouragingly low odds of survival. In 1975, the 5 year survival rate for pancreatic cancer was 2 percent. Twenty-five years later, the survival rate remain at an unacceptably low level of 5 percent, making this cancer the fourth leading cause of cancer-related death. Indeed, pancreatic cancer is considered the deadliest cancer, of which 75 percent of patients diagnosed with this disease die within the first year and most within the first 3 to 6 months. Early detection tools, such as those that currently are available for ovarian, colon, breast and prostate cancer, would make a significant impact on pancreatic cancer, but those tools require a new investment in basic scientific research at the National Cancer Institute, NCI.

In recent years, funding for cancer research has fallen behind the promise made during the doubling of the budget for the National Institutes for Health, NIH. When NIH funding was first doubled, success rates for first submissions of grant requests to the NCI were 30 percent overall and 15 percent for new investigators. Those rates now have dropped to an average of 10 percent across the board. Unfortunately, we are anticipating cuts to other NCI programs that advance research, such as the Specialized Programs of Research Excellence program, which provides vital opportunities to explore new areas of research.

I support biomedical research and the great promise it holds in the development of new treatments and possible cures for the many types of cancer, including pancreatic cancer. Past investments at the NCI have helped drive new discoveries that led to the decline in overall cancer deaths in the U.S. for the second consecutive year. Now is the time to expand our efforts in the fight against pancreatic cancer.

I ask that my colleagues support this resolution, which will help increase research, education and awareness for pancreatic cancer.

SENATE RESOLUTION 223—RECOGNIZING THE EFFORTS AND CONTRIBUTIONS OF THE MEMBERS OF THE MONUMENTS, FINE ARTS, AND ARCHIVES PROGRAM UNDER THE CIVIL AFFAIRS AND MILITARY GOVERNMENT SECTIONS OF THE UNITED STATES ARMED FORCES DURING AND FOLLOWING WORLD WAR II WHO WERE RESPONSIBLE FOR THE PRESERVATION, PROTECTION, AND RESTITUTION OF ARTISTIC AND CULTURAL TREASURES IN COUNTRIES OCCUPIED BY THE ALLIED ARMIES

Mr. INHOFE (for himself, Mr. KENNEDY, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Mr. AKAKA, Mr. MENENDEZ, Mr. LAUTENBERG, Mr. STEVENS, Mr. LIEBERMAN, and Mr. WYDEN) submitted the following resolution; which was:

S. RES. 223

Whereas the United States Government established the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas in 1943 to promote and coordinate the protection and salvage of works of art and cultural and historical monuments and records in countries occupied by Allied armies during World War II;

Whereas the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas is also known as the Roberts Commission, in honor of its chairman, Supreme Court Justice Owen J. Roberts;

Whereas, in connection with the establishment of the Roberts Commission, the Monuments, Fine Arts, and Archives program (MFAA) was established under the Civil Affairs and Military Government Sections of the United States Armed Forces;

Whereas the establishment of the Roberts Commission and the MFAA provided an example for other countries, working in conjunction with the United States, to develop similar programs, and more than 100 foreign MFAA personnel, representing at least seventeen countries, contributed to this international effort;

Whereas the MFAA was comprised of both men and women, commissioned officers and civilians, who were appointed or volunteered to serve as representatives of the Roberts Commission and as the official guardians of some of the world's greatest artistic and cultural treasures;

Whereas members of the MFAA, called the ''Monuments Men'', often joined frontline military forces and some even lost their lives in combat during World War II;

Whereas, during World War II and for years following the Allied victory, members of the MFAA worked tirelessly to locate, identify, catalogue, restore, and repatriate priceless works of art and irreplaceable cultural artifacts, including masterpieces by Da Vinci, Michelangelo, Rembrandt, and Vermeer, that had been stolen or sequestered by the Axis powers;

Whereas the heroic actions of the MFAA in saving priceless works of art and irreplaceable cultural artifacts for future generations cannot be overstated, and set a moral precedent and established standards, practices, and procedures for the preservation, protection, and restitution of artistic and cultural treasures in future armed conflicts;

Whereas members of the MFAA went on to become renowned directors and curators of preeminent international cultural institutions, including the National Gallery of Art, the Metropolitan Museum of Art, the Museum of Modern Art, the Toledo Museum of Art, and the Nelson-Atkins Museum of Art, as well as professors at institutions of higher education, including Harvard University, Yale University, Princeton University, New York University, Williams College, and Columbia University;

Whereas other members of the MFAA were founders, presidents, and members of associations such as the New York City Ballet, the American Association of Museums, the American Association of Museum Directors, the Archaeological Institute of America, the Society of Architectural Historians, the American Society of Landscape Architects, the National Endowment for the Humanities, and the National Endowment for the Arts, as well as respected artists, architects, musicians, and archivists; and

Whereas members of the MFAA have never been collectively honored for their service and contributions to humanity, and they are deserving of the utmost acknowledgment, gratitude, and recognition, in particular the 12 known Monuments Men who are still alive: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the men and women who served in the Monuments, Fine Arts, and Archives program (MFAA) under the Civil Affairs and Military Government Sections of the United States Armed Forces for their heroic role in the preservation, protection, and restitution of monuments, works of art, and other artifacts of inestimable cultural importance in Europe and Asia during and following World War II;

(2) recognizes that without their dedication and service, many more of the world's artistic and historic treasures would have been destroyed or lost forever amidst the chaos and destruction of World War II;

(3) acknowledges that the detailed catalogues, documentation, inventories, and photographs developed and compiled by MFAA personnel during and following World War II have made and continue to make possible the restitution of stolen works of art to their rightful owners; and

(4) commends and extols the members of the MFAA for establishing a precedent for action to protect cultural property in the event of armed conflict, and by their action setting a standard not just for one country, but for people of all nations to acknowledge and uphold.

Mr. INHOFE. Mr. President, I rise today to introduce a resolution honoring the efforts and contributions of the members of the Monuments, Fine Arts, and Archives Program under the Civil Affairs and Military Government Sections of the U.S. Armed Forces during and following World War II. This group, known as the ''Monuments Men,'' was responsible for the preservation, protection, and restitution of priceless artistic, and cultural treasures in countries occupied by the Allied armies.

In 1938, the Nazi party in Germany began a wide-scale confiscation of millions of pieces of artwork and other cultural artifacts throughout continental Europe, including masterpieces by Leonardo Da Vinci, Michelangelo, and Rembrandt. Much of the art was confiscated from Nazi-conquered Europe, as well as from Jewish private collectors who were forced to relinquish their property rights.

In 1944, with the Allied armies rolling across Europe, the Monuments Men began their work. They were given the

charge of protecting the cultural treasures of Europe, which proved to be a daunting task, given that they, at times, had to protect these treasures from friend as well as foe. Their first task was to prevent Allied forces in the field from damaging national monuments and from damaging or looting public or private collections. In the spring of 1945, the Monuments Men began discovering large caches of Nazi-confiscated artwork and artifacts. They began the arduous process of cataloging and repatriating the artwork and artifacts to their rightful owners.

I would like to take this moment to recognize the efforts of a couple of my fellow Oklahomans who served as Monuments Men. CPT Walter Johan Huchthausen served as a Monuments, Fine Arts, and Archives officer with the U.S. 9th Army in Europe. Captain Huchthausen was born in Perry, OK on December 19, 1904. He earned a master of architecture degree from Harvard University in 1930 and went on to become the director of the Department of Design at the Boston Museum School of Fine Arts before joining the faculty at the University of Minnesota. Captain Huchthausen enlisted in 1942. He served as a Monuments Man in France and Germany before he was tragically killed by gunfire in April of 1945 while working to salvage an altarpiece in a German town.

Technical SGT Horace V. Apgar of Oklahoma City was transferred to the Monuments Men in Frankfurt in 1945, where he was involved in the retrieval and restitution of Jewish property. He was then assigned to the Rothschild home in Paris, which was being used as a depository for recovered Jewish artifacts stolen from synagogues and temples. Mr. Apgar returned home after the war and sought a career in music. He graduated from the Eastman School of Music at the University of Rochester in 1949 served as a bass teacher at the University of Oklahoma from 1951 to 1955. He went on to a 56-year career with the Oklahoma City Philharmonic Orchestra.

It is in large part due to the tireless efforts of Captain Huchthausen, Sergeant Apgar, and the many brave American men and women who served as Monuments Men that over 5 million works of art and other cultural treasures were protected and preserved following the collapse of the Nazi regime.

SENATE CONCURRENT RESOLUTION 35—DECLARING JUNE 6 A NATIONAL DAY OF PRAYER AND REDEDICATION FOR THE MEN AND WOMEN OF THE UNITED STATES ARMED FORCES AND THEIR MISSION

Mr. DEMINT submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 35

Whereas public prayer and national days of prayer are a long-standing American tradition to bolster national resolve and summon the national will for victory;

Whereas the Continental Congress asked the colonies to pray for wisdom in forming a nation in 1775;

Whereas Benjamin Franklin proposed that the Constitutional Convention begin each day with a prayer;

Whereas General George Washington, as he prepared his troops for battle with the British in May 1776, ordered them to pray for the campaign ahead, that it would please the Almighty to ''prosper the arms of the united colonies'' and ''establish the peace and freedom of America upon a solid and lasting foundation'';

Whereas President Abraham Lincoln, in declaring in the Gettysburg Address that ''this nation, under God, shall have a new birth of freedom'', rededicated the Nation to ensuring that ''government of the people, by the people, for the people, shall not perish from the earth'';

Whereas, as 73,000 Americans stormed the beaches at Normandy, France, on June 6, 1944 (D-Day), President Franklin Delano Roosevelt went on the national radio to lead the Nation in prayer for their success;

Whereas, in his D-Day radio prayer, President Roosevelt did not declare a single day of special prayer, but instead compelled all Americans to ''devote themselves in a continuance of prayer'';

Whereas the words of President Roosevelt calling on all Americans to ''devote themselves in a continuance of prayer'' for American soldiers, sailors, airmen, and Marines in harm's way are just as appropriate today as they were in June 1944;

Whereas, with our troops once again facing danger abroad and the Nation looking for support here at home, the time is ripe to once again heed the words and prayerful wisdom contained in the D-Day radio address of the 20th century's greatest Democrat president as he implored the Nation: ''as we rise to each new day, and again when each day is spent, let words of prayer be on our lips, invoking Thy help to our efforts'';

Whereas more than 350,000 men and women of the United States Armed Forces are deployed worldwide today;

Whereas more than 200,000 of these troops are engaged in armed combat in Iraq and Afghanistan against determined and ruthless enemies;

Whereas more than 3,800 brave Americans have been killed, and over 26,000 have been wounded, while fighting the War on Terror;

Whereas, because the War on Terror will be long and hard, because success is not likely to come with rushing speed, and because the sacrifice will continue to be immeasurable in human terms, it is appropriate to make every anniversary of D-Day, June 6th, a national day of prayer and rededication for the men and women of the United States Armed Forces and their mission; and

Whereas the D-Day radio address of President Roosevelt is the inspiration and model for this annual national day of prayer and rededication: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) every June 6 will hereafter be a national day of prayer and rededication for the men and women of the United States Armed Forces and their mission; and

(2) in encouraging our fellow Americans to join us in this national day of prayer and rededication for our troops and their mission, that the Senate and the House of Representatives will each designate one member to read aloud in the Senate and House chambers each June 6th, in its entirety, President Roosevelt's D-Day radio prayer, as follows:

''My Fellow Americans:

Last night, when I spoke with you about the fall of Rome, I knew at that moment that troops of the United States and our Allies were crossing the Channel in another and greater operation. It has come to pass with success thus far.

And so, in this poignant hour, I ask you to join with me in prayer:

Almighty God: Our sons, pride of our nation, this day have set upon a mighty endeavor, a struggle to preserve our Republic, our religion, and our civilization, and to set free a suffering humanity.

Lead them straight and true; give strength to their arms, stoutness to their hearts, steadfastness in their faith.

They will need Thy blessings. Their road will be long and hard. For the enemy is strong. He may hurl back our forces. Success may not come with rushing speed, but we shall return again and again; and we know that by Thy grace, and by the righteousness of our cause, our sons will triumph.

They will be sore tried, by night and by day, without rest—until the victory is won. The darkness will be rent by noise and flame. Men's souls will be shaken with the violences of war.

For these men are lately drawn from the ways of peace. They fight not for the lust of conquest. They fight to end conquest. They fight to liberate. They fight to let justice arise, and tolerance and goodwill among all Thy people. They yearn but for the end of battle, for their return to the haven of home.

Some will never return. Embrace these, Father, and receive them, Thy heroic servants, into Thy kingdom.

And for us at home—fathers, mothers, children, wives, sisters, and brothers of brave men overseas, whose thoughts and prayers are ever with them—help us, Almighty God, to rededicate ourselves in renewed faith in Thee in this hour of great sacrifice.

Many people have urged that I call the nation into a single day of special prayer. But because the road is long and the desire is great, I ask that our people devote themselves in a continuance of prayer. As we rise to each new day, and again when each day is spent, let words of prayer be on our lips, invoking Thy help to our efforts.

Give us strength, too—strength in our daily tasks, to redouble the contributions we make in the physical and the material support of our armed forces.

And let our hearts be stout, to wait out the long travail, to bear sorrows that may come, to impart our courage unto our sons wheresoever they may be.

And, O Lord, give us faith. Give us faith in Thee; faith in our sons; faith in each other; faith in our united crusade. Let not the keenness of our spirit ever be dulled. Let not the impacts of temporary events, of temporal matters of but fleeting moment—let not these deter us in our unconquerable purpose.

With Thy blessing, we shall prevail over the unholy forces of our enemy. Help us to conquer the apostles of greed and racial arrogances. Lead us to the saving of our country, and with our sister nations into a world unity that will spell a sure peace—a peace invulnerable to the schemings of unworthy men. And a peace that will let all of men live in freedom, reaping the just rewards of their honest toil.

Thy will be done, Almighty God.

Amen.''.

Mr. DEMINT. Mr. President, I rise to speak on a resolution I have submitted today that declares June 6 a national

day of prayer and rededication for the men and women of the U.S. Armed Forces and their mission.

As my colleagues know, when 73,000 Americans stormed the beaches at Normandy, France, on June 6, 1944, President Franklin Roosevelt went on national radio to lead the Nation in prayer for their success.

With more than 350,000 men and women of the U.S. Armed Forces deployed worldwide today, and many of these troops directly engaged in armed combat in Iraq and Afghanistan against determined and ruthless enemies, President Roosevelt's words calling on all Americans to ''devote themselves to a continuance of prayer'' for American soldiers, sailors, airmen, and marines in harm's way are as appropriate today as they were in June of 1944.

As we have witnessed, the war on terror will be long and hard. Unfortunately, the sacrifice will continue to be immeasurable in human terms. It is appropriate to make every anniversary of D–day, June 6, a national day of prayer for the men and women of the U.S. Armed Forces.

Now I wish to read President Roosevelt's D–day radio prayer:

MY FELLOW AMERICANS

Last night, when I spoke with you about the fall of Rome, I knew at that moment that troops of the United States and our Allies were crossing the Channel in another and greater operation. It has come to pass with success thus far.

And so, in this poignant hour, I ask you to join with me in prayer:

Almighty God: Our sons, pride of our nation, this day have set upon a mighty endeavor, a struggle to preserve our Republic, our religion, and our civilization, and to set free a suffering humanity.

Lead them straight and true; give strength to their arms, stoutness to their hearts, steadfastness in their faith.

They will need Thy blessings. Their road will be long and hard. For the enemy is strong. He may hurl back our forces. Success may not come with rushing speed, but we shall return again and again; and we know that by Thy grace, and by the righteousness of our cause, our sons will triumph.

They will be sore tried, by night and by day, without rest—until the victory is won. The darkness will be rent by noise and flame. Men's souls will be shaken with the violences of war.

For these men are lately drawn from the ways of peace. They fight not for the lust of conquest. They fight to end conquest. They fight to liberate. They fight to let justice arise, and tolerance and goodwill among all Thy people. They yearn but for the end of battle, for their return to the haven of home.

Some will never return. Embrace these, Father, and receive them, Thy heroic servants, into Thy kingdom.

And for us at home—fathers, mothers, children, wives, sisters, and brothers of brave men overseas, whose thoughts and prayers are ever with them—help us, Almighty God, to rededicate ourselves in renewed faith in Thee in this hour of great sacrifice.

Many people have urged that I call the nation into a single day of special prayer. But because the road is long and the desire is great, I ask that our people devote themselves in a continuance of prayer. As we rise to each new day, and again when each day is spent, let words of prayer be on our lips, invoking Thy help to our efforts.

Give us strength, too—strength in our daily tasks, to redouble the contributions we make in the physical and the material support of our armed forces.

And let our hearts be stout, to wait out the long travail, to bear sorrows that may come, to impart our courage unto our sons wheresoever they may be.

And, O Lord, give us faith. Give us faith in Thee; faith in our sons; faith in each other; faith in our united crusade. Let not the keenness of our spirit ever be dulled. Let not the impacts of temporary events, of temporal matters of but fleeting moment—let not these deter us in our unconquerable purpose.

With Thy blessing, we shall prevail over the unholy forces of our enemy. Help us to conquer the apostles of greed and racial arrogances. Lead us to the saving of our country, and with our sister nations into a world unity that will spell a sure peace—a peace invulnerable to the schemings of unworthy men. And a peace that will let all of men live in freedom, reaping the just rewards of their honest toil.

Thy will be done, Almighty God.

Amen.

This same prayer will be read in the Chamber of the House of Representatives today, and I hope this Chamber will take up this resolution at some point and make June 6 a day of prayer for our Nation.

SENATE CONCURRENT RESOLUTION 36—SUPPORTING THE GOALS AND IDEALS OF NATIONAL TEEN DRIVER SAFETY WEEK

Mr. CASEY (for himself, Mr. SPECTER, Mr. DURBIN, and Mr. OBAMA) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON RES. 36

Whereas motor vehicle crashes are the leading cause of death for adolescents and young adults in the United States, and many of these deaths are preventable;

Whereas almost 7,500 drivers between the ages of 15 and 20 years were involved in fatal crashes in 2005 throughout the United States;

Whereas the fatality rate in the United States for drivers between the ages of 16 and 19 years, based on miles driven, is 4 times the fatality rate for drivers between the ages of 25 and 69 years;

Whereas the majority of teen driver crashes in the United States are due to driver error and speeding, and 15 percent of the crashes are due to drunk driving;

Whereas roughly two-thirds of the teenagers killed in motor vehicle accidents in the United States each year do not use seatbelts;

Whereas approximately 63 percent of teen passenger deaths in the United States occur while other teenagers are driving;

Whereas it is necessary to explore effective ways to reduce the crash risk for young drivers by focusing research and outreach efforts on areas of teen driving that show the most promise for improving safety;

Whereas the National Teen Driver Survey, developed with input from teenagers and administered by The Children's Hospital of Philadelphia, demonstrates a national need to increase overall awareness about the safe use of electronic handheld devices, the risk of nighttime and fatigued driving, the importance of consistent seatbelt use, and the practice of gradually increasing driver privileges over time as a young driver gains more experience under supervised conditions;

Whereas in 2005, 1,553 crash fatalities involving a teen driver occurred in the fall, when teenagers are in the first months of the school year and faced with many decisions involving driving, including whether to drive with peer passengers and other distractions; and

Whereas designating the third week of October as National Teen Driver Safety Week is expected to increase awareness of these important issues among teenagers and adults in communities throughout the United States, as additional research is conducted to develop and test effective interventions that will help teenagers become safe drivers: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and ideals of National Teen Driver Safety Week; and

(2) encourages the people of the United States to observe the week with appropriate activities that promote the practice of safe driving among the Nation's licensed teenage drivers.

Mr. CASEY. Mr. President, I rise today to introduce, along with my colleagues, Senators SPECTER, DURBIN and OBAMA, a Senate concurrent resolution that will recognize a National Teen Driver Safety Week during the third week of October. This resolution will focus increased public attention and positive action upon the No. 1 cause of death of adolescents in our country—motor vehicle crashes. The fatality rate for drivers ages 16 to 19 is approximately four times that of drivers ages 25 to 69. In 2005, approximately 7,500 of our Nation's teenagers were involved as drivers in fatal car crashes.

According to data from the National Highway Traffic Safety Administration, 13 of 67 counties in Pennsylvania had six deaths or more in 2005 as a result of traffic accidents involving teens. In Lackawanna County alone, where I reside, there were 13 accidents among drivers ages 19 and under that resulted in death or an incapacitating injury.

It is essential that we focus a heightened degree of public attention and awareness upon this tragic—and preventable—crisis. A majority of teen driver crashes are due to driver error and speeding. We must provide more numerous and effective interventions that will help reduce accidents involving teen drivers.

We all know that learning to drive is an important rite of social passage and independence for teenagers. The Children's Hospital of Philadelphia, in partnership with the State Farm Insurance Companies, is conducting ongoing research on teen drivers and recently completed the National Young Driver Survey, questioning thousands of students across the country. The survey was designed to be representative of the 10.6 million public high school students in the United States. Thanks to this new data, we know more about what teens themselves think about driving and how we can more effectively instill safe driving habits.

I would like to mention three key findings from this survey:

1. The critical role of parents. As parents, we are often our children's first driving teachers. But our role does not end when our children get their licenses. Parents play a major role in setting and enforcing safe driving behavior, supervising their teen drivers, and ensuring that teens assume responsibility for driving, including financial responsibility.

2. The prevalence of risky distractions. With 80 percent of teen drivers reporting that they own cell phones, these technological advances pose a serious threat to our children's safety while driving. Nearly all—93 percent of—teens in the survey report that they witness distractions such as cell phone calls, loud music, other teens in the car, and their own emotions. Nearly half of all teens say they have witnessed road rage in fellow teen drivers.

3. The prevalence of risky driving behaviors. While 50 percent of teens report seeing other teens drive drunk, nearly three fourths of teens report seeing their peers drive while fatigued. Half of teens report driving 10 miles over the speed limit at least some of the time. Only 65 percent of teens say they consistently use seat belts.

This superb research from Children's Hospital will continue to provide us greater insight and strategies for reaching our young people.

Our resolution will designate the third week in October, when schools are back in session, as a time for intensive outreach and programming to encourage teens to drive more safely—to minimize risky driving conditions, to manage peer-to-peer interactions around driving, and to learn the skills they need to detect and react to hazards more appropriately.

As a member of the Senate, and as a father, I want to do everything in my power to ensure our children are safe on the road. Losing even one child to a preventable death is a tragedy beyond words. I urge my colleagues to support this resolution recognizing a National Teen Driver Safety Week.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1334. Mr. DOMENICI 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.

SA 1335. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1336. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1337. 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 1338. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1339. Mr. VITTER 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 1340. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1341. 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 1342. Mr. LEVIN (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1343. Mr. LEVIN (for himself, Mrs. CLINTON, Mr. TESTER, 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 1344. Mr. BYRD (for himself, Mr. GREGG, and 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 1345. Mrs. DOLE (for herself, Mr. BURR, and Mr. GRASSLEY) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1346. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1347. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1348. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1349. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1350. Mr. SPECTER (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1351. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1352. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1353. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1354. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1355. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1356. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1357. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1358. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1359. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1360. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1361. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1362. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1363. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1364. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1365. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1366. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1367. 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 1368. 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 1369. Mr. GRASSLEY (for himself and 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 1370. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1371. 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 1372. 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 1373. 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 1374. Mr. ENSIGN 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 1375. 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 1376. 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 1377. 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 1378. Mr. ENSIGN (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1379. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1380. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1381. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1382. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1383. Mr. SANDERS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1384. Mr. SALAZAR (for himself and Mr. DOMENICI) 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 1385. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1386. Mr. LEAHY (for himself, Mr. SALAZAR, Mr. CARDIN, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1387. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1388. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1389. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1390. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1391. 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 1392. 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 1393. 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 1394. Mr. CONRAD (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1395. Mr. GRASSLEY (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1396. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1397. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1398. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1399. 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 1400. 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 1401. Mr. COLEMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1402. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1403. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1404. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1405. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1406. Mr. DURBIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1407. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1408. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1409. Mr. SCHUMER (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1410. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1411. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1412. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1413. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1414. Mrs. LINCOLN (for herself and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1415. Mrs. HUTCHISON (for herself, Mr. GRASSLEY, Mr. ENSIGN, Mr. ALLARD, and Ms. LANDRIEU) 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 1416. 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 1417. 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 1418. 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 1419. 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 1420. 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 1421. 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 1422. 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 1423. 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 1424. 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 1425. 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 1426. 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 1427. 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 1428. 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 1429. 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 1430. 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 1431. 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 1432. 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 1433. 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 1434. 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 1435. 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 1436. 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 1437. 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 1438. 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 1439. 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 1440. Mrs. HUTCHISON (for herself, Mr. CORKER, and Mr. ALEXANDER) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1441. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. OBAMA) submitted an amendment intended to be proposed by him

to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1442. Mr. MENENDEZ (for himself, Mr. DURBIN, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1443. 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 1444. 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 1445. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1446. 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 1447. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1448. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1449. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1450. 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 1451. 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 1452. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1453. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1454. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1455. Mr. LAUTENBERG (for himself, Mr. BROWNBACK, Mr. MENENDEZ, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1456. Mrs. FEINSTEIN (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1457. 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 1458. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1459. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1460. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) 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 1461. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1462. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1463. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1464. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1465. Mr. GRAHAM (for himself, Mr. KYL, Mr. MCCAIN, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1466. Mr. BIDEN (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1467. Mr. SCHMUER submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1468. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1469. Mrs. CLINTON 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 1470. 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 1471. Mr. DURBIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1472. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1473. Mr. COLEMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1474. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1475. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 1409 submitted by Mr. SCHUMER (for himself and Mrs. HUTCHISON) and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1334. Mr. DOMENICI 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 (a) of section 218A of the Immigration and Nationality Act (as added by section 402(a)), add the following:

''(5) REQUIREMENT.—

''(A) IN GENERAL.—For each calendar year in which Y nonimmigrant visas are made available under this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, shall reserve not less than 25 percent of the quantity of Y nonimmigrant visas available for the calendar year for use by business concerns, in accordance with this paragraph.

''(B) TIMELINE.—Of the Y nonimmigrant visas reserved under subparagraph (A), the Secretary shall ensure that—

''(i) for the period beginning on January 1 of the applicable calendar year and ending on June 30 of that calendar year, the visas are provided only to entities that qualify as small businesses under the Small Business Act (15 U.S.C. 631 et seq.) (including regulations promulgated pursuant to that Act); and

''(ii) for the period beginning on July 1 of the applicable calendar year and ending on December 31 of that calendar year, any remaining visas are provided to business concerns, regardless of whether the business concerns qualify as small businesses.''.

SA 1335. Mr. DOMENICI (for himself and Mr. BINGAMAN) 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. ____. INCREASE IN FEDERAL JUDGESHIPS IN DISTRICTS WITH LARGE NUMBERS OF CRIMINAL IMMIGRATION CASES.

(a) FINDINGS.—Based on the recommendations made by the 2007 Judicial Conference and the statistical data provided by the 2006 Federal Court Management Statistics (issued by the Administrative Office of the United States Courts), the Congress finds the following:

(1) Federal courts along the southwest border of the United States have a greater percentage of their criminal caseload affected by immigration cases than other Federal courts.

(2) The percentage of criminal immigration cases in most southwest border district courts totals more than 49 percent of the total criminal caseloads of those districts.

(3) The current number of judges authorized for those courts is inadequate to handle the current caseload.

(4) Such an increase in the caseload of criminal immigration filings requires a corresponding increase in the number of Federal judgeships.

(5) The 2007 Judicial Conference recommended the addition of judgeships to meet this growing burden.

(6) The Congress should authorize the additional district court judges necessary to carry out the 2007 recommendations of the Judicial Conference for district courts in which the criminal immigration filings represented more than 49 percent of all criminal filings for the 12-month period ending September 30, 2006.

(b) PURPOSE.—The purpose of this section is to increase the number of Federal judgeships, in accordance with the recommendations of the 2007 Judicial Conference, in district courts that have an extraordinarily high criminal immigration caseload.

(c) ADDITIONAL DISTRICT COURT JUDGESHIPS.—

(1) PERMANENT JUDGESHIPS.—

(A) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(i) 4 additional district judges for the district of Arizona;

(ii) 1 additional district judge for the district of New Mexico;

(iii) 2 additional district judges for the southern district of Texas; and

(iv) 1 additional district judge for the western district of Texas.

(B) CONFORMING AMENDMENTS.—In order that the table contained in section 133(a) of

title 28, United States Code, reflect the number of additional judges authorized under paragraph (1), such table is amended—

(i) by striking the item relating to Arizona and inserting the following:

''Arizona ..... 16'';

(ii) by striking the item relating New Mexico and inserting the following:

''New Mexico ..... 7''; and

(iii) by striking the item relating to Texas and inserting the following:

''Texas:

Northern	12
Southern	21
Eastern	7
Western	14''.

(2) TEMPORARY JUDGESHIPS.—

(A) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(i) 1 additional district judge for the district of Arizona; and

(ii) 1 additional district judge for the district of New Mexico.

(B) VACANCY.—For each of the judicial districts named in this paragraph, the first vacancy arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this paragraph shall not be filled.

(d) FUNDING.—To carry out this section, the Director of the Administrative Office of the United States Courts shall, for each of fiscal years 2008 through 2012, allocate $2,000,000 from the Administrative Office of the United States Courts Salary & Expenses (Administrative Expenses) account.

SA 1336. Ms. COLLINS 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:

On page 242, between lines 39 and 40, insert the following:

(e) DOCUMENTATION REQUIREMENT; PROHIBITION OF OUTPLACEMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)), as amended by this section, is further amended—

(1) in subparagraph (A), by adding at the end the following:

''(iii) will provide to the H–1B nonimmigrant—

''(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

''(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.''; and

(2) by adding at the end the following:

''(L) An H–1B nonimmigrant may not be stationed at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent if the alien will be controlled and supervised principally by such unaffiliated employer or if the placement of the alien at the worksite of the affiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(f) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

SA 1337. 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 end of title VII, insert the following:

SEC. 711. USE OF PRIVATE LAND BY BORDER PATROL.

(a) PURPOSE.—The purpose of this section is to encourage land owners to make land and water areas on their property available to agents of the Federal Government to enforce the immigration laws of the United States by limiting the liability of land owners toward persons entering their property for such purposes.

(b) DEFINITIONS.—In this section:

(1) LAND.—The term ''land'' includes roads, water, watercourses, and private ways, and buildings, structures, machinery and equipment that is attached to real property.

(2) OWNER.—The term ''owner'' includes the possessor of a fee interest, a tenant, lessee, occupant, the possessor of any other interest in land, or any person having a right to grant permission to use the land.

(c) POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES.—Section 287(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(3)) is amended by striking ''twenty-five miles'' and inserting ''100 miles''.

(d) LIABILITY LIMITED FOR ACTIONS OF LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), an owner of land shall not liable for damages arising from an act or omission of an officer of the Federal Government, or any State or Federal law enforcement officer, who enters the owner's property with or without the permission of the owner.

(2) EXCEPTION.—Paragraph (1) shall not apply to any act or omission of the owner of land that results in damages if the act or omission is not attributable to a law enforcement officer.

SA 1338. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1348, to provider for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike page 10, line 32 through page 11, line 11 and insert the following:

''Section 236(a)(2) (8 USC 1226(a)(2)) is amended—

(1) by adding '', and'' at the end of subsection (a)(3), and

(2) by adding a new subsection (a)(4) that reads ''may not provide the alien with release on bond or with conditional parole if the alien is a national of a noncontiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the secretary of Homeland Security.''

SA 1339. Mr. VITTER 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 3, line 25 insert the following new subsection:

(6) The U.S. Visit System: The integrated entry and exit data system required by 8 U.S.C. 1365a (Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), which is already 17 months past its required implementation date of December 21, 2005, has been fully implemented and is functioning at every land, sea, and air port of entry.

SA 1340. Mr. BROWN 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 167, after line 2, insert the following:

''(E) documenting that for a period of not less than 90 days before the date an application is filed under subsection (a)(1), and for a period of 1 year after the date that such application is filed, every comparable job opportunity (including those in the same occupation for which an application for a Y-1 worker is made, and all other job opportunities for which comparable education, training, or experience are required), that becomes available at the employer is posted to the designated State employment service agency, 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, and the designated State agency has been authorized—

''(i) to post all such job opportunities on the Internet website established under section 414 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, with local job banks, and with unemployment agencies and other referral and recruitment sources pertinent to the job involved; and

''(ii) 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.

The failure of an employer to document compliance with subparagraph (E) shall result in the employer's ineligibility to make a subsequent application under subsection (a)(1) during the 1-year period following the initial application. The Secretary of Labor shall routinely publicize the requirement under subparagraph (E) in communications with employers, and encourage State agencies to do so as well, to help employers become aware of and comply with such requirement in a timely manner.''.

SA 1341. 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 66, between lines 9 and 10, insert the following:

(3) CHANGED COUNTRY CONDITIONS.—Section 208(b) (8 U.S.C. 1158(b)) is amended by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—The Attorney General shall accept and grant a motion filed not later than 6 months after the date of the enactment of this paragraph for a rehearing before an immigration judge for an application for asylum or withholding of removal if the alien—

''(A) is a religious minority from Iraq or an ethnic Albanian who fled Albania or the former Yugoslavia (Kosovo, Montenegro, and Macedonia) whose claim was denied by an immigration judge in whole or in part on the basis of changed country conditions on or after March 1, 2003; and

''(B) remained in the United States as of the date of the enactment of this paragraph.''.

SA 1342. Mr. LEVIN (for himself and Ms. MIKULSKI) 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 173, line 38, insert ''In this paragraph, the county unemployment rate shall be determined, for seasonal businesses, during the period in the preceding year when the Y nonimmigrant would have been employed.'' after ''7 percent.''.

SA 1343. Mr. LEVIN (for himself, Mrs. CLINTON, Mr. TESTER, 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 6, between lines 5 and 6, strike insert the following:

(c) SENSE OF CONGRESS.—It is the sense of Congress that sufficient funds should be appropriated to allow the Secretary to increase by 1,722 the number of full time border patrol agents, immigration inspectors, and customs inspectors at the northern border pursuant to authorizations under—

(1) section 402 of the USA PATRIOT Act of 2002 (Public Law 107–56);

(2) section 331 of the Trade Act of 2002 (Public Law 107–210); and

(3) section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), as amended by subsection (b) of this section.

SA 1344. Mr. BYRD (for himself, Mr. GREGG, and 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:

At the end of title VI, insert the following:

SEC. ___. SUPPLEMENTAL IMMIGRATION FEE.

(a) AUTHORIZATION OF FEE.—

(1) IN GENERAL.—Subject to paragraph (2), any alien who receives any immigration benefit under this title, or the amendments made by this title, shall, before receiving such benefit, pay a fee to the Secretary in an amount equal to $500, in addition to other applicable fees and penalties imposed under this title, or the amendments made by this title.

(2) FEES CONTINGENT ON APPROPRIATIONS.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed, as described in subsection (b), is provided for in advance in an appropriations Act.

(b) DEPOSIT AND EXPENDITURE OF FEES.—

(1) DEPOSIT.—Amounts collected under subsection (a) shall be deposited as an offsetting collection in, and credited to, the accounts providing appropriations—

(A) to carry out the apprehension and detention of any alien who is inadmissible by reason of any offense described in section 212(a) of the Immigration and Nationality Act;

(B) to carry out the apprehension and detention of any alien who is deportable for any offense under section 237(a) of such Act;

(C) to acquire border sensor and surveillance technology;

(D) for air and marine interdiction, operations, maintenance, and procurement;

(E) for construction projects in support of the United States Customs and Border Protection;

(F) to train Federal law enforcement personnel; and

(G) for employment eligibility verification.

(2) AVAILABILITY OF FEES.—Amounts deposited under paragraph (1) shall remain available until expended for the activities and services described in paragraph (1).

SA 1345. Mrs. DOLE (for herself, Mr. BURR, and Mr. GRASSLEY) 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:

On page 303, between lines 19 and 20, insert the following:

(s) DEFINITION OF AGGRAVATED FELONY AND ADDITIONAL GROUNDS FOR INELIGIBILITY FOR Z NONIMMIGRANT STATUS.—

(1) AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(A) by striking ''and'' at the end of subparagraph (T);

(B) by striking the period at the end of subparagraph (U) and inserting ''; and'' and

(C) by adding at the end the following:

''(V) a second conviction for drunk driving, regardless of the State in which the conviction occurred or whether the offense is classified as a misdemeanor or a felony under State law.''.

(2) GROUNDS FOR INELIGIBILITY.—In addition to the grounds of ineligibility described in subsection (d)(1)(F), an alien shall be ineligible for Z nonimmigrant status if the alien has been convicted of drunk driving, regardless of the State in which the conviction occurred or whether the offense is classified as a misdemeanor or a felony under State law.

SA 1346. Mr. MARTINEZ 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 VII, insert the following:

SEC. 711. INTERNATIONAL REGISTERED TRAVELER PROGRAM.

Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

''(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and residents, who enter and exit the United States. The program shall be coordinated with the US-VISIT program, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security.

''(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for purposes of carrying out the international registered traveler program. Amounts so credited shall remain available until expended.

''(C) RULEMAKING.—Within 180 days after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.

''(D) IMPLEMENTATION.—Not later than 1 year after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the US-VISIT entry and exit system, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security at United States airports with the highest volume of international travelers.

''(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—

''(i) establishing a reasonable cost of enrollment;

''(ii) making program enrollment convenient and easily accessible; and

''(iii) providing applicants with clear and consistent eligibility guidelines.

''(F) TECHNOLOGIES.—The Secretary shall coordinate with the Secretary of State to define a schedule for their respective departments for the deployment of appropriate technologies to begin capturing applicable and sufficient biometrics from visa applicants and individuals seeking admission to the United States, if such visa applicant or individual has not previously provided such information, at each consular location and port of entry. The Secretary of Homeland Security shall also coordinate with the Secretary of State regarding the feasibility of allowing visa applicants or individuals to enroll in the International Registered Traveler program at consular offices.''.

SA 1347. Mr. HATCH 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. ___. ESTABLISHMENT OF AN ADDITIONAL UNITED STATES ATTORNEY OFFICE AND AN ADDITIONAL IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.

(a) ESTABLISHMENT OF A SATELLITE UNITED STATES ATTORNEY OFFICE IN ST. GEORGE, UTAH.—The Attorney General, acting through the United States Attorney for the District of Utah, shall establish a satellite office under the jurisdiction of the United States Attorney for the District of Utah in St. George, Utah. One of the primary functions of the satellite office shall be to prosecute and deter criminal activities commonly involving illegal immigrants.

(b) IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE.—

(1) ESTABLISHMENT.—The Secretary, acting through the Assistant Secretary of Homeland Security for United States Immigration and Customs Enforcement, shall establish an office under the jurisdiction of the Assistant Secretary within the vicinity of the intersection U.S. Highway 191 and U.S. Highway 491 to reduce the flow of illegal immigrants into the interior of the United States.

(2) STAFFING.—The office established under paragraph (1) shall be staffed by 5 full-time employees, of whom—

(A) 3 shall work for the Office of Investigations; and

(B) 2 shall work for the Office of Detention and Removal Operations.

(3) OTHER RESOURCES.—The Assistant Secretary shall provide the office established

under paragraph (1) with the resources necessary to accomplish the purposes of this subsection, including office space, detention beds, and vehicles.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) $1,100,000 for fiscal year 2008; and

(B) such sums as may be necessary for each of the fiscal years 2009 through 2012.

SA 1348. Mr. VOINOVICH 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 4, strike line 1 and insert the following:

(e) ADDITIONAL CONSULTATION.—Notwithstanding subsection (a), the certification by the Secretary of Homeland Security under subsection (a) shall be prepared in consultation with the Comptroller General, 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.

TITLE I—BORDER ENFORCEMENT

SA 1349. Mr. VOINOVICH 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 4, strike line 1 and insert the following:

(e) ADDITIONAL CONSULTATION.—Notwithstanding subsection (a), the certification by the Secretary of Homeland Security under subsection (a) shall be prepared—

(1) based on analysis by the Comptroller General; and

(2) in consultation with the Comptroller General, 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.

TITLE I—BORDER ENFORCEMENT

SA 1350. Mr. SPECTER (for himself and Mrs. FEINSTEIN) 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:

TITLE ____—BOARD OF IMMIGRATION APPEALS AND IMMIGRATION JUDGES

SEC. ____01. BOARD OF IMMIGRATION APPEALS.

(a) COMPOSITION AND APPOINTMENT.—Notwithstanding any other provision of law, the Board of Immigration Appeals of the Department of Justice (referred to in this title as the ''Board''), shall be composed of a Chair and 22 other immigration appeals judges, who shall be appointed by the Attorney General. Upon the expiration of a term of office, a Board member may continue to act until a successor has been appointed and qualified.

(b) QUALIFICATIONS.—Each member of the Board, including the Chair, shall—

(1) be an attorney in good standing of a bar of a State or the District of Columbia;

(2) have at least—

(A) 7 years of professional, legal expertise; or

(B) 5 years of professional, legal expertise in immigration and nationality law; and

(3) meet the minimum appointment requirements of an administrative law judge under title 5, United States Code.

(c) DUTIES OF THE CHAIR.—The Chair of the Board, subject to the supervision of the Director of the Executive Office for Immigration Review, shall—

(1) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(2) direct, supervise, and establish internal operating procedures and policies of the Board;

(3) designate a member of the Board to act as Chair if the Chair is absent or unavailable;

(4) adjudicate cases as a member of the Board;

(5) form 3-member panels as provided by subsection (g);

(6) direct that a case be heard en banc as provided by subsection (h); and

(7) exercise such other authorities as the Director may provide.

(d) BOARD MEMBER DUTIES.—In deciding a case before the Board, the Board—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with the authority provided in this section and any regulations established in accordance with this section.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have jurisdiction to hear appeals described in section 1003.1(b) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(2) LIMITATION.—The Board shall not have jurisdiction to hear an appeal of a decision of an immigration judge for an order of removal entered in absentia.

(f) SCOPE OF REVIEW.—

(1) FINDINGS OF FACT.—The Board shall—

(A) accept findings of fact determined by an immigration judge, including findings as to the credibility of testimony, unless the findings are clearly erroneous; and

(B) give due deference to an immigration judge's application of the law to the facts.

(2) QUESTIONS OF LAW.—The Board shall review de novo questions of law, discretion, and judgment, and all other issues in appeals from decisions of immigration judges.

(3) APPEALS FROM OFFICER'S DECISIONS.—

(A) STANDARDS OF REVIEW.—The Board shall review de novo all questions arising in appeals from decisions issued by officers of the Department.

(B) PROHIBITION OF FACT FINDING.—Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board may not engage in fact-finding in the course of deciding appeals.

(C) REMAND.—A party asserting that the Board cannot properly resolve an appeal without further fact-finding shall file a motion for remand. If further fact-finding is needed in a case, the Board shall remand the proceeding to the immigration judge or, as appropriate, to the Secretary.

(g) PANELS.—

(1) IN GENERAL.—Except as provided in paragraph (5) all cases shall be subject to review by a 3-member panel. The Chair shall divide the Board into 3-member panels and designate a presiding member.

(2) AUTHORITY.—Each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before the Board.

(3) QUORUM.—Two members appointed to a panel shall constitute a quorum for such panel.

(4) CHANGES IN COMPOSITION.—The Chair may from time to time make changes in the composition of a panel and of the presiding member of a panel.

(5) PRESIDING MEMBER DECISIONS.—The presiding member of a panel may act alone on any motion as provided in paragraphs (2) and (3) of subsection (i) and may not otherwise dismiss or determine an appeal as a single Board member.

(h) EN BANC PROCESS.—

(1) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chair—

(A) consider any case as the full Board en banc; or

(B) reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel or by a limited en banc panel.

(2) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(i) DECISIONS OF THE BOARD.—

(1) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if—

(A) the decision of the immigration judge resolved all issues in the case;

(B) the issue on appeal is squarely controlled by existing Board or Federal court precedent and does not involve the application of precedent to a novel fact situation;

(C) the factual and legal questions raised on appeal are so insubstantial that the case does not warrant the issuance of a written opinion in the case; and

(D) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(2) SUMMARY DISMISSAL OF APPEALS.—The 3-member panel or the presiding member acting alone may summarily dismiss any appeal or portion of any appeal in any case which—

(A) the party seeking the appeal fails to specify the reasons for the appeal;

(B) the only reason for the appeal specified by such party involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(C) the appeal is from an order that granted such party the relief that had been requested;

(D) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(E) the appeal lacks an arguable basis in fact or in law and is not supported by a good faith argument for extension, modification, or reversal of existing law.

(3) UNOPPOSED DISPOSITIONS.—The 3-member panel or the presiding member acting alone may—

(A) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(B) adjudicate a motion to remand any appeal—

(i) from the decision of an officer of the Department if the appropriate official of the Department requests that the matter be remanded back for further consideration;

(ii) if remand is required because of a defective or missing transcript; or

(iii) if remand is required for any other procedural or ministerial issue.

(4) NOTICE OF RIGHT TO APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in a United States Court of Appeals

not later than 30 days after the date of the decision.

SEC. ___02. IMMIGRATION JUDGES.

(a) APPOINTMENT OF IMMIGRATION JUDGES.—

(1) IN GENERAL.—The Chief Immigration Judge (as described in section 1003.9 of title 8, Code of Federal Regulations, or any corresponding similar regulation) and other immigration judges shall be appointed by the Attorney General. Upon the expiration of a term of office, the immigration judge may continue to act until a successor has been appointed and qualified.

(2) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 5 years of professional, legal expertise or at least 3 years professional or legal expertise in immigration and nationality law.

(b) JURISDICTION.—An Immigration judge shall have the authority to hear matters related to any removal proceeding pursuant to section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) described in section 1240.1(a) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(c) DUTIES OF IMMIGRATION JUDGES.—In deciding a case, an immigration judge—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with their authorities under this section and regulations established in accordance with this section.

(d) REVIEW.—Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction.

SEC. ___03. REMOVAL AND REVIEW OF JUDGES.

No immigration judge or member of the Board may be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by this title.

SEC. ___04. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this title.

SEC. ___05. SENIOR JUDGE PARTICIPATION.

(a) IN GENERAL.—Section 296 of title 28, United States Code, is amended by inserting at the end of the second undesignated paragraph the following new sentence: ''However, a judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, shall have all the powers of a judge of that court, including participation in appointment of court officers and magistrate judges, rulemaking, governance, and administrative matters.''.

(b) SENIOR JUDGES.—Section 631(a) of title 28, United States Code, is amended by striking ''Northern Mariana Islands'' the first place it appears and inserting ''Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed)''.

SA 1351. Mr. KYL 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 277, line 25, strike ''$1,000'' and insert ''$2,500''.

SA 1352. Mr. KYL 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 286, beginning on line 4, strike all through line 10, and insert the following:

(iii) for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest, the Secretary may, in the Secretary's discretion, waive the application of paragraphs (1)(C), (2)(D)(i) (when the alien demonstrates that such actions or activities were committed involuntarily), (5)(A), (6)(A) (with respect to entries occurring before January 1, 2007), (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 Immigration and Nationality Act; and

---

SA 1353. Mr. KYL 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 274, beginning on line 8, strike ''or the beneficiary that cannot be relieved by temporary visits as a nonimmigrant''.

SA 1354. Mr. KYL 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 100, line 24, strike ''may'' and insert ''shall''.

SA 1355. Mr. KYL 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 269, line 18, strike ''child or''.

SA 1356. Mr. KYL 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 89, line 33, insert ''documents described in section 218A(m) of the Immigration and Nationality Act, as added by section 402 of this Act, and 601(j) of this Act,'' after ''permanent resident card,''

SA 1357. Mr. KYL 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:

Beginning on page 154, strike line 23 and all that follows through page 155, line 8, and insert the following:

''(2) EXCEPTION.—The Secretary of Homeland Security may waive the termination of the period of authorized admission of an alien who is a Y nonimmigrant for unemployment under paragraph (1)(D) if the alien submits to the Secretary an attestation under penalty of perjury in a form prescribed by the Secretary, with supporting documentation, that establishes that such unemployment was the result of—

''(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 Federal or State law or by a policy of the alien's employer; or

''(C) any other period of temporary unemployment that is the direct result of a force majeure event.

''(3) RETURN TO FOREIGN RESIDENCE.—An alien who is a Y nonimmigrant whose period of authorized admission terminates under paragraph (1) shall depart the United States immediately.

''(k) REGISTRATION OF DEPARTURE.—

''(1) IN GENERAL.—An alien who is a Y nonimmigrant whose period of authorized admission has expired under subsection (i), or whose period of authorized admission terminates under subsection (j), shall register the departure of such alien at a designated port of departure in a manner to be prescribed by the Secretary of Homeland Security.

''(2) EFFECT OF FAILURE TO DEPART.—In the event an alien described in paragraph (1) fails to depart the United States or to register such departure as required by subsection (j)(3), the Secretary of Homeland Security shall take immediate action to determine the location of the alien and, if the alien is located in the United States, to remove the alien from the United States.

''(3) INVALIDATION OF DOCUMENTATION.—Any documentation issued by the Secretary of Homeland Security under subsection (m) to an alien described in paragraph (1) shall be invalid for any purpose except the departure of the alien on and after the date on which the period of authorized admission of such alien terminates.''.

SA 1358. Mr. KYL 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:

Beginning on page 262, strike line 34 and all that follows through page 264, line 24, and insert the following:

''(A) The merit-based evaluation system shall consist of the following criteria and weights:

Category	Description	Maximum points
''Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)—**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)—**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year—**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application 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 points)	
Age of worker	Worker's age: 25-39—**3 pts**	

Category	Description	Maximum points
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.—**20 pts** 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** Completed Department of Labor Registered Apprenticeship—**8 pts** STEM, associates and above—**8 pts**	**28**
"English and 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 United States citizen—**8 pts** Adult (21 or older) son or daughter of a legal permanent resident—**6 pts** Sibling of United States citizen or LPR—**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005—**2 pts**	**10**
"Total 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 pts**	**25**
U.S. employment experience	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 Secretary of Commerce and the Secretary of 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 412 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, shall submit recommendations to Congress to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.''.

SA 1359. Mr. KYL 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 246, between lines 15 and 16, at the following:

''(G) As used in this section, all references to Test of English as a Foreign Language (TOEFL) scores are based on the TOEFL internet-based test scoring scale of 0–120. Applicants using a TOEFL computer-based test or paper-based test, both of which have different scoring scales, must achieve comparable test scores as follows:

''(i) To be awarded 10 points on the merit-based evaluation system, an applicant must achieve a TOEFL internet-based test score of 60 to 74, a TOEFL computer-based test score of 170 to 203, or a TOEFL paper-based test score of 497 to 537.

''(ii) To be awarded 15 points on the merit-based evaluation system, an applicant must achieve a TOEFL internet-based test score of 75 or higher, a TOEFL computer-based test score greater than 203, or a TOEFL paper-based test score greater than 537.''.

SA 1360. Mr. KYL 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 (f) of section 218A of the Immigration and Nationality Act, as added by section 402.

SA 1361. Mr. KYL 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 4, strike lines 12 through 26, and insert the following:

(2) SMUGGLING INVESTIGATORS AND ICE PERSONNEL.—

(A) SMUGGLING PERSONNEL.—During each of the fiscal years 2008 through 2012, the Secretary of Homeland Security 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.

(B) INCREASE IN FULL-TIME UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.—

(i) IN GENERAL.—In each of the fiscal years 2008 through 2011, the Secretary of Homeland Security shall increase by not less than 1,250 the number of positions for full-time active duty forensic auditors, intelligence research specialists, agents, officers, and investigators in the United States Immigration and Customs Enforcement to carry out the removal of aliens who are not admissible to, or are subject to removal from, the United States, to investigate immigration fraud, and to enforce workplace violations.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subparagraph.

(C) CONFORMING AMENDMENT.—Section 5203 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is repealed.

On page 140, beginning on line 4, strike ''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'' and insert the following: ''In each of the two years beginning on the date of the enactment of this Act, the appropriations necessary to hire not less than 2500 a year''.

SA 1362. Mr. KYL 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 310, line 27, insert ''within 2 years of the date of such denial, termination, or rescission of status, and only'' after ''only''.

SA 1363. Mr. STEVENS 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 IMMIGRATION SERVICES IN AREAS THAT ARE NOT ACCESSIBLE BY ROAD.

Notwithstanding any other provision of law, the Secretary shall permit an employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement who carries out the functions of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement in a geographic area that is not accessible by road to carry out any function that was performed by an employee of the Immigration and Naturalization Service in such area prior to the date of the enactment of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

SA 1364. Mr. STEVENS 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. ____. ESTABLISHMENT OF A CITIZENSHIP AND IMMIGRATION SERVICES OFFICE IN FAIRBANKS, ALASKA.

(a) IN GENERAL.—The Secretary, acting through the Director for United States Citizenship and Immigration Services, shall establish an office under the jurisdiction of the Director in Fairbanks, Alaska, to provide citizenship and immigration services.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal such sums as may be necessary to carry out this section.

SA 1365. Mr. ALEXANDER 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 section 1, insert the following:

(e) AGREEMENT OF BORDER GOVERNORS.—The programs described in subsection (a) shall not become effective until at least 3 of the 4 governors of the States that share a land border with Mexico agree that the border security and other measures described in subsection (a) are established, funded, and operational.

(f) DEFINED TERM.—In this section, the term ''operational control'' means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

SA 1366. Mr. ALEXANDER 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. ___. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON ENGLISH PROFICIENCY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(1) the needs of citizens and lawful permanent residents of the United States whose native language is not English to obtain English language and literacy proficiency;

(2) the estimated costs to the public and private sector resulting from those residents of the United States who lack English language proficiency; and

(3) the estimated costs of operating English language acquisition programs in the public and private sector for those residents of the United States who lack English language proficiency.

(b) STUDY COMPONENTS.—The study conducted under subsection (a) shall include—

(1) an inventory of all existing Federal programs designed to improve English language and literacy acquisition for adult citizens and lawful permanent residents of the United States, including—

(A) a description of the purpose of each such program;

(B) a summary of the Federal expenditures for each such program during fiscal years 2002 through 2006;

(C) data on the participation rates of individuals within each such program and those who have expressed an interest in obtaining English instruction but have been unable to participate in existing programs;

(D) a summary of evaluations and performance reviews of the effectiveness and sustainability of each such program; and

(E) a description of the coordination of Federal programs with private and nonprofit programs;

(2) the identification of model programs at the Federal, State, and local level with demonstrated effectiveness in helping adult citizens and lawful permanent residents of the United States gain English language and literacy proficiency;

(3) a summary of funding for State and local programs that support improving the English language proficiency and literacy of citizens and lawful permanent residents of the United States;

(4) a summary of the costs incurred and benefits received by Federal, State, and local governments in serving citizens and lawful permanent residents of the United States who are not proficient in English, including—

(A) costs for foreign language translators;

(B) the production of documents in multiple languages; and

(C) compliance with Executive Order 13166;

(5) an analysis of the costs incurred by businesses that employ citizens and lawful permanent residents of the United States who are not proficient in English, including—

(A) costs for English training and foreign language translation;

(B) an estimate of lost productivity; and

(C) costs for providing English training to employees;

(6) the number of lawful permanent residents who are eligible to naturalize as citizens of the United States; and

(7) recommendations regarding the most cost-effective actions the Federal government could take to assist citizens and lawful permanent residents of the United States to quickly learn English.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report containing the findings from the study conducted under this section to—

(1) the Committee on Health, Education, Labor, and Pensions of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Education and Labor of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 2008 and 2009 to carry out this section.

SA 1367. 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 1, insert the following:

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding subsection (a), the programs established under title VI that grant legal status to any individual or that 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 earlier of—

(A) the date on which the Secretary submits a written certification to the President and Congress in accordance with subsection (a); or

(B) the date that is 3 years after the date of the enactment of this Act.

(2) PRESIDENTIAL WAIVER.—The President may waive the application of paragraph (1) for national security purposes.

SA 1368. 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:

Section 601(m)(1)(B) is amended—

(1) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and indenting the subclauses appropriately; and

(2) by striking the matter preceding subclause (I) (as so redesignated) and inserting the following:

''(B) PERIOD OF EMPLOYMENT REQUIRED.—

''(i) APPLICABILITY.—Any requirement of this title relating to employment or the seeking of employment by an alien shall not apply to any alien who is—

''(I) under the age of 16 years; or

''(II) over the age of 65 years.

''(ii) REQUIREMENT.—Subject to clause (i), each Z–1 or Z–3 nonimmigrant shall remain employed for not less than 150 total days during each applicable calendar year, except in a case in which—''.

SA 1369. Mr. GRASSLEY (for himself and 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 end of the subsection (a) of section 1, add the following:

(6) STAFF ENHANCEMENTS FOR CITIZENSHIP AND IMMIGRATION SERVICES: The United States Citizenship and Immigration Services has hired and trained 300 additional adjudicators.

On page 3, line 33, strike ''(5)'' and insert ''(6)''.

SA 1370. Mr. GRASSLEY 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 VII, add the following:

SEC. 714. H–1B VISA EMPLOYER FEE.

(a) IN GENERAL.—Section 214(c)(15)(C), as added by section 713 of this Act, is amended to read as follows:

''(C) Of the amounts collected under this paragraph—

''(i) 14.38 percent shall be deposited in the Treasury in accordance with section 286(y); and

''(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(z).''.

(b) USE OF ADDITIONAL FEE.—Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (x), as added by section 712, as subsection (z); and

(2) by inserting after subsection (x), as added by section 402(b), the following:

''(y) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account 14.38 percent of the fees collected under section 214(c)(15).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

SA 1371. 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:

In section 602(a), strike paragraph (6).

SA 1372. 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:

In section 602(a), strike paragraph (6).

In section 214A(h) of the Immigration and Nationality Act, as added by section 622(b), strike paragraph (2).

SA 1373. 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:

In section 214A(h) of the Immigration and Nationality Act, as added by section 622(b), strike paragraph (2).

SA 1374. Mr. ENSIGN 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:

Beginning on page 262, strike line 36 and all that follows through page 264, line 1, and insert the following:

Category	Description	Maximum points
Employment Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**35 pts** Honorable Service within any branch of the United States Armed Services for (1) 4 years with an honorable discharge, or (2) any period of time pursuant to a medical discharge–**35 pts** U.S. employment in STEM or health occupation, current for at least 1 year (extraordinary or ordinary)–**35 pts**	**66**
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**23 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**21 pts**	
U.S. employment experience	Years of lawful employment for a U.S. employer (in the case of agricultural employment, 100 days of work per year constitutes 1 year)–**5 pts/year** (max 30 pts)	
Age of worker	Worker's age: 25-39–**18 pts**	
Education (terminal degree)	Graduate degree in a STEM field (including the health sciences).–**50 pts** Graduate degree in a non-STEM field–**34 pts** Bachelor's degree in a STEM field (including the health sciences)–**40 pts** Bachelor's degree in a non-STEM field–**32 pts** Associate's degree in a STEM field (including health sciences)–**30 pts** Associate's degree in a non-STEM field–**25 pts** Completed certified Department of Labor registered apprenticeship–**23 pts** High school diploma or GED–**21 pts** Completed certified Perkins vocational education program–**20 pts**	**50**
English and civics	Native speaker of English or TOEFL score of 100 or higher–**30 pts** TOEFL score of 90-99–**25 pts** Pass USCIS Citizenship Tests in English & Civics–**21 pts**	**30**
Home ownership	Sole owner of place of residence–**8 pts per year of ownership**	**24**
Medical insurance	Current private medical insurance for entire family–**10 pts per year held**	**30**
Total		**200**

SA 1375. 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:

Beginning on page 261, strike line 26 and all that follows through page 262, line 8.

On page 264, in the table preceding line 1, strike the items relating to supplemental schedule for Zs.

On page 272, strike lines 16 through 39.

SA 1376. 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 272, strike lines 16 through 39.

SA 1377. 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:

Beginning on page 261, strike line 26 and all that follows through page 262, line 8.

SA 1378. Mr. ENSIGN (for himself and Mr. MARTINEZ) 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 302, line 34, strike ''(r) Definitions-'' and insert the following:

(r) ELIGIBILITY TO ENLIST IN THE UNITED STATES ARMED FORCES.—Notwithstanding section 504(b) of title 10, United States Code, an alien who receives Z nonimmigrant status shall be eligible to enlist in the United States Armed Forces.

(s) DEFINITIONS.—

SA 1379. Mr. CRAIG 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 section 218E of the Immigration and Nationality Act, as added by section 404, insert the following:

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS OR GOAT HERDERS.—Notwithstanding any other provision of this Act, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder or goat herder—

''(1) may be admitted for a period of up to 3 years;

''(2) shall be subject to readmission; and

''(3) shall not be subject to the requirements of subsection (h)(4).''.

SA 1380. Mr. GRASSLEY 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 (a) of section 1, add the following:

(6) STAFF ENHANCEMENTS FOR INTERIOR ENFORCEMENT.—The Assistant Secretary for Immigration and Customs Enforcement has hired not less than 2,000 additional special agents to do investigations, to include work enforcement.

On page 3, line 33, strike ''(5)'' and insert ''(6)''.

SA 1381. Mr. NELSON of Florida 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. ___. RELIEF FOR WIDOWS AND ORPHANS.

(a) TRANSITION PERIOD.—

(1) IN GENERAL.—In applying section 201(b)(2)(B) of the Immigration and Nationality Act, as amended by this Act, to an alien whose citizen relative died before the date of the enactment of this Act, the alien relative may file a petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after the date of the enactment of this Act.

(2) PAROLE; ADJUSTMENT OF STATUS.—If the alien was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act based solely upon the alien's lack of classification as an immediate relative due to the citizen relative's death—

(A) such alien may be paroled into the United States pursuant to section 212(d)(5); and

(B) notwithstanding section 212(a)(9) of such Act, such alien's application for adjustment of status shall be considered by the Secretary.

(b) ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSE AND CHILDREN.—

''(1) IN GENERAL.—Any alien described in paragraph (2) who applied for adjustment of status before the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

''(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who—

''(A) is an immediate relative (as described in section 201(b)(2)(A));

''(B) is a family-sponsored immigrant (as described in subsections (a) and (d) of subsection 203); or

''(C) is a derivative beneficiary of an employment-based immigrant under section 203(b).''.

(c) TRANSITION PERIOD.—

(1) IN GENERAL.—Notwithstanding a denial of an application for adjustment of status, such application may be renewed by an alien whose qualifying relative died before the date of the enactment of this Act if a motion to reopen is filed, without a fee, not later than 2 years after the date of the enactment of this Act.

(2) PAROLE; ADJUSTMENT OF STATUS.—If the alien was excluded, deported, removed, or departed voluntarily before the date of the enactment of this Act—

(A) such alien may be paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); and

(B) notwithstanding section 212(a)(9) of such Act, such alien's application for adjustment of status shall be considered by the Secretary.

(d) PROCESSING OF IMMIGRANT VISAS BY THE DEPARTMENT OF STATE .—Section 204(b) (8 U.S.C. 1154(b)) is amended—

(1) by inserting ''(1)'' before ''After an investigation''; and

(2) by adding at the end the following:

''(2) Any alien described in paragraph (3) whose qualifying relative died prior to completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred, and any immigrant visa issued before the death of the qualifying relative shall remain valid.

''(3) An alien described in this paragraph is an alien who—

''(A) is an immediate relative (as described in section 201(b)(2)(A));

''(B) is a family-sponsored immigrant (as described in subsections (a) and (d) of section 203); or

''(C) is a derivative beneficiary of an employment-based immigrant under section 203(b).''.

(e) NATURALIZATION.—Section 319(a) (8 U.S.C. 1429(a)) is amended by inserting ''or, if the spouse is deceased, was the spouse of a citizen of the United States at the time of such death,'' after ''citizen of the United States,''.

SA 1382. Mr. SANDERS (for himself and Mr. GRASSLEY) 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 VII, insert the following:

SEC. 714. H–1B VISA EMPLOYER FEE.

(a) IN GENERAL.—Section 214(c)(15), as added by section 713 of this Act, is amended—

(1) in subparagraph (A), by striking ''In each instance where'' and inserting ''Except as provided under subparagraph (D), if an employer seeks to hire a merit-based employer-sponsored immigrant described in section 203(b)(5) or if'';

(2) by amending subparagraph (C) to read as follows:

''(C) Of the amounts collected under this paragraph—

''(i) 14.28 percent shall be deposited in the Treasury in accordance with section 286(y); and

''(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(z).''; and

(3) by adding at the end the following:

''(D) Public hospitals, which are owned and operated by a State or a political subdivision of a State shall not be subject to the supplemental fee imposed under this paragraph.''.

(b) USE OF ADDITIONAL FEE.—Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (x), as added by section 712, as subsection (z); and

(2) by inserting after subsection (x), as added by section 402(b), the following:

''(y) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. There shall be deposited as offsetting receipts into the account 14.28 percent of the fees collected under section 214(c)(15).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

SA 1383. Mr. SANDERS (for himself and Mr. GRASSLEY) 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 VII, insert the following:

SEC. 714. H–1B VISA EMPLOYER FEE.

(a) IN GENERAL.—Section 214(c)(15), as added by section 713 of this Act, is amended—

(1) in subparagraph (A), by striking ''In each instance where'' and inserting ''Except as provided under subparagraph (D), if'';

(2) by amending subparagraph (C) to read as follows:

''(C) Of the amounts collected under this paragraph—

''(i) 14.28 percent shall be deposited in the Treasury in accordance with section 286(y); and

''(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(z).''; and

(3) by adding at the end the following:

''(D) Public hospitals, which are owned and operated by a State or a political subdivision of a State shall not be subject to the supplemental fee imposed under this paragraph.''.

(b) USE OF ADDITIONAL FEE.—Section 286 (8 U.S.C. 1356) is amended—

(1) by redesignating subsection (x), as added by section 712, as subsection (z); and

(2) by inserting after subsection (x), as added by section 402(b), the following:

''(y) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Gifted and Talented Students Education Account'. There shall be deposited as offsetting receipts into the account 14.28 percent of the fees collected under section 214(c)(15).

''(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.).''.

SA 1384. Mr. SALAZAR (for himself and Mr. DOMENICI) proposed an amendment to amendment SA 1151 proposed by Mr. INHOFE (for himself, Mr. ALEXANDER, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, Mr. BURR, Mr. ISAKSON, Mr. BUNNING, and Mr. COLEMAN) to the 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 the matter proposed to be inserted, add the following:

SEC. 702A. DECLARATION OF ENGLISH AS LANGUAGE.

(a) IN GENERAL.—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. Nothing in this Act 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 OF LAW.—For purposes of this section, the term ''laws of the United States'' includes the Constitution of the United States, any provision of Federal statute, or any rule or regulation issued under such statute, any judicial decisions interpreting such statute, or any Executive Order of the President.

SA 1385. Mr. REED 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, between lines 2 and 3, insert the following:

(iv) NONAPPLICABILITY TO CERTAIN ALIENS.—Clauses (i) through (iii) shall not apply to any alien who qualifies for a Z nonimmigrant visa and a subsequent adjustment of status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a).

On page 304, line 36, strike ''must'' and insert ''(except an alien granted legal status under section 244) shall''.

SA 1386. Mr. LEAHY (for himself, Mr. SALAZAR, Mr. CARDIN, and Mr. HAGEL) 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. _____. PROTECTION FOR SCHOLARS.

(a) NONIMMIGRANT CATEGORY.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking subparagraph (W), as added by section 401(a)(4), and inserting the following:

''(W) subject to subsection (s) of section 214, an alien—

''(i) who the Secretary of Homeland Security determines—

''(I) is a scholar; and

''(II) is subject to a risk of grave danger or persecution in the alien's country of nationality on account of the alien's belief, scholarship, or identity; or

''(ii) who is the spouse or child of an alien described in clause (i) who is accompanying or following to join such alien;''.

(b) CONDITIONS.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

''(s) REQUIREMENTS APPLICABLE TO PERSECUTED SCHOLARS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—An alien is eligible for nonimmigrant status under section 101(a)(15)(W)(i) if the alien is able to demonstrate that the alien is a scholar in any field who is subject to a risk of grave danger or persecution in the alien's country of nationality on account of the alien's belief, scholarship, or identity.

''(B) CONSULTATION.—In determining eligibility of aliens under subparagraph (A), the Secretary of Homeland Security shall consult with nationally recognized organizations that have not less than 5 years of experience in assisting and funding scholars needing to escape dangerous conditions.

''(2) NUMERICAL MINIMUMS.—The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 1101(a)(15)(W) in any fiscal year may not be less than 2,000, unless the Secretary determines that less than 2,000 aliens who are qualified for such status are seeking such status during the fiscal year.

''(3) CREDIBLE EVIDENCE CONSIDERED.—In acting on any application filed under this subsection, the consular officer or the Secretary of Homeland Security, as appropriate, shall consider any credible evidence relevant to the application, including information received in connection with the consultation required under paragraph (1)(B).

''(4) NONEXCLUSIVE RELIEF.—Nothing in this subsection limits the ability of an alien who qualifies for status under section 101(a)(15)(W) to seek any other immigration benefit or status for which the alien may be eligible.

''(5) DURATION OF STATUS.—

''(A) INITIAL PERIOD.—The initial period of admission of an alien granted status as a nonimmigrant under section 101(a)(15)(W) shall be not more than 2 years.

''(B) EXTENSION OF PERIOD.—The period of admission described in subparagraph (A) may be extended for 1 additional 2-year period.''.

SA 1387. Mr. REID 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, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless such credit reduces such alien's income taxes for any such preceding taxable year.

SA 1388. Mr. REID 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, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless such credit reduces such alien's income taxes or self-employment taxes for any such preceding taxable year.

SA 1389. Mr. REID 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, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless 100 percent of such credit reduces such alien's income taxes for any such preceding taxable year.

SA 1390. Mr. REID 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, before line 34, insert the following:

(E) LIMITATION.—An alien required to pay any applicable Federal tax liability by reason of subparagraph (A), or who otherwise satisfies the requirements of subparagraph (A), shall not be allowed to file any claim for any tax credit otherwise allowable under the Internal Revenue Code of 1986 for any taxable year preceding the taxable year in which such application is made unless 100 percent of such credit reduces such alien's income taxes or self-employment taxes for any such preceding taxable year.

SA 1391. 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:

On page 303, after line 19, insert the following:

(s) PERJURY AND FALSE STATEMENTS.—All application forms for immigration benefits, relief, or status under this Act (including application forms for Z non-immigrant status) shall bear a warning to the applicant and to any other person involved in the preparation of the application that the making of any false statement or misrepresentation on the application form (or any supporting documentation) will subject the applicant or other person to prosecution for false statement, fraud, or perjury under the applicable laws of the United States, including sections 1001, 1546, and 1621 of title 18, United States Code.

(t) FRAUD PREVENTION PROGRAM.—The head of each department responsible for the administration of a program or authority to confer an immigration benefit, relief, or status under this Act shall develop an administrative program to prevent fraud within or upon such program or authority. Subject to such modifications the head of the department may direct, the program required by this subsection shall provide for fraud prevention training for the relevant administrative adjudicators within the department.

SA 1392. 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:

Beginning on page 287, strike line 12 and all that follows through line 35 on page 296, and insert the following:

(6) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(i) An alien making an initial application for Z–1 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 a Z–1 nonimmigrant.

(ii) An alien applying for extension of the alien's Z–1 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 $1,000 for a Z–1 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) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 and 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 Z nonimmigrant status for a period of 1 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 1-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.—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 subsections (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 subsection (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 6 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; and

(vi) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(I) the name, address, and telephone number of the affiant;

(II) the nature and duration of the relationship between the affiant and the alien; and

(III) 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.—

(A) 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.

(B) 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 a digitized photograph and other biometric identifiers that can be authenticated;

(B) shall be designed in consultation with United States Immigration and Customs Enforcement's Forensic Document Laboratory;

(C) shall, during the alien's authorized period of admission under subsection (k), serve as a 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 Z nonimmigrant by the Secretary of Homeland Security promptly after final adjudication of such alien's 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 4 years.

(2) EXTENSIONS.—

(A) IN GENERAL.—Z nonimmigrants may seek an indefinite number of 4-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 Z nonimmigrant status.

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z 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 3 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 (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to comply therewith;

(bb) is over 50 years of age and has been living in the United States for periods totaling at least 20 years; or

(cc) is over 55 years of age and has been living in the United States for periods totaling at least 15 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 a processing fee in an amount sufficient to recover the full cost of adjudicating the application,

but no more than $1,000 for a Z–1 nonimmigrant.

SA 1393. 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:

On page 238, line 21, strike ''in the first sentence'' and insert ''and inserting '(other than a nonimmigrant described in subparagraph (E)(iii), (H)(i) (except subclause (b1)), (J) (if coming to the United States to receive graduate medical education or training described in section 212(j)(1) or to take examinations required to receive such graduate medical education or training), (L), or (V) of section 101(a)(15))' ''.

SA 1394. Mr. CONRAD (for himself and Mr. BROWNBACK) 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 425, add at the end the following:

(j) FEDERAL PHYSICIAN WAIVER PROGRAM.—Section 214(l) (8 U.S.C. 1184(l)), as amended by this section, is further amended by adding at the end the following:

''(5) In administering the Federal physician waiver program authorized under paragraph (1)(C), the Secretary of Health and Human Services shall accept applications from—

''(A) primary care physicians and physicians practicing specialty medicine; and

''(B) hospitals and health care facilities of any type located in an area that the Secretary has designated as having a shortage of physicians, including—

''(i) a Health Professional Shortage Area (as defined in section 332(a)(1) of the Public Health Service Act (42 U.S.C. 254e(a)(1)));

''(ii) a Mental Health Professional Shortage Area;

''(iii) a Medically Underserved Area (as defined in section 330I(a)(4) of the Public Health Service Act (42 U.S.C. 254c–14(a)(4)));

''(iv) a Medically Underserved Population (as defined in section 330(b)(3) of the Public Health Service Act (42 U.S.C. 254b(b)(3))); or

''(v) a Physician Scarcity Areas (as identified under section 1833(u)(4) of the Social Security Act (42 U.S.C. 13951(u)(4))).

''(6) Any employer shall be deemed to have met the requirements under paragraph (1)(D)(iii) if the facility of the employer is located in an area listed in paragraph (5)(B).''.

(k) RETAINING AMERICAN-TRAINED PHYSICIANS IN PHYSICIAN SHORTAGE COMMUNITIES.—Section 201(b)(1) (8 U.S.C. 1151(b)) is amended by adding at the end the following:

''(F) Alien physicians who have completed service requirements under section 214(l).''.

SA 1395. Mr. GRASSLEY (for himself and Mr. DURBIN) 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:

Section 419(a) (relating to numerical limitations on H-1B nonimmigrants), is amended to read as follows:

(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 amending subparagraph (A) to read as follows:

''(A) under section 101(a)(15)(H)(i)(b) may not exceed 200,000 for each fiscal year; or'';

(2) by striking paragraphs (6), (7), and (8); as redesignated by section 409(2) and

(3) in paragraph (9), as redesignated by section 409(2)—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numeric limitations described in clause (i) shall not exceed'' 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:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

SA 1396. Mr. GRASSLEY 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 1(a), add at the end the following:

(6) USCIS ADJUDICATORS.—The Citizenship and Immigration Service has hired 300 additional adjudicators.

SA 1397. Mr. GRASSLEY 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 (a) of section 1, add the following:

(7) STAFF ENHANCEMENTS FOR INTERIOR ENFORCEMENT.—The Assistant Secretary for Immigration and Customs Enforcement has hired not less than 2,000 additional special agents to conduct investigations, including worksite enforcement.

SA 1398. Mr. VITTER 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 339, line 38, strike ''not''.

SA 1399. 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, at line 36, strike ''renunciation of gang affiliation;''

SA 1400. 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 end of title VII, insert the following:

SEC. 711. ADJUSTMENT OF STATE IMPACT ASSISTANCE FEES.

Notwithstanding section 218A(e)(3)(B) of the Immigration and Nationality Act, as added by section 402, or section 601(e)(6)(C), an alien making an application for a Y–1 nonimmigrant visa or an alien making an initial application for Z–1 nonimmigrant status 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 1401. Mr. COLEMAN (for himself and Mr. DOMENICI) 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 section 1, add the following new subsection:

(e) INFORMATION SHARING BETWEEN FEDERAL AND LOCAL LAW ENFORCEMENT OFFICERS.—

(1) REQUIREMENT FOR INFORMATION SHARING.—No person or agency may prohibit a Federal, State, or local government entity from acquiring information regarding the immigration status of any individual if the entity seeking such information has probable cause to believe that the individual is not lawfully present in the United States. Such probable cause includes the individual's failure to possess an identification document issued by the United States or a State.

(2) REQUIREMENT PRIOR TO IMPLEMENTATION.—Subject to subsection (a), with the exception of the probationary benefits conferred by section 601(h) of this Act, 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, the programs established by title IV, and the programs established by title VI that grant legal status to any individual or that 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, may not become effective until the date that the Secretary submits a written certification to the President and Congress that the requirement set out in paragraph (1) is being carried out.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed—

(A) to limit the acquisition of information as otherwise provided by law; or

(B) to require a person to disclose information regarding an individual's immigration status prior to the provision of emergency medical or law enforcement assistance.

SA 1402. Mr. COLEMAN 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 6, line 23, insert '', including the lease of 6 additional aircraft and 12 busses'' before the period at the end.

On page 36, after line 17, insert the following:

SEC. 139. SOUTHWEST BORDER EASEMENT FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Commissioner of the United States Section, International Boundary and Water Commission, shall conduct a study of the desirability of, and need for, border enforcement easements between the ports of entry along the international border between the United States and Mexico to facilitate the patrolling of such border to deter and detect illegal entry into the United States.

(b) IDENTIFICATION OF SPECIFIC LOCATIONS.—The study conducted under this section shall identify—

(1) the specific locations where agents of the United States Border Patrol lack immediate access to or control of the border, including any location where authorization by a third party is required to patrol the border or carry out the activities described in subsection (c); and

(2) for each such location—

(A) the actions required to create a border enforcement easement;

(B) the optimal distance from the border to which such easement should extend and the geographic size of the easement;

(C) the estimated costs of acquiring the easement and making the improvements described in subsection (c); and

(D) the changes to existing law that would be required to carry out such acquisitions and improvements.

(c) SCOPE AND USE OF EASEMENT.—Easements studied under this section shall be considered to provide the United States Border Patrol with access to and control of land immediately adjacent to the border described in subsection (a) for—

(1) installing detection equipment;

(2) constructing or improving roads;

(3) controlling vegetation;

(4) installing fences or other obstacles; and

(5) carrying out such other activities as may be required to patrol the border and deter or detect illegal entry.

(d) REPORT.—Not later than December 1, 2008, the Secretary shall submit a report containing the results of the study conducted under this section to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the Senate;

(4) the Committee on Homeland Security of the House of Representatives;

(5) the Committee on the Judiciary of the House of Representatives; and

(6) the Committee on Appropriations of the House of Representatives.

At the appropriate place, insert the following:

SEC. ___. REGISTRATION OF ALIENS; NOTICES OF CHANGE OF ADDRESS.

(a) REGISTRATION REQUIRED FOR WORK AUTHORIZATION.—Section 262 (8 U.S.C. 1302) is amended by adding at the end the following:

''(d) The Secretary of Homeland Security shall verify that each alien applying for work authorization under this Act has registered under this section and has complied with the requirements under subsections (a)(1), (a)(2), and (b) of section 265 before approving such application.''.

(b) ANNUAL NOTIFICATION.—Section 265(a) (8 U.S.C. 1305(a)) is amended by striking ''(a) Each alien'' and inserting the following:

''(a) IN GENERAL.—

''(1) ANNUAL NOTIFICATION.—Each alien required to be registered under this title who is within the United States on the first day of January of any year shall, not later than 30 days following such date, notify the Secretary of Homeland Security in writing of the current address of the alien and furnish such additional information as the Secretary may prescribe by regulation. Failure to comply with this paragraph shall disqualify an alien from being approved for work authorization under this Act.

''(2) NOTIFICATION IF ABSENT ON JANUARY 1.—Each alien required to be registered under this title who is temporarily absent from the United States on the first day of January of any year shall, not later than 10 days after date on which the alien returns to the United States, provide the Secretary of Homeland Security with the information described in paragraph (1).

''(3) NEW ADDRESS.—Each alien''.

(c) TREATMENT OF CHANGE OF ADDRESS FORM AS REGISTRATION DOCUMENT.—Section 265 (8 U.S.C. 1305), as amended by subsection (b), is further amended by adding at the end the following:

''(d) TREATMENT AS REGISTRATION DOCUMENT.—For purposes of this chapter, any notice of change of address submitted by an alien under this section shall be treated as a registration document under section 262.''.

(d) TECHNICAL AMENDMENTS.—Section 266 (8 U.S.C. 1306) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) by striking subsection (b); and

(3) by redesignating subsection (c) and (d) as subsections (b) and (c), respectively.

SA 1403. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) 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:

On page 238, beginning with line 13, strike all through page 265, line 25, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (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.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(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;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), 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

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, 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.

(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:

''(D) 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) APPLICATION OF NONDISPLACEMENT AND GOOD FAITH RECRUITMENT REQUIREMENTS TO ALL H–1B EMPLOYERS.—

(1) AMENDMENTS.—Section 212(n) (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 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.—

(1) EXTENDING TIME PERIOD FOR NONDISPLACEMENT.—Section 212(n), 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), 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), as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (c)(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.''.

SEC. 421. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K), as redesignated by section 420(c)(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 7 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) 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), 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), 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), 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), 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) (8 U.S.C. 1184(c)(2)) is amended by inserting after subsection (F) 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) is amended by inserting after subparagraph (G), as added by subsection (a), the following:

''(H)(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 a 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)(H), 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) is amended by inserting after subparagraph (H), as added by subsection (b), the following:

''(I)(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) (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''; and

(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) is amended by inserting after subparagraph (I), as added by section 423, the following:

''(J)(i) It is a violation of this subparagraph 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) a current employee;

''(II) a former employee; and

''(III) an applicant for employment.''.

SEC. 424. LIMITATIONS ON APPROVAL OF L–1 PETITIONS FOR START-UP COMPANIES.

Section 214(c)(2), as amended by sections 422 and 423, is further 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 (L), if an alien spouse admitted under section 101(a)(15)(L)''; and

(3) by adding at the end the following:

''(K)(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 2 or more petitions under this subparagraph within the immediately preceding 2 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 in a 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 shall 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, in the discretion of the Secretary, may 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 the discretion of the Secretary.

''(L)(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 (K), to engage in employment in the United States during the initial 12-month period described in subparagraph (K)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (K)(ii).

''(M) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), 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 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) (8 U.S.C. 1184(l)) is amended 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) 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) if any State received additional waivers under this paragraph in the first fiscal year.''.

(c) TERMINATION DATE.—Section 214(l)(4) of the Immigration and Nationality Act, as added by subsection (b), is repealed on September 30, 2011.

(d) MEDICAL PROFESSIONALS.—Section 212(j) (8 U.S.C. 1182(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following:

''(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).''; and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by striking the matter preceding subparagraph (A) and inserting the following:

''(3) An alien who has graduated from a 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—'';

(e) DEFINITION.—Section 101(a)(15)(J) is amended by inserting ''(except an alien coming to the United States to receive graduate medical education or training)'' after ''abandoning''.

(f) INTENTION TO ABANDON FOREIGN RESIDENCE.—Section 214(h) (8 U.S.C. 1184(h)) is amended by inserting ''(E), (J) (if the alien is coming to the United States to receive graduate medical education or training),'' after ''described in subparagraph''.

(g) MEDICAL RESIDENTS INELIGIBLE FOR H–1B NONIMMIGRANT STATUS.—Section 214(i)(1) (8 U.S.C. 1184(i)) is amended to read as follows:

''(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) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 214(l) (8 U.S.C. 1184(l)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C)—

(i) in clause (i), by striking ''Attorney General to be in the public interest; and'' and inserting ''Secretary of Homeland Security to be in the public interest;'';

(ii) 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 not later than 90 days after the later of the date on which the alien—

''(I) received such waiver; or

''(II) received nonimmigrant status or employment authorization pursuant to an application filed under paragraph (2)(A) (if such application is filed not later than 90 days after eligibility of completing graduate medical education or training under a program approved pursuant to section 212(j)(1));'';

(B) by striking the period at the end and inserting the following: ''; or

''(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.'';

(2) in paragraph (2), by amending subparagraph (A) to read as follows:

''(A) Notwithstanding 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.]''.

(3) in paragraph (3)(A), 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 409 and amended by section 719(c), is further amended by adding at the end the following:

''(D) The period of authorized admission under subparagraph (A) shall not apply to an alien physician who fulfills the requirements under subsection (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) (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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 become available, the worldwide level of family-sponsored immigrants under this subsection is 567,000 for petitions for classifications under section 203(a), plus any immigrant visas not required for the class specified in subsection (d).

''(2) Except as provided in paragraph (1), the worldwide level of family-sponsored immigrants under this subsection for a fiscal year is 127,000, plus any immigrant visas not required for the class specified in subsection (d).''.

(b) MERIT-BASED IMMIGRANTS.—Section 201(d) (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—

''(A) for the first 5 fiscal years shall be equal to the number of immigrant visas made available to aliens seeking immigrant visas under section 203(b) for fiscal year 2005, plus any immigrant visas not required for the class specified in subsection (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 on the effective date of this section, as described in section 502(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(B) starting in the sixth fiscal year, shall be equal to 140,000 for each fiscal year until aliens described in section 101(a)(15)(Z) first become eligible for an immigrant visa, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(i) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(ii) not more than 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007; and

''(C)(i) 380,000, for each fiscal year starting in the first fiscal year in which aliens described in section 101(a)(15)(Z) become eligible for an immigrant visa, of which at least 10,000 will be for exceptional aliens of nonimmigrant status under section 101(a)(15)(Y), plus any immigrant visas not required for the class specified in subsection (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 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.

''(3) TERMINATION OF TEMPORARY SUPPLEMENTAL ALLOCATION.—The temporary supplemental allocation of visas described in paragraph (2) shall terminate when the number of visas calculated pursuant to paragraph (2)(C) is zero.

''(4) LIMITATION.—The temporary supplemental visas described in paragraph (2) shall not be awarded to any individual other than an individual described in section 101(a)(15)(Z).''.

(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) The immediate relatives of an alien who is admitted as a merit-based employer-sponsored immigrant under subsection 203(b)(5).''.

(d) 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 workforce that has diverse skills, experience, and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by striking paragraphs (1) through (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	Maximum points
"Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year–**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application 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 points)	
Age of worker	Worker's age: 25-39–**3 points**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.–**20 pts** 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** Completed Department of Labor Registered Apprenticeship–**8 pts** STEM, associates and above–**8 pts**	**28**
"English and 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 United States citizen–**8 points** Adult (21 or older) son or daughter of a legal permanent resident–**6 pts** Sibling of United States citizen or LPR–**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005–**2 pts**	**10**
"Total		**100**

"Category	Description	Maximum points
"Supplemental schedule for Zs		
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 pts**	**25**
U.S. employment experience	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 Secretary of Commerce and the Secretary of 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) 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 on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).'';

''(G) Notwithstanding any other provision 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 other provision 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).'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(3) 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'';

(4) 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

(5) 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.''.

SA 1404. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and Mr. GREGG) 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:

On page 238, beginning with line 13, strike all through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (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.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(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;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), 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

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, 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.

SA 1405. Ms. CANTWELL (for herself, Mr. CORNYN, Mr. LEAHY, Mr. HATCH, Mr. BENNETT, Mr. SCHUMER, Mr. WARNER, Mr. SUNUNU, Mr. ENSIGN, and 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:

On page 262, beginning with line 10, strike all through page 265, line 25, and insert 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.

''(M) The immediate relatives of an alien who is admitted as a merit-based employer-sponsored immigrant under subsection 203(b)(5).''.

(d) 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 workforce that has diverse skills, experience, and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by striking paragraphs (1) through (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**	**Maximum points**
''Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year–**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application fee either 1) offers a job, or 2) attests for a current employee–**6 pts**	

"Category	Description	Maximum points
Experience Age of worker	Years of work for U.S. firm–**2 pts/year** (max 10 points) Worker's age: 25-39–**3 points**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.–**20 pts** 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** Completed Department of Labor Registered Apprenticeship–**8 pts** STEM, associates and above–**8 pts**	**28**
"English and 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 United States citizen–**8 points** Adult (21 or older) son or daughter of a legal permanent resident–**6 pts** Sibling of United States citizen or LPR–**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005–**2 pts**	**10**
"Total		**100**

"Category	Description	Maximum points
"Supplemental schedule for Zs		
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 pts**	**25**
U.S. employment experience	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 Secretary of Commerce and the Secretary of 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) 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 on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).'';

''(G) Notwithstanding any other provision 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 other provision 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).'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(3) 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'';

(4) 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

(5) 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.''.

SA 1406. Mr. DURBIN (for himself and Mr. GRASSLEY) 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:

Beginning on page 242, strike line 37 and all that follows through line 24, on page 250, and insert 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 and nonimmigrants described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(A) by amending subparagraph (A) to read as follows:

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

(h) PUBLIC AVAILABILITY AND RECORDS RETENTION.—Section 212(n) of such Act, as amended by this section, is further amended, by adding at the end the following:

''(7) For each application filed under paragraph (1), the employer who filed the application shall—

''(A) upon request, provide a copy of the application and supporting documentation to every nonimmigrant employed by the employer under the application;

''(B) upon request, make available for public examination at the employer's place of business or worksite a copy of the application and supporting documentation;

''(C) upon request, make available a copy of the application and supporting documentation to the Secretary of Labor; and

''(D) retain a copy of the application and supporting documentation for at least 5 years after the date on which the application is filed.''.

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 7 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 '' 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 employers 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.''.

(g) ADDITIONAL DEPARTMENT OF LABOR EMPLOYEES.—

(1) IN GENERAL.—The Secretary of Labor shall increase by not less than 200 the number of positions to administer, oversee, investigate, and enforce programs involving H–1B nonimmigrant workers.

(2) FUNDING.—Notwithstanding any other provision of law, the Secretary of Labor may use amounts in the Fraud Prevention and Detection Account made available to the Secretary pursuant to section 286(v)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(C)) to carry out paragraph (1).

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 a 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.''.

(d) DEPARTMENT OF HOMELAND SECURITY PROCESSING OF BLANKET PETITION L VISAS.—

(1) IN GENERAL.—Paragraph (2)(A) of section 214(c) of such Act is amended to read as follows:

''(2)(A) The Secretary of Homeland Security shall provide for a procedure under which an importing employer which meets the requirements established by the Secretary of Homeland Security may file a blanket petition to import aliens as nonimmigrants described in section 101(a)(15)(L) instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited adjudication by the Secretary of Homeland Security of individual petitions covered under such blanket petitions. Adjudication of blanket petitions or individual petitions covered under such blanket petitions may not be delegated by the Secretary of Homeland Security to the Secretary of State.''.

(2) FRAUD PREVENTION DETECTION FEES.—Paragraph (12)(B) of section 214(c) of such Act is amended to read as follows:

''(B) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fraud prevention and detection fee on an employer filing an individual petition covered under a blanket petition described in paragraph (2)(A) initially to grant an alien nonimmigrant status described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather

than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

SA 1407. Mr. DURBIN 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:

Beginning on page 238, strike lines 41 and all that follows through line 21 on page 239, and insert the following:

(2) in paragraph (1), by amending subparagraph (A) to read as follows:

''(A) under section 101(a)(15)(H)(i)(b) may not exceed 200,000 for each fiscal year; or'';

(3) by striking paragraphs (6), (7), and (8), as redesignated by section 409(2);

(4) in paragraph (9), as redesignated by section 409(2)—

(A) in subparagraph (B), by striking clause (iv); and

(B) by striking subparagraph (D).

SA 1408. Mr. BAYH 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. _____. LABOR CONDITION APPLICATION.

Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended—

(1) in subparagraph (D)—

(A) by striking ''(D) The application'' and inserting the following:

''(D) SPECIFICATIONS.—

''(i) IN GENERAL.—The application''; and

(B) by adding at the end the following:

''(ii) VERIFICATION OF EMPLOYER ID NUMBER.—The application shall be denied unless the Secretary of Labor verifies that the employer identification number provided on the application is valid and accurate.''; and

(2) in subparagraph (G)(i)—

(A) by striking ''In the case of an application described in subparagraph (E)(ii), subject'' and inserting ''Subject'';

(B) in subclause (I), by striking ''and'' at the end;

(C) in subclause (II), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(III) has posted, for a period of not less than 30 days, the available position on a public job bank website that—

''(aa) is accessible through the Internet;

''(bb) is national in scope;

''(cc) has been in operation on the Internet for at least the 18-month period ending on the date on which the position is posted;

''(dd) does not require a registration fee or membership fee to search the job postings of the website; and

''(ee) has a valid Federal or State employer identification number.''.

SA 1409. Mr. SCHUMER (for himself and Mrs. HUTCHISON) 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, after line 27, insert the following:

SEC. 509. INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than January 1, 2008, the Secretary of Health and Human Services shall submit to Congress a report on the shortage of nurses and physical therapists educated in the United States.

(2) CONTENTS.—The report required by paragraph (1) shall—

(A) include information from the most recent 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify the nurses and physical therapists receiving initial licenses in each State and the nurses and physical therapists licensed by endorsement from other States;

(D) identify, from among the nurses and physical therapists receiving initial licenses in each year, the number of such nurses and physical therapists who received professional educations in the United States and the number of such nurses and physical therapists who received professional educations outside the United States;

(E) to the extent possible, identify, by State of residence and the country in which each nurse or physical therapist received a professional education, the number of nurses and physical therapists who received professional educations in any of the 5 countries from which the highest number of nurses and physical therapists emigrated to the United States;

(F) identify the barriers to increasing the supply of nursing faculty in the United States, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies for Federal and State governments to reduce such barriers, including strategies that address barriers that prevent health care workers, such as home health aides and nurse's assistants, from advancing to become registered nurses;

(H) recommend amendments to Federal law to reduce the barriers identified in subparagraph (F);

(I) recommend Federal grants, loans, and other incentives that would increase the supply of nursing faculty and training facilities for nurses in the United States, and recommend other steps to increase the number of nurses and physical therapists who receive professional educations in the United States;

(J) identify the effects of emigration by nurses on the health care systems in the countries of origin of such nurses;

(K) recommend amendments to Federal law to minimize the effects of shortages of nurses in the countries of origin of nurses who immigrate to the United States; and

(L) report on the level of Federal investment determined under subsection (b)(1) to be necessary to eliminate the shortage of nurses and physical therapists in the United States.

(b) CONSULTATION.—The Secretary of Health and Human Services shall—

(1) enter into a contract with the Institute of Medicine of the National Academies to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act (42 U.S.C. 292 et seq.) that would be necessary to eliminate the shortage of nurses and physical therapists in the United States by January 1, 2015; and

(2) consult with other agencies in working with ministers of health or other appropriate officials of the 5 countries from which the highest number of nurses and physical therapists emigrated, as reported under subsection (a)(2)(E), to—

(A) address shortages of nurses and physical therapists in such countries caused by emigration; and

(B) provide the technical assistance needed to reduce further shortages of nurses and physical therapists in such countries.

(c) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

(1) IN GENERAL.—Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note) is amended—

(A) in paragraph (1)—

(i) by inserting ''1996, 1997,'' after ''available in fiscal year''; and

(ii) by inserting ''group I,'' after ''schedule A,'';

(B) in paragraph (2)(A), by inserting ''1996, 1997, and'' after ''available in fiscal years''; and

(C) by adding at the end the following:

''(4) PETITIONS.—The Secretary of Homeland Security shall provide a process for reviewing and acting upon petitions with respect to immigrants described in schedule A not later than 30 days after the date on which a completed petition has been filed.''.

(2) APPLICABILITY.—Notwithstanding any provision of this Act or any amendment made by this Act, section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by paragraph (1), shall apply to petitions filed on or before the effective date set forth in section 502(d) of this Act for classification under paragraph (1), (2), or (3) of subsection (b), or subsection (d), of section 203 of the the Immigration and Nationality Act (as such section was in effect on the day before the date of the enactment of this Act).

SA 1410. Mr. FEINGOLD 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 308, strike line 35 and all that follows through page 314, line 10, and insert the following:

(b) REMOVAL OF ALIENS WHO HAVE BEEN DENIED STATUS UNDER THIS TITLE.—

(1) ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

(A) 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 section 601(d)(1)(F)(ii) because the alien has been convicted of an aggravated felony (as that term is defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), may be placed forthwith in proceedings pursuant to section 238(b) of the Immigration and Nationality Act (8 U.S.C. 1228(b)).

(B) OTHER CRIMINALS.—Notwithstanding any other provision of this Act, any alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clause (i), (iii), or (iv) of section 601(d)(1)(F) may be placed forthwith in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(C) FINAL DENIAL, TERMINATION OR RESCISSION.—The Secretary's denial, termination, or rescission of the status of any alien described in subparagraph (A) or (B) shall represent the exhaustion of all review procedures for purposes of sections 601(h) (relating to treatment of applicants) and 601(o) (relating to termination of proceedings) of this Act, notwithstanding subsection (a)(2) of this section.

(2) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the removal process under this subsection an alien may file not more than 1 motion to reopen or to reconsider. The decision of the Secretary or Attorney General regarding whether to consider any such motion is committed to the discretion of the Secretary or the Attorney General, as the case may be.

(c) JUDICIAL REVIEW.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following:

''(h) JUDICIAL REVIEW OF ELIGIBILITY DETERMINATIONS RELATING TO STATUS UNDER TITLE VI OF THE SECURE BORDERS, ECONOMIC OPPORTUNITY, AND IMMIGRATION REFORM ACT OF 2007.—

''(1) EXCLUSIVE REVIEW.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, (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 the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, including, a denial, termination, or rescission of such status.

''(2) REVIEW OF A DENIAL, TERMINATION, OR RESCISSION OF STATUS.—

''(A) DIRECT REVIEW.—

''(i) IN GENERAL.—A denial, termination, or rescission of status under section 601 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides, if the petition for review is filed not later than 30 days after the later of the date of the denial, termination, or rescission and the date of the mailing thereof.

''(ii) REVIEW.—For any petition filed under clause (i)—

''(I) the court shall review the challenge to the denial, termination, or rescission of status on the administrative record on which the denial, termination, or rescission by the Secretary of Homeland Security was based; and

''(II) an alien may file not more than 1 motion to reopen or reconsider proceedings brought under this section.

''(B) REVIEW AFTER REMOVAL PROCEEDINGS.—A denial, termination, or rescission of status under section 601 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 may be subject to judicial review in conjunction with judicial review of an order of removal, deportation, or exclusion if the validity of the denial, termination, or rescission of status has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard of review of such a denial, termination, or rescission of status shall be governed by subparagraph (C).

''(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of the denial, termination, or rescission of status by the Secretary of Homeland Security under title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, relating to any alien shall be based on the administrative record before the Secretary when the Secretary enters a final denial, termination, or rescission. The court may reverse or remand any final decision that is found to be arbitrary, capricious, unsupported by substantial evidence, or otherwise not in accordance with law.

''(D) STAY OF REMOVAL.—An alien seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered on the appeal of that alien.

''(E) CONFIDENTIALITY.—Information furnished or otherwise developed in judicial review proceedings shall be subject to the terms of section 604 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, relating to confidentiality. Appropriate measures shall be taken to ensure the confidentiality of this information, such as redacting identifying information from filings or, where necessary, filing documents under seal.

''(3) CHALLENGES ON VALIDITY OF THE SYSTEM.——

''(A) IN GENERAL.—Any claim that title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, 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 may be made exclusively in an action instituted in an appropriate United States district court in accordance with the procedures under this paragraph. Nothing in this subparagraph shall preclude an applicant for status under title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 from asserting that an action taken or decision made by the Secretary with respect to the status of the applicant under that title was contrary to law in a proceeding under section 603 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted by a person or entity under this paragraph—

''(i) if it asserts a claim that title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, or any regulation, written policy, or written directive issued 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 unlawful, shall be filed not later than 1 year after the date of the publication or promulgation of the challenged regulation, policy, or directive or, in cases challenging the validity of that Act, not later than 1 year after the date of the initial application of the provision being challenged; and

''(ii) if it asserts a claim that an unwritten policy or practice initiated by or under the authority of the Secretary violates the Constitution of the United States or is otherwise unlawful, be filed not later than 1 year after the date that 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 the Class Action Fairness Act of 2005 (Public Law 109–2; 119 Stat. 4), the amendments made by that Act, and the Federal Rules of Civil Procedure.

''(D) PRECLUSIVE EFFECT.—The final disposition of any claim brought under subparagraph (A) shall be preclusive of any such claim asserted in a subsequent proceeding under this subsection or under section 603 the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.

''(E) EXHAUSTION AND STAY OF PROCEEDINGS.—No claim brought under this paragraph shall require the plaintiff to exhaust administrative remedies under section 603 of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007.''.

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as otherwise provided in this section, no Federal department or agency, nor any officer, employee, or contractor of such department or agency, may—

(1) use the information furnished by an applicant under section 601, 602, or 603 or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, or any subsequent application, to extend such status under section 601, or to adjust status to that of an alien lawfully admitted for permanent residence under section 602;

(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

(3) permit any person, other than an officer, employee, or contractor of such department or agency, or other entity approved by the Secretary of Homeland Security, to examine individual applications that have been filed under section 601, 602, or 603.

(b) EXCEPTIONS TO CONFIDENTIALITY.—

(1) IN GENERAL.—Subsection (a) shall not apply with respect to—

(A) an alien whose application has been denied, terminated, or revoked based on a finding by the Secretary of Homeland Security that the alien—

(i) is inadmissible under paragraph (2), (3), (6)(C)(i) (with respect to information furnished by an applicant under section 601 or 602 of this Act), or (6)(E) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) is deportable under paragraph (1)(E), (1)(G), (2), or (4) of the section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)); or

(iii) was physically removed and is subject to reinstatement pursuant to section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(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 a particular social group, or political opinion;

(D) an alien whom the Secretary determines has, in connection with the application of that alien under section 601 or 602, engaged in fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document; or

(E) an order from a court of competent jurisdiction.

SA 1411. Mr. FEINGOLD 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 202 and insert the following:

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(1) by striking ''Attorney General'' each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security'';

(2) in paragraph (1)—

(A) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—

''(i) IN GENERAL.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during

such extended period if, during the removal period, the alien—

''(I) fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(II) conspires or acts to prevent the alien's removal.

''(ii) EFFECT OF SEEKING STAY OF REMOVAL.—An alien who seeks a stay of removal before an immigration judge, the Board of Immigration Appeals, or a Federal judge, shall not for that reason be deemed to be conspiring or acting to prevent the alien's removal.

''(iii) APPLICABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW PROVISIONS.—A determination to extend the removal period under this subparagraph beyond 180 days shall be made in accordance with the requirements of paragraph (9) and shall be subject to the administrative and judicial review provisions of such paragraph.''; and

(B) by adding at the end the following new subparagraph:

''(D) ALIENS NOT IN THE CUSTODY OF THE SECRETARY.—

''(i) DELAY OF REMOVAL PERIOD.—If, on the date determined under subparagraph (B), the alien is not in the custody of the Secretary of Homeland Security under the authority of this Act, the removal period shall not begin until the alien is taken into such custody.

''(ii) TOLLING OF REMOVAL PERIOD.—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 until the date on which the alien is returned to the custody of the Secretary.'';

(3) in paragraph (2)—

(A) by striking ''During the'' and inserting the following:

''(A) IN GENERAL.—During the''; and

(B) by adding at the end the following new subparagraph:

''(B) DETENTION DURING STAY OF REMOVAL.—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 the Secretary's discretion, may detain the alien during the pendency of such stay of removal.'';

(4) by amending paragraph (3)(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; or

''(ii) for the protection of the community.'';

(5) in paragraph (6), by striking ''beyond the removal period'' and inserting ''for an additional 90 days'';

(6) by redesignating paragraph (7) as paragraph (10); and

(7) by inserting after paragraph (6) the following new paragraphs:

''(7) PAROLE.—

''(A) IN GENERAL.—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.

''(B) ADMISSION STATUS.—An alien described in subparagraph (A) shall in no circumstance be considered admitted.

''(8) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion, may detain an alien for 90 days beyond the removal period if the removal of the alien is reasonably foreseeable.

''(9) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) REGULATIONS.—

''(i) IN GENERAL.—The Secretary of Homeland Security shall prescribe regulations to establish an administrative process by which the Secretary shall determine—

''(I) whether an alien's removal period should be extended beyond 180 days pursuant to paragraph (1)(C); or

''(II) if the removal period is not extended, whether the alien should be detained or released beyond the removal period (or beyond the additional 90-day detention period if such a period is authorized under paragraph (6) or (8)).

''(ii) LIMITATION ON DETENTION.—The Secretary may detain an alien while a determination under clause (i) is pending only if the Secretary has initiated the administrative process established pursuant to clause (i) not later than 30 days after the expiration of the relevant period.

''(B) EVIDENCE.—In making a determination under subparagraph (A)(i), 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 of Homeland Security pertaining to the ability to remove the alien that otherwise would be admissible before an immigration judge.

''(C) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary may detain an alien beyond the periods described in this subsection for additional periods of 180 days, renewable 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;

''(ii) determines that the alien—

''(I) has failed to make timely application in good faith for travel or other documents necessary to secure the alien's departure; or

''(II) has otherwise conspired or acted to prevent his removal and there would be a significant likelihood of that the alien would be removed in the reasonably foreseeable future in the absence of such failure or conspiracy; or

''(iii) certifies in writing—

''(I) after consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety, in which case the alien may be detained only in a civil medical facility;

''(II) pursuant to section 236A, that there are reasonable grounds to believe that the release of the alien would threaten the national security of the United States;

''(III) that—

''(aa) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), 1 or more attempts or conspiracies to commit any such aggravated felonies, or 1 or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense), for which the alien has served an aggregate term of imprisonment of not less than 5 years; and

''(bb) the Secretary has reason to believe that, because of a mental condition or personality disorder and behavior associated with such condition or disorder, the alien is likely to engage in acts of violence in the future or the alien's release would otherwise threaten the safety of the community or any person, notwithstanding any conditions of release, in which case the person shall be referred for civil commitment proceedings in the State in which the alien resides or, if the alien does not reside in a State, the State in which the alien is being detained.

''(D) RENEWAL OF DETENTION.—The Secretary may renew a determination or certification made under subparagraph (C) every 180 days after providing the alien with an opportunity to request reconsideration of the determination or certification and to submit documents or other evidence in support of such request. If the Secretary determines that continued detention is not warranted, the Secretary shall release the alien pursuant to subparagraph (G).

''(E) NONDELEGATION OF DETENTION DETERMINATIONS.—Notwithstanding any other provision of law, the Secretary may not delegate the authority provided under subparagraphs (C) and (D) to any employee below the level of Assistant Secretary for U.S. Immigration and Customs Enforcement.

''(F) REVIEW OF DETENTION DETERMINATIONS.—

''(i) REVIEW BY IMMIGRATION JUDGE.—A determination by the Secretary of Homeland Security to detain an alien under subparagraph (C) or (D) or to redetain an alien under subparagraph (H) shall be subject to review by an immigration judge in accordance with regulations to be prescribed by the Attorney General. Such regulations shall require an immigration judge to complete the review within 90 days. An immigration judge shall uphold the determination of the Secretary only if the Secretary establishes by clear and convincing evidence that the detention of the alien is authorized under subparagraph (C), (D), or (H).

''(ii) TIME PERIODS FOR ADMINISTRATIVE REVIEW.—For purposes of this subparagraph, a failure by the Secretary to reach a determination within 90 days of initiating the administrative process described in subparagraph (A) shall be treated as a determination to detain the alien.

''(iii) REVIEW IN FEDERAL COURT.—Notwithstanding any other provision of law, judicial review of an alien's detention under this section shall be available—

''(I) through only habeas corpus proceedings under section 2241 of title 28, United States Code; and

''(II) in the District Court of the United States in the district where the alien is detained or where removal proceedings against the alien were initiated.

''(G) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be released from detention, the Secretary may impose conditions on the release of the alien in accordance with the regulations prescribed pursuant to paragraph (3), including with respect to the use of electronic monitoring devices, the use of Federal or State mental or substance abuse treatment programs, and adherence to parole and probation requirements for aliens to whom such requirements apply under Federal or State law.

''(H) REDETENTION.—The Secretary may detain any alien subject to a final removal order who has previously been released from custody only if—

''(i) the alien fails to comply with the conditions of the alien's release; or

''(ii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (C) or (D).

''(I) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any

alien returned to custody under subparagraph (H) as if the removal period terminated on the day of the alien's redetention.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to—

(A) 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—

(i) that order was issued and the alien was subsequently released or paroled before the date of the enactment of this Act; and

(ii) the alien has complied with and remains in compliance with the terms and conditions of such release or parole; and

(B) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

SA 1412. Mr. FEINGOLD 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 39, strike line 28 and all that follows through page 47, line 13.

SA 1413. Mr. KENNEDY 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 88, line 32, strike ''(2) Definition of employer.—'' and all that follows through line 34.

SA 1414. Mrs. LINCOLN (for herself and Mr. COLEMAN) 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 1, insert the following:

(e) PASSPORT APPLICATIONS.—

(1) IN GENERAL.—The programs referred to in subsection (a) shall not become effective until the Secretary of State submits a written certification to the President and Congress stating that the Department of State is processing and adjudicating passport applications for United States citizens in 6 weeks or less.

(2) PRESIDENTIAL PROGRESS REPORT.—The report required under subsection (c) shall describe the progress made in satisfying the requirement under paragraph (1).

SA 1415. Mrs. HUTCHISON (for herself, Mr. GRASSLEY, Mr. ENSIGN, Mr. ALLARD, and Ms. LANDRIEU) 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 section 607 and insert the following:

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS FOR PERIODS WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by striking subsection (c) and inserting the following new subsections:

''(c)(1) Except as provided in paragraph (2), for purposes of subsections (a) and (b), no quarter of coverage shall be credited for any calendar year beginning on or after January 1, 2004, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (d) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply to an individual who was assigned a social security account number prior to January 1, 2004.

''(d) Not later than 180 days after the date of the enactment of this subsection, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitation on crediting quarters of coverage under subsection (c).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of the Social Security 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(c).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit applications filed on or after the date that is 180 days after the date of the enactment of this Act based on the wages or self-employment income of an individual with respect to whom a primary insurance amount has not been determined under title II of the Social Security Act (42 U.S.C. 401 et seq.) before such date.

SA 1416. 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:

Beginning on page 295, strike line 18 and all that follows through page 296, line 7, and insert the following:

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z 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 paragraphs (1) and (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) and 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 such paragraphs (1) and (2) of such section 312(a).

(III) REQUIREMENT AT THIRD RENEWAL.—At or before the time of application for the third extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service.

(IV) REQUIREMENT AT FOURTH RENEWAL.—At or before the time of application for the fourth extension of Z nonimmigrant status, an alien who is 18 years of age or older must retake the TOEFL and receive the lower of—

(aa) a score of not less than 70; or

(bb) a score of not less than 20 points higher than the score the alien received when the alien took the TOEFL pursuant to subclause (III).

(V) EXCEPTION.—The requirements of subclauses (I), (II), (III), and (IV) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

SA 1417. 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 288, between lines 32 and 33, insert the following:

(9) GOOD MORAL CHARACTER.—The alien shall establish that the alien has been a person of good moral character, as described in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)), for the entire period of the alien's unlawful presence in the United States.

SA 1418. 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 3, line 25 insert the following new subsection:

(6) The U.S. Visit System: The integrated entry and exit data system required by 8 U.S.C. 1365a (Section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996), which is already 17 months past its required implementation date of December 21, 2005, has been fully implemented and is functioning at every land, sea, and air port of entry.

SA 1419. 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 page 10, line 32 through page 11, line 11 and insert the following:

''Section 236(a)(2) (8 U.S.C. 1226(a)(2)) is amended—

(1) by adding '', and'' at the end of subsection (a)(3), and

(2) by adding a new subsection (a)(4) that reads ''may not provide the alien with release on bond or with conditional parole if the alien is a national of a noncontiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the secretary of Homeland Security.''

SA 1420. 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 52, between line 18 and 19, insert the following:

''(D) knowingly violates for a period of 90 days or more the terms or conditions of the alien's admission or parole into the United States.''

SA 1421. 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 52, between line 18 and 19, insert the following:

(D) knowingly violates for a period of 90 days or more the terms or conditions of the alien's admission or parole into the United States.

SA 1422. 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:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act a Y–1 Nonimmigrant:

(1) may be extended for an indefinite number of subsequent two-year periods, as long as each two-year period is separated by physical presence outside the United States for the immediate prior 12 months,

(2) may not be accompanied by their spouse and dependents for any of their 2 year periods of work in the United States, and

(3) may not sponsor a family member to visit them in the United States under the ''parent visa'' created by Section 506 of this Act.

SA 1423. 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:

In the appropriate place in Sec. 506(a), strike the following sentence:

''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;''

SA 1424. 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:

At the end of section 501, insert the following subsection:

(d) Notwithstanding any other provision of this Act for each fiscal year starting with the enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, 10,000 of the immigrant visas set aside under 503(c) of this Act for parents will be made available to aliens seeking immigrant visas under section 203(b) of the Immigration and Nationality Act based on achieving a score in the top 10 percentile on the Scholastic Aptitude Test (SAT) or the American College Testing (ACT) placement exam for that year. The test, the SAT or the ACT, must be taken in English for the immigrant to qualify. If more than 10,000 foreign applicants with the requisite SAT or ACT score apply, then the top 10,000 of the pool of applicants for that year will receive immigrant visas.

SA 1425. 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:

In the appropriate place in Sections 501 and 502, strike the ''supplemental schedule for Zs'' in its entirety and at the end of Section 502(b), insert a new subsection (G) that reads:

(G) Notwithstanding any other provision of this Act, aliens described in section 101(a)(15)(Z) of this Act must compete with all other applicants through the merit based evaluation system established under this subsection for merit based immigrant visas available under section 501 of this Act.

SA 1426. 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:

In the appropriate place in Sections 501 and 502, strike the ''supplemental schedule for Zs'' in its entirety and at the end of Section 502(b), insert new subsections (G) and (H) that read:

''(G) Notwithstanding any other provision of this Act, aliens described in section 101(a)(15)(Z) of this Act must achieve the same point threshold required for all other applicants to the merit based evaluation system established under this subsection.

''(H) Aliens described in section 101 (a)(15)(Z) shall be exempt from the annual cap on merit based green card as set by Section 501 of this Act.

SA 1427. 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:

In the appropriate place on page 295, line 18 through page 296, line 2, insert the following changes:

Page 295, line 29, insert ''and'' between ''(2)'' and ''by demonstrating'';

Strike Page 295, line 38—page 296, line 2;

Adding a new (III) that reads: ''REQUIREMENT AT THIRD RENEWAL.—At or before the time of application for the third extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the TOEFL test which is administered by the Educational Testing Service.'';

Adding a new (IV) that reads: ''REQUIREMENT AT FOURTH RENEWAL.—At or before the time of application for the fourth extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the TOEFL test as administered by the Educational Testing Service and receive a score 20 points higher than the first time they took the TOEFL test for the third renewal, or a score of 70, whichever is lower.'';

Changing (III) to (V) on page 296 line 3;

On p. 296 line 4, strike ''(I) and (II)'' and insert ''(I), (II)'' (III), and (IV)''.

SA 1428. 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:

In the appropriate place in section 601(e), insert the following at the end of section 601(e)(8):

''(9) GOOD MORAL CHARACTER.—To be eligible for any Z nonimmigrant status, the alien must establish that the alien has been a person of good moral character, as defined in 8 U.S.C. §1101(f), I.N.A. §101(f), for his or her entire period of illegal presence in the United States.

SA 1429. 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:

In the appropriate place in section (f)(2), strike the last sentence of subsection (2).

SA 1430. 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:

In the appropriate place in section (f)(2), strike the last sentence of subsection (2).

SA 1431. 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 607, and replace with the following:

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:

(a) such quarter of coverage is earned prior to the year in which such social security account number is assigned; or

(b) if such quarter of coverage was earned after the individuals visa or work authorization had expired.''.

''(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 of 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.

SA 1432. 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 10, strike line 30 and all that follows through page 11, line 11, and insert the following:

SEC. 113. DETENTION OF ALIENS FROM NONCONTIGUOUS COUNTRIES.

Section 236(a) (8 U.S.C. 1226(a)) is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2)(B), by striking ''but'' at the end;

(3) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(4) may not provide the alien with release on bond or with conditional parole if the alien—

''(A) is a national of a noncontiguous country;

''(B) has not been admitted or paroled into the United States; and

''(C) 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.''.

SA 1433. 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 265, between lines 30 and 31, insert the following:

(d) VISAS FOR HIGH ACHIEVING FOREIGN STUDENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, any amendment made by this Act, or any other provision of law, for each fiscal year beginning after the date of the enactment of this Act, 10,000 of the immigrant visas allocated by section 203(a)(1) of the Immigration and Nationality Act for parents of a citizen of the United States shall be made available to aliens seeking immigrant visas under section 203(b) of the Immigration and Nationality Act who—

(A) achieve a score in the top 10th percentile on the Scholastic Aptitude Test or the American College Testing placement exam administered in that fiscal year; and

(B) take the exams described in subparagraph (A) in the English language.

(2) LIMITATION.—If more than 10,000 aliens described in paragraph (1) apply for immigrant visas in a fiscal year, the 10,000 such aliens with the highest scores on the exams described in paragraph (1)(A) shall receive immigrant visas.

SA 1434. 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 276, beginning on line 38, strike ''. 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''.

SA 1435. 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 316, line 16, insert ''or, if such quarter of coverage is earned after the individual's visa or work authorization has expired'' before the period at the end.

SA 1436. 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 260, strike line 3 and all that follows through page 268, line 35, and insert the following:

SEC. 501. REBALANCING OF IMMIGRANT VISA ALLOCATION.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

''(1) For each fiscal year until visas needed for petitions described in section 503(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 become available, the worldwide level of family-sponsored immigrants under this subsection is 567,000 for petitions for classifications under section 203(a), plus any immigrant visas not required for the class specified in subsection (d).

''(2) Except as provided in paragraph (1), the worldwide level of family-sponsored immigrants under this subsection for a fiscal year is 127,000, plus any immigrant visas not required for the class specified in subsection (d).''.

(b) MERIT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF MERIT-BASED, SPECIAL, AND EMPLOYMENT CREATION IMMIGRANTS.—The worldwide level of merit-based, special, and employment creation immigrants under this subsection—

''(1) for the first 5 fiscal years shall be equal to the number of immigrant visas made available to aliens seeking immigrant visas under section 203(b) for fiscal year 2005, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(A) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(B) 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(2) starting in the sixth fiscal year, shall be equal to 140,000 for each fiscal year until aliens described in section 101(a)(15)(Z) first become eligible for an immigrant visa, plus any immigrant visas not required for the class specified in subsection (c), of which—

''(A) at least 10,000 will be for exceptional aliens in nonimmigrant status under section 101(a)(15)(Y); and

''(B) not more than 90,000 will be for aliens who were the beneficiaries of an application that was pending or approved on the effective date of this section, as described in section 502(d) of the 'Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007'; and

''(3) 380,000, for each fiscal year starting in the first fiscal year in which aliens described in section 101(a)(15)(Z) become eligible for an immigrant visa, of which at least 10,000 will be for exceptional aliens of nonimmigrant status under section 101(a)(15)(Y), plus any immigrant visas not required for the class specified in subsection (c).''.

(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 workforce that has diverse skills, experience, and training.

(b) CREATION OF MERIT-BASED EVALUATION SYSTEM FOR IMMIGRANTS AND REALLOCATION OF VISAS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by striking paragraphs (1) through (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**	**Maximum points**
"Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)–**20 pts** U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)–**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year–**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application 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 points)	
Age of worker	Worker's age: 25-39–**3 points**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.–**20 pts** 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** Completed Department of Labor Registered Apprenticeship–**8 pts** STEM, associates and above–**8 pts**	**28**
"English and 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**

"Category	Description	Maximum points
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen–**8 points** Adult (21 or older) son or daughter of a legal permanent resident–**6 pts** Sibling of United States citizen or LPR–**4 pts** If had applied for a family visa in any of the above categories after May 1, 2005–**2 pts**	**10**
"Total		**100**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) 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 on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).

''(G) Notwithstanding any other provision of this Act or the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, aliens described in section 101(a)(15)(Z) shall compete with all other applicants through the merit based evaluation system established under this subsection for merit based immigrant visas available under section 201(d).'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively;

(3) in paragraph (2), as redesignated—

(A) by striking ''7.1 percent'' and inserting ''4,200''; and

(B) striking ''5,000'' and inserting ''2,500''; and

(4) in paragraph (3), as redesignated—

(A) by striking ''7.1 percent'' and inserting ''2,800''; and

(B) striking ''3,000'' and inserting ''1,500''.

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204(a)(1) (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 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. 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.

(e) CONFORMING AMENDMENTS.—

(1) Section 201 (8 U.S.C. 1151) is amended by striking ''employment-based'' each place it appears and inserting ''merit-based''.

(2) Section 202 (8 U.S.C. 1152) is amended by striking ''employment-based'' each place it appears and inserting ''merit-based''.

(3) Section 203(b) (8 U.S.C. 1153(b)) is amended—

(A) by amending the matter preceding paragraph (1) to read as follows:

''(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) in paragraph (6)(B)(i)—

(i) by striking ''employment-based'' and inserting ''merit-based''; and

(ii) by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraph (1)''; and

(C) in paragraph (6)(B)(iii)—

(i) by striking ''employment-based'' and inserting ''merit-based''; and

(ii) by striking ''each of paragraphs (1) through (3)'' and inserting ''paragraph (1)''.

(4) Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended by striking subparagraph (D).

(5) Section 213A(f) (8 U.S.C. 1183a(f)) is amended—

(A) by striking paragraph (4);

(B) by striking paragraph (5) and inserting the following:

''(4) NON-PETITIONING CASES.—Such term also includes an individual who does not meet the requirement of paragraph (1)(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 a 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) by redesignating paragraph (6) as paragraph (5); and

(D) by striking ''(6)'' and inserting ''(5)''.

(6) Section 212(a) (8 U.S.C. 1182(a)) is amended by striking paragraph (5).

(7) Section 218(g)(3) (8 U.S.C. 1188) is amended by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(8)(A) Section 207(c)(3) (8 U.S.C. 1157(c)(3)) is amended by striking '', (5),'' in the first sentence.

(B) Section 209(c) (8 U.S.C. 1159(c)) is amended by striking '', (5),'' in the second sentence.

(C) Section 210(c)(2)(A) (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) (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) (8 U.S.C. 1255(h)(2)(A)) is amended by striking '', (5)(A),''.

(F) Section 245A(d)(2)(A) (8 U.S.C. 1255a(d)(2)(A)) is amended by striking ''paragraphs (5) and'' and inserting ''paragraph''.

(G) Section 286(s)(6) (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 (8 U.S.C. 1153) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(2) Section 204 (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''.

SA 1437. 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:

At the end of section 1(a), insert the following:

(7) US–VISIT SYSTEM.—The integrated entry and exit data system required to be fully implemented by December 31, 2005, under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), has been fully implemented and is functioning at every land, sea, and air port of entry into the United States.

SA 1438. 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 606 and replace with,

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.

SA 1439. 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:

Beginning on page 262, strike line 34 and all that follows through page 265, line 15, and insert the following:

''(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

"Category	Description	Maximum points
"Employment		**47**
Occupation	U.S. employment in specialty occupation (as defined by the Department of Labor)—**20 pts**	
	U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)—**16 pts**	
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year—**8 pts** (extraordinary or ordinary)	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident's application 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 points)	
Age of worker	Worker's age: 25-39—**3 pts**	
"Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.—**20 pts**	**28**
	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**	
	Completed Department of Labor Registered Apprenticeship—**8 pts**	
	STEM, associates and above—**8 pts**	
"English and civics	Native speaker of English or TOEFL score of 75 or higher—**15 pts**	**15**
	TOEFL score of 60–74—**10 pts**	
	Pass USCIS Citizenship Tests in English & Civics—**6 pts**	
"Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen—**8 pts**	**10**
	Adult (21 or older) son or daughter of a legal permanent resident—**6 pts**	
	Sibling of United States citizen or LPR—**4 pts**	
	If had applied for a family visa in any of the above categories after May 1, 2005—**2 pts**	
"Total		**100**

''(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) 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 on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including but not limited to section 204(c).

''(G) Notwithstanding any other provision of this Act, an alien seeking Z nonimmigrant status pursuant to section 101(a)(15)(Z) shall—

''(i) be subject to the requirements of the merit-based evaluation system in the same manner and to the same extent as aliens seeking visas under this section; and

''(ii) shall be exempt from the worldwide level of merit-based, special, and employment creation immigrants provided under section 201(d).''.

SA 1440. Mrs. HUTCHISON (for herself, Mr. CORKER, and Mr. ALEXANDER) 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 Title VI and insert the following:

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 Z 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 alien 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 immigration 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)(i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), provided that to be deemed inadmissible, nothing in this paragraph shall require the Secretary to have commenced 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(a)(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 arriving 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 described 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 Z nonimmigrant status if the principal 2–1 nonimmigrant or 2–1 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)(C)(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:

(I) 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–1 nonimmigrant status.

(5) 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 a 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-l nonimmigrant status shall be required to pay, in addition to the processing fee in subparagraph (A), a penalty of $1,000.

(ii) An alien 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 Z–1 applicant.

(iii) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 nonimmigrants.

(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-l 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).

(6) HOME APPLICATION.—An alien granted probationary status under subsection (h) shall not be eligible for Z nonimmigrant status until the alien has completed the following home application requirements:

(i) HOME APPLICATION FOR Z NONIMMIGRANT VISA.—An alien awarded probationary status who seeks to become a Z-l or Z-A nonimmigrant must, within two years of being awarded a secure ID card under subsection j), perfect the alien's application for Z-l or Z-A nonimmigrant status at a United States consular office by submitting a supplemental certification in accordance with the requirements set forth in subparagraph (ii). The alien shall present his secure ID card at the United States consular office which shall then be marked or embossed with a designation as determined by the Secretaries of State and Homeland Security which will distinguish the card as satisfying all Z-l or Z-A requirements. The probationary status of an alien seeking to become a Z-l or Z-A nonimmigrant who fails to complete the requirements of this paragraph shall be terminated in accordance with subsection (o)(l)(G).

(ii) CONSULAR APPLICATION.—

(I) IN GENERAL.—An alien granted probationary status who seeks to become a Z-l or Z-A nonimmigrant must perfect the alien's application by filing a supplemental certification in person at a United States consulate abroad within two years of being awarded a secure ID card under subsection (j).

(II) PLACE OF APPLICATION.—Unless otherwise directed by the Secretary of State, an alien in probationary status who is seeking to become a Z-l or Z-A nonimmigrant shall file a supplemental certification at a consular office in the alien's country of origin. A consular office in a country that is not the alien's country of origin as a matter of discretion may, or at the direction of the Secretary of State shall, accept a supplemental certification from such an alien.

(III) CONTENTS OF SUPPLEMENTAL CERTIFICATION.—An alien in probationary status who is seeking to become a Z-l or Z-A nonimmigrant shall certify, in addition to any other certifications specified by the Secretary, that the alien has during the period of the alien's probationary status remained continuously employed in accordance with the requirements of subsection (m) and has paid all tax liabilities owed by the alien pursuant to the procedures set forth in section 602(a)(8). An alien making a false certification under this subparagraph shall be terminated pursuant to subsection (0)(1)(C).

(iii) EXEMPTIONS.—Subparagraphs (i) and (ii) shall not apply to an alien who, on the date on which the alien is granted a secure ID card under subsection (j), is exempted from the employment requirements under subsection (m)(1)(B)(iii).

(iv) FAILURE TO ESTABLISH LAWFUL ADMISSION TO THE UNITED STATES.—Unless exempted under subparagraph (iii), an alien in probationary status who is seeking to become a Z-l or Z-A nonimmigrant who fails to depart and reenter the United States in accordance with subparagraphs (i) and (ii) may not be issued a Z-l or Z-A nonimmigrant visa under this section.

(v) DEPENDENTS.—An alien in probationary status who is seeking to become a Z–2, Z–3 or Z–A dependent nonimmigrant shall be awarded Z–2, Z–3 or Z–A dependent nonimmigrant status upon satisfaction of the requirements set forth in subparagraphs (i) and (ii) by the principal Z–1 or Z–A nonimmigrant. An alien in probationary status who is seeking to become a Z–2, Z–3 or Z–A dependent nonimmigrant and whose principal Z–1 or Z–A nonimmigrant fails to satisfy the requirements of subparagraphs (i) and (ii) may not be issued a Z–2, Z–3 or Z–A dependent nonimmigrant visa under this section unless the principal Z–1 or Z–A alien is exempted under subparagraph (iii).

(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 Z 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.

(4) HOME APPLICATION.—No alien shall be awarded Z nonimmigrant status until the alien has completed the home application requirement set forth in subsection (e)(6).

(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 probationary 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.

(B) STATUS.—An alien applying for Z nonimmigrant status shall be required to specify on the application whether the alien ultimately seeks to be awarded Z–1, Z–2, or Z–3 nonimmigrant status.

(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 status 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 STATUS.—No alien shall be granted probationary status 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 CARD.—The Secretary shall provide each alien described in paragraph (1) with a counterfeit-resistant document that reflects the benefits and status set forth in that paragraph. The Secretary may by regulation establish procedures for the issuance of documentary evidence of probationary status 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 issue secure ID cards under subsection (j).

(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 a secure ID card, as described in subsection (0), 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

(a) presence or employment required under this section, or

(b) 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 (A) 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—

(a) the name, address, and telephone number of the affiant;

(b) the nature and duration of the relationship between the affiant and the alien; and

(c) 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) SECURE ID CARD EVIDENCING STATUS.—

(1) IN GENERAL.—Documentary evidence of status shall be issued to each Z nonimmigrant.

(2) FEATURES OF SECURE ID CARD.—Documentary evidence of Z nonimmigrant status:

(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, during the alien's authorized period of admission under subsection (k), serve as a 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 Z nonimmigrant by the Secretary of Homeland Security promptly after final adjudication of such alien's 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, which shall begin to run on the date that the alien was first awarded a secure ID card under subsection (j).

(2) EXTENSIONS.—

(A) IN GENERAL.—nonimmigrants 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 Z nonimmigrant status;

(ii) ENGLISH LANGUAGE AND CIVICS.—

''(I) Requirement at first renewal.—At or before the time of application for the first extension of Z 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 (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z 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 in 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 a 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 Z nonimmigrant status under subsection (1), 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 the requirements under subsection (m) for a period of up to 180 days.

(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 alien's Z–1 nonimmigrant status has been terminated.

(1) CHANGE OF STATUS.—

(1) CHANGE FROM Z 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.—

(I) Z–1 and Z–3 NONIMMIGRANTS.—

(A) IN GENERAL.—Z–1 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–1 or Z–3 nonimmigrant between 16 and 65 years of age, or an alien in probationary status between 16 and 65 years of age who is seeking to become a Z–1 or Z–3 nonimmigrant, must remain continuously employed full time in the United States as a condition of such nonimmigrant status, except where—

(i) the alien is pursuing a 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.—An alien who has been issued a secure ID card under subsection (j) and who is in probationary status or is a Z 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)(1);

(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, in probationary status, or classified as a Z nonimmigrant under this section, the benefits for the principal alien are terminated;

(E) with respect to a Z–1 or Z–3 nonimmigrant, the employment or study requirements under subsection (m) have been violated; or

(F) with respect to an alien in probationary status, the alien's application for Z nonimmigrant status is denied

(G) with respect to an alien awarded probationary status who seeks to become a Z–1 nonimmigrant, the alien fails to complete the home application requirement set forth in subsection (e)(6) within two years of receiving a secure ID card.

(3) 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.

(4) 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 be subject to removal and depart the United States immediately.

(5) 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 noniminigrant 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 101(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) 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;

(iii) ADMISSIBILITY.—The alien must not be inadmissible under section 212(a), except for those grounds previously waived under subsection (d)(2);

(iv) 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

(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 D.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 Z 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 a 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 38 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, a 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)(1) 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 a 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 a 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 a 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), (1)(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 a 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 applications 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 a prosecution or investigation (civil or criminal) of that employer under section 247B (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)(5)(B) and Section 602(a)(I)(C)(v) through an installment payment plan.

(b) Any penalties received under this title with respect to an application for Z–1 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 1543, 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 granted probationary or Z nonimmigrant status 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 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 has been granted probationary or Z nonimmigrant status.

(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)(5) 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)(5) 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)(5) 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)(l5)(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.—

''(I) 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 a 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 INADMISSIBILLTY.—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 a 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 AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this section 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 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)(1)(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 (ii) and (iii), 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 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 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 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)(I) 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.

''(1) 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.

SA 1441. Mr. GRASSLEY (for himself, Mr. BAUCUS, and Mr. OBAMA) 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 title III and insert the following:

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard for the fact that, the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, an individual for employment in the United States, unless such employer meets 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 for the fact that, the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—

''(A) IN GENERAL.—An employer who uses a contract, subcontract, or exchange to obtain, or to continue to obtain, the labor of an alien in the United States knowing, or with reckless disregard for the fact that, the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraph (1)(A) or (2).

''(B) INFORMATION SHARING.—The Secretary shall establish procedures by which the employer may obtain confirmation from the Secretary that the alien is not an unauthorized alien with respect to performing such labor.

''(4) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) by complying with the requirements of subsection (c).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification under paragraph (1) and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States, shall verify that the individual is eligible for such employment by meeting the following requirements:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining a document described in subparagraph (B).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—The employer has complied with the requirement of this paragraph with respect to examination of documentation if a reasonable person would conclude that the document examined is genuine and relates to the individual whose identity and eligibility for employment in the United States is being verified. If the individual provides a document sufficient to meet the requirements of this paragraph, nothing in this paragraph shall be construed as requiring an employer to solicit any other document or as requiring the individual to produce any other document.

''(B) IDENTIFICATION DOCUMENTS.—A document described in this subparagraph is—

''(i) in the case of an individual who is a national of the United States—

''(I) a United States passport, or passport card issued pursuant to the Secretary of State's authority under the first section of the Act of July 3, 1926 (44 Stat. 887, Chapter 772; 22 U.S.C. 211a); or

''(II) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that—

''(aa) contains a photograph of the individual and other identifying information, including the individual's name, date of birth, gender, and address; and

''(bb) contains security features to make the license or card resistant to tampering, counterfeiting, and fraudulent use;

''(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary that meets the requirements of items (aa) and (bb) of clause (i)(II);

''(iii) in the case of an alien who is authorized to be employed in the United States, an employment authorization card, as specified by the Secretary that meets the requirements of such items (aa) and (bb); or

''(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that meets the requirements of such items (aa) and (bb).

''(C) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being used fraudulently to an unacceptable degree, the Secretary shall prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form described in paragraph (1)(A)(i), that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized to be hired, or to be recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—The employer shall retain a paper, microfiche, microfilm, or electronic version of the attestations made under paragraphs (1) and (2) and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 5 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—Notwithstanding any other provision of law, an employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—The employer shall copy all documents presented by an individual described in paragraph (1)(B) and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall be designated as copied documents.

''(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.

''(B) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) or (ii) of subparagraph (A) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(5) PENALTIES.—An employer that fails to comply with the recordkeeping requirements of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') to determine whether—

''(A) the identifying information submitted by an individual is consistent with the information maintained by the Secretary, the Secretary of State, the Commissioner of Social Security, or the official of a State responsible for issuing drivers' licenses and identity cards; and

''(B) such individual is eligible for employment in the United States.

''(2) REQUIREMENT FOR PARTICIPATION.—

''(A) NEW EMPLOYEES.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is not later than 18 months after the date of enactment of this section.

''(B) OTHER EMPLOYEES.—Not later than 3 years after such date of enactment, the Secretary shall require all employers to verify through the System the identity and employment eligibility of any individual who—

''(i) the Secretary has reason to believe is unlawfully employed based on the information received under section 6103(l)(21) of the Internal Revenue Code of 1986; and

''(ii) has not been previously verified through the System.

''(3) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (2), the Secretary has the authority—

''(A) to permit any employer that is not required to participate in the System under paragraph (2) to participate in the System on a voluntary basis; and

''(B) to require any employer or class of employers to participate on a priority basis in the System with respect to individuals employed as of, or hired after, the date of enactment of this section—

''(i) if the Secretary designates such employer or class of employers as a critical employer based on an assessment of homeland security or national security needs; or

''(ii) if the Secretary has reasonable cause to believe that the employer has engaged in material violations of paragraph (1), (2), or (3) of subsection (a).

''(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (2) or (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(iv).

''(5) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under this subsection.

''(6) ADDITIONAL GUIDANCE.—A registered employer shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to facilitate compliance with—

''(A) the attestation requirement in subsection (c); and

''(B) the employment eligibility verification requirements in this subsection.

''(7) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an employee—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B); and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A), however, such presumption may not apply to a prosecution under subsection (f)(1).

''(8) DESIGN AND OPERATION OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) respond to each inquiry made by a registered employer through the Internet or other electronic media, or over a toll-free telephone line regarding an individual's identity and eligibility for employment in the United States; and

''(ii) maintain a record of each such inquiry and the information provided in response to such inquiry.

''(B) INITIAL INQUIRY.—

''(i) INFORMATION REQUIRED.—A registered employer shall with respect to hiring or recruiting or referring for a fee any individual for employment in the United States, obtain from the individual and record on the form described in subsection (c)(1)(A)(i)—

''(I) the individual's name and date of birth;

''(II) the individual's social security account number;

''(III) the identification number contained on the document presented by the individual pursuant to subsection (c)(1)(B); and

''(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(1)(A)(i), such alien identification or authorization number that the Secretary shall require.

''(ii) SUBMISSION TO SYSTEM.—A registered employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(I) no earlier than the date of hire and no later than the first day of employment, or recruiting or referring for a fee, of the individual (as the case may be); or

''(II) in the case of an employee hired before such employer was required to participate in the system, at such time as the Secretary shall specify.

''(C) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, and after a secondary manual verification has been conducted, a tentative nonconfirmation notice, including the appropriate codes on such tentative nonconfirmation notice.

''(D) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under subparagraph (C)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

''(ii) TENTATIVE NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under subparagraph (C)(ii) for an individual, the employer shall inform such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)(1)(A)(i).

''(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (c)(1)(A)(i), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

''(iv) CONTEST.—If the individual contests the tentative nonconfirmation notice, the individual shall submit appropriate information to contest such notice under the procedures established in subparagraph (E)(ii) not later than 10 days after receiving the notice from the individual's employer.

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii) or a final confirmation notice or final nonconfirmation notice is issued through the System.

''(vi) EFFECTIVE PERIOD OF FINAL NOTICE.—A final confirmation notice issued under this paragraph for an individual shall remain in effect—

''(I) during any continuous period of employment of such individual by such employer, unless the Secretary determines the final confirmation was the result of error or fraud; or

''(II) in the case of an alien authorized to be employed in the United States for a temporary period, during such period.

''(vii) PROHIBITION ON TERMINATION.—An employer may not terminate such employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (iii) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall prohibit the termination of such employment for any reason other than such tentative nonconfirmation.

''(viii) RECORDING OF CONTEST RESOLUTION.—The employer shall record on the form described in subsection (c)(1)(A)(i) the appropriate code that is provided through the System to indicate a final confirmation notice or final nonconfirmation notice.

''(ix) CONSEQUENCES OF NONCONFIRMATION.—If the employer has received a final nonconfirmation regarding an individual, the employer shall immediately terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by this subsection—

''(I) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer is consistent with such information maintained by the Secretary in order to confirm the validity of the information provided; and

''(II) a determination of whether the individual is authorized to be employed in the United States.

''(ii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

''(iii) INFORMATION TO EMPLOYEE.—The Secretary shall develop a written form for employers to provide to individuals who receive a tentative or final nonconfirmation notice. Such form shall be made available in a language other than English, as necessary and reasonable, and shall include—

''(I) information about the reason for such notice;

''(II) the right to contest such notice;

''(III) contact information for the appropriate agency and instructions for initiating such contest; and

''(IV) a 24-hour toll-free telephone number to respond to inquiries related to such notice.

''(iv) TRAINING MATERIALS.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer's participation in the System, appropriate training materials to facilitate compliance with this subsection, and sections 274B(a)(7) and 274C(a).

''(F) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

''(G) RESPONSIBILITIES OF THE SECRETARY OF STATE.—The Secretary of State shall establish a reliable, secure method to provide through the System a confirmation of the issuance of identity documents described in subsection (c)(1)(B)(i)(I) and transmit to the Secretary the related photographic image or other identifying information.

''(H) RESPONSIBILITIES OF A STATE.—The official responsible for issuing drivers' licenses and identity cards for a State shall establish a reliable, secure method to provide through the System a confirmation of the issuance of identity documents described in subsection (c)(1)(B)(i)(II) and transmit to the Secretary the related photographic image or other identifying information.

''(9) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(10) ADMINISTRATIVE REVIEW.—

''(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later than 30 days after the date of such termination, file an appeal of such notice.

''(B) PROCEDURES.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under subparagraph (A) and to make final determinations on such appeals.

''(C) REVIEW FOR ERRORS.—If a final determination on an appeal filed under subparagraph (A) results in a confirmation of an individual's eligibility to work in the United States, the administrative review process shall require the Secretary to determine whether the final nonconfirmation notice issued for the individual was the result of—

''(i) the decision rules, processes, or procedures utilized by the System;

''(ii) a natural disaster, or other event beyond the control of the government;

''(iii) acts or omissions of an employee or official operating or responsible for the System;

''(iv) acts or omissions of the individual's employer;

''(v) acts or omissions of the individual; or

''(vi) any other reason.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final nonconfirmation notice issued for an individual was caused by a negligent, reckless, willful, or malicious act of the government, and was not due to an act or omission of the individual, the Secretary shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost during the period beginning on the date the individual files a notice of appeal under this paragraph and ending on the earlier of—

''(I) the date which is 180 days thereafter; or

''(II) the day after the date the individual receives a confirmation described in subparagraph (C).

''(11) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 30 days after the date of such decision, or such further time as the Secretary may allow.

''(B) JURISDICTION.—A civil action for such judicial review shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has a principal place of business, or, if the plaintiff does not reside or have a principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia.

''(C) ANSWER.—As part of the Secretary's answer to a complaint for such judicial review, the Secretary shall file a certified copy of the administrative record compiled during the administrative review under paragraph (10), including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming or reversing the result of that administrative review, with or without remanding the cause for a rehearing.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph

(10), the court shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost during the period beginning on the date the individual files a notice of appeal under paragraph (10) and ending on the earlier of—

''(I) the date which is 180 days thereafter; or

''(II) the day after the date the individual receives a reversal described in clause (i).

''(12) COMPENSATION FOR LOSS OF EMPLOYMENT.—For purposes of paragraphs (10) and (11)—

''(A) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in which the individual was not present in, or was ineligible for employment in, the United States.

''(B) SOURCE OF FUNDS.—Compensation or reimbursement provided under such paragraphs shall be provided from funds appropriated that are not otherwise obligated.

''(13) LIMITATION ON COLLECTION AND USE OF DATA.—

''(A) LIMITATION ON COLLECTION OF DATA.—

''(i) IN GENERAL.—The Secretary shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be other than—

''(I) information necessary to register employers under paragraph (5);

''(II) information necessary to initiate and respond to inquiries or contests under paragraph (8);

''(III) information necessary to establish and enforce compliance with paragraphs (5) and (8);

''(IV) information necessary to detect and prevent employment-related identity fraud; and

''(V) such other information the Secretary determines is necessary, subject to a 180-day notice and comment period in the Federal Register.

''(ii) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined $1,000 for each violation.

''(B) LIMITATION ON USE OF DATA.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the System—

''(i) for the purpose of committing identity fraud, or assisting another person in committing identity fraud, as defined in section 1028 of title 18, United States Code;

''(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

''(iii) for any purpose other than as provided for under any provision of law;

shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(C) EXCEPTIONS.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

''(14) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System. The Secretary shall minimize the collection and storage of paper documents and maximize the use of electronic records, including electronic signatures.

''(15) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

''(B) PURPOSE.—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

''(C) REPORT.—Not later than the date that is 24 months after the date of the enactment of this section, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the periods specified in paragraph (8), including a separate assessment of such rate for nationals and aliens.

''(ii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

''(iii) An assessment of the effects of the System on the employment of unauthorized aliens.

''(iv) An assessment of the effects of the System, including the effects of tentative confirmations on unfair immigration-related employment practices, and employment discrimination based on national origin or citizenship status.

''(v) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out the duties and responsibilities of this section.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

''(C) for the investigation of other violations of subsection (a) that the Secretary determines is appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence regarding any employer being investigated; and

''(ii) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) specify the amount of fines or other penalties to be imposed;

''(iv) disclose the material facts which establish the alleged violation; and

''(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(ii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1), (2), or (3) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer, the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1), (2), or (3) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of $5,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of $25,000 for each unauthorized alien with respect to each such violation.

''(iv) If the employer has previously been fined more than 2 times under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of $75,000 for each unauthorized alien with respect to each such violation.

''(v) An employer who fails to comply with a written final determination under paragraph (3)(C) shall be fined $75,000 for each violation, in addition to any fines or other penalties imposed by such determination.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the recordkeeping requirements of subsections (a), (c), and (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of $1,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of $2,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph, pay a civil penalty of $5,000 for each such violation.

''(iv) If the employer has previously been fined more than 2 times under this subparagraph, pay a civil penalty of $15,000 for each such violation.

''(v) An employer who fails to comply with a written final determination under paragraph (3) shall be fined $15,000 for each violation, in addition to any fines or other penalties imposed by such determination.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including violations of cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 30 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 31 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $75,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) ADJUSTMENT FOR INFLATION.—All penalties in this section shall be increased every 4 years beginning January 2011 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referral of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referral of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(z).

''(i) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be subject to debarment from the receipt of a Federal contract, grant, or cooperative agreement for a period of not more than 2 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 such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of the debarment.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be subject to debarment from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not more than 2 years in accordance with the procedures and standards prescribed by the Federal Acquisition Regulations.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not more than 2 years.

''(C) WAIVER.—After consideration of the views of all agencies or departments that hold a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of nor more than 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(4) DETERMINATION OF REPEAT VIOLATORS.—Inadvertent violations of recordkeeping 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.

''(j) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement (other than aliens lawfully admitted for permanent residence).

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions upon those who hire, or recruit or refer for a fee, unauthorized aliens for employment; or

''(B) requiring the use of the System for any unauthorized purpose, or any authorized purpose prior to the time such use is required or permitted by Federal law.

''(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(z).

''(l) DEFINITIONS.—In this section:

''(1) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(2) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary under any other provision of law.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208;

8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(c) and (d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(c)''.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraphs:

''(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 301(f)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

''(I) a determination of whether the name, date of birth, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner;

''(II) a determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

''(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

''(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

''(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall—

''(i) to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary of Homeland Security;

''(ii) in all cases, record, verify, and maintain an electronic record of the alien identification or authorization number issued by the Secretary and utilized by the Commissioner in assigning such social security account number; and

''(iii) upon the issuance of a social security account number, transmit such number to the Secretary of Homeland Security for inclusion in such alien's record maintained by the Secretary.''.

(2) Section 205(c)(2)(C)(i) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(i)) is amended by adding at the end the following: ''Any State that utilizes a social security account number for such purpose shall enter into an agreement with the Commissioner to allow the Commissioner to verify the name, date of birth, and the identity number issued by the official the State responsible for issuing drivers' licenses and identity cards. Such agreement shall be under the same terms and conditions as agreements entered into by the Commissioner under paragraph 205(r)(8).''.

(3) Section 205(r) of the Social Security Act (42 U.S.C. 405(r)) is amended by adding at the end the following new paragraph:

''(9) Notwithstanding this section or any agreement entered into thereunder, the Commissioner of Social Security is authorized to disclose death information to the Secretary of Homeland Security to the extent necessary to carry out the responsibilities required under subsection (c)(2) and section 6103(l)(21) of the Internal Revenue Code of 1986.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY THE SOCIAL SECURITY ADMINISTRATION TO THE DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—Upon written request by the Secretary of Homeland Security, the Commissioner of Social Security or the Secretary shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

''(i) DISCLOSURE OF EMPLOYER NO MATCH NOTICES.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) for tax year 2005 and subsequent tax years that end before the date that is specified in subparagraph (F) which contains—

''(I) 1 (or any greater number the Secretary shall request) name and taxpayer identifying number of any employee (within the meaning of section 6051) or any recipient (within the meaning of section 6041(a)) that could not be matched to the records maintained by the Commissioner of Social Security, or

''(II) 2 (or any greater number the Secretary shall request) names of employees (within the meaning of such section) or recipients (within the meaning of section 6041(a)) with the same taxpayer identifying number,

and the taxpayer identity of each such employee or recipient.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE TAXPAYER IDENTIFYING INFORMATION OF EMPLOYEES.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) for tax year 2005 and subsequent tax years that end before the date that is specified in subparagraph (F) which contains the taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051) or a recipient (within the meaning of section 6041(a))—

''(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 a 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 of each such employee or recipient.

''(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—The taxpayer identity of each person who has filed an information return required by reason of section 6051 or section 6041(a) which the Commissioner of Social Security or the Secretary, as the case may be, has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—The taxpayer identity of all employees (within the meaning of section 6051) hired and recipients (within the meaning of section 6041(a)) retained after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—The taxpayer identity of all employees (within the meaning of section 6051) and recipients (within the meaning of section 6041(a)) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—The taxpayer identity of each person participating in the System and the taxpayer identity of all employees (within the meaning of section 6051) of such person hired and all recipients (within the meaning of section 6041(a)) of such person retained during the period beginning with the later of—

''(I) the date such person begins to participate in the System, or

''(II) the date of the request immediately preceding the most recent request under this clause,

ending with the date of the most recent request under this clause.

''(B) RESTRICTION ON DISCLOSURE.—The taxpayer identities disclosed under subparagraph (A) may be used by officers, employees, and contractors of the Department of Homeland Security only for purposes of, and to the extent necessary in—

''(i) preventing identity fraud;

''(ii) preventing aliens from unlawfully obtaining employment in the United States;

''(iii) establishing and enforcing employer participation in the System;

''(iv) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act; and

''(v) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security and the Secretary shall prescribe a reasonable fee schedule based on the additional costs directly incurred for furnishing taxpayer identities under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

''(D) INFORMATION RETURNS UNDER SECTION 6041.—For purposes of this paragraph, any reference to information returns required by reason of section 6041(a) shall only be a reference to such information returns relating to payments for labor.

''(E) FORM OF DISCLOSURE.—The taxpayer identities to be disclosed under paragraph (A) shall be provided in a form agreed upon by the Commissioner of Social Security, the Secretary, and the Secretary of Homeland Security.

''(F) TERMINATION.—This paragraph shall not apply to any request made after the date which is 5 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (midpoint review in the case of contracts or agreements of less than 3 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 (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)''; and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent funds are appropriated, in advance, to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2008.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356), as amended by sections 402(b) and 623, is further amended by adding at the end the following new subsection:

''(z) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of personnel of the Bureau of Immigration and Customs Enforcement during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary shall ensure that not less than 25 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 305. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''; and

(B) in subparagraph (B), by striking ''in the case of a protected individual (as defined in paragraph (3)),''; and

(2) by striking paragraph (3) and inserting the following:

''(3) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(A) IN GENERAL.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

''(i) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

''(ii) to use the verification system for screening of an applicant prior to an offer of employment;

''(iii) except as described in section 274A(d)(3)(B), to use the verification system for a current employee after the first day of employment, unless a waiver is provided by the Secretary of Homeland Security for good cause, or for the reverification of an employee after the employee has satisfied the process described in section 274A(d); or

''(iv) to require an individual to make an inquiry under the self-verification procedures established in section 274A(d)(8)(E)(iii).

''(B) PREEMPLOYMENT SCREENING AND BACKGROUND CHECK.—Nothing in subparagraph (A) shall be construed to preclude a preemployment screening or background check that is required or permitted under any other provision of law.''.

(b) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended in subparagraph (B)(iv)—

(1) in subclause (I), by striking ''$250 and not more than $2,000'' and inserting ''$1,000 and not more than $4,000'';

(2) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

(3) in subclause (III), by striking ''$3,000 and not more than $10,000'' and inserting ''$6,000 and not more than $20,000''; and

(4) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(c) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2008 through 2010'' before the period at the end.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SA 1442. Mr. MENENDEZ (for himself, Mr. DURBIN, and Mrs. BOXER) 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:

Beginning on page 287, strike line 12 and all that follows through line 35 on page 296, and insert the following:

(6) FEES AND PENALTIES.—

(A) PROCESSING FEES.—

(i) An alien making an initial application for Z–1 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 a Z–1 nonimmigrant.

(ii) An alien applying for extension of the alien's Z–1 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 $1,000 for a Z–1 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) An alien who is a Z–2 or Z–3 nonimmigrant and who has not previously been a Z–1 nonimmigrant, and who changes status to that of a Z–1 nonimmigrant, shall in addition to processing fees be required to pay the initial application penalties applicable to Z–1 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 Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 and 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 Z nonimmigrant status for a period of 1 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 1-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.—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 subsections (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 subsection (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 6 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; and

(vi) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(I) the name, address, and telephone number of the affiant;

(II) the nature and duration of the relationship between the affiant and the alien; and

(III) 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.—

(A) 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.

(B) 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 a digitized photograph and other biometric identifiers that can be authenticated;

(B) shall be designed in consultation with United States Immigration and Customs Enforcement's Forensic Document Laboratory;

(C) shall, during the alien's authorized period of admission under subsection (k), serve as a 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 Z nonimmigrant by the Secretary of Homeland Security promptly after final adjudication of such alien's 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 4 years.

(2) EXTENSIONS.—

(A) IN GENERAL.—Z nonimmigrants may seek an indefinite number of 4-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 Z nonimmigrant status.

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z 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 3 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 (I) and (II) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable because of physical or developmental disability or mental impairment to comply therewith;

(bb) is over 50 years of age and has been living in the United States for periods totaling at least 20 years; or

(cc) is over 55 years of age and has been living in the United States for periods totaling at least 15 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 a processing fee in an amount sufficient to recover the full cost of adjudicating the application, but no more than $1,000 for a Z–1 nonimmigrant.

SA 1443. 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. ____. ADMISSION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.

Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that—

(A) for a period of at least one year beginning after March 1, 2003, he or she served the United States Government inside Iraq as an employee, volunteer, contractor, or employee of a contractor of the United States Government; or

(B) he or she has a parent, spouse, son, daughter, grandparent, grandchild, or sibling currently residing in the United States who is a United States citizen, lawful permanent resident, asylee, or refugee; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

SA 1444. 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)(1), (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.

(d) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

(1) INCREASE IN LEVEL.—Section 201(c)(1)(B)(ii) (8 U.S.C. 1151(c)(1)(B)(ii)) is amended by striking ''226,000'' and inserting ''567,000''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective during the period beginning on October 1 of the sixth fiscal year following the fiscal year in which this Act is enacted and ending on the date that an alien may be adjust status to an alien lawfully admitted for permanent residence described in section 602(a)(5).

SA 1445. Mr. BINGAMAN 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 225, strike ''such limitation'' and insert ''the limitations under clauses (i) and (ii) of paragraph (1)(D)''.

SA 1446. 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:

On page 304, strike lines 2 through 20 and insert the following:

(ii) APPLICATION PROCESSES.—

(I) IN GENERAL.—Except as provided in subclause (III), 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 a 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) APPLICATIONS SUBMITTED FROM WITHIN THE UNITED STATES.—

(aa) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall permit a Z–1 nonimmigrant to submit an application for an adjustment of status to that of an alien lawfully admitted for permanent residence from within the United States if the country of origin of the Z–1 nonimmigrant authorizes the Z–1 nonimmigrant to submit the application.

(bb) REQUIREMENT TO REGISTER.—A Z–1 nonimmigrant applying for adjustment of status under this subclause shall submit to a consulate of the nonimmigrant's country of nationality in the United States a registration of the nonimmigrant's presence in the United States.

SA 1447. Mr. GRASSLEY 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 757 of the bill (relating to impact on commercial motor vehicles).

SA 1448. Mr. COLEMAN 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. ____. LANGUAGE TRAINING PROGRAMS.

(a) ACCREDITATION REQUIREMENT.—Section 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i) is amended by striking ''a language'' and inserting ''an accredited language''.

(b) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations that—

(1) except as provided under paragraphs (3) and (4), require that an accredited language training program described in section 101(a)(15)(F)(i) of the Immigration and Nationality Act, as amended by subsection (a), be accredited by the Commission on English Language Program Accreditation, the Accrediting Council for Continuing Education and Training, or under the governance of an institution accredited by 1 of the 6 regional accrediting agencies;

(2) require that if such an accredited language training program provides intensive language training, the head of such program provide the Secretary of Education with documentation regarding the specific subject matter for which the program is accredited;

(3) permit an alien admitted as a nonimmigrant under such section 101(a)(15)(F)(i) to participate in a language training program, during the 3-year period beginning on the date of the enactment of this Act, if such program is not accredited under paragraph (1); and

(4) permit a language training program established after the date of the enactment of this Act, which is not accredited under paragraph (1), to qualify as an accredited language training program under such section 101(a)(15)(F)(i) during the 3-year period beginning on the date on which such program is established.

SA 1449. Mr. BROWNBACK 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 214(l) of the Immigration and Nationality Act (8 U.S.C. 1184(l)), as amended by section 425(b)(1), in paragraph (4)(C)(iii), strike subclause (I) and insert the following:

''(I) with respect to a State, for the first fiscal year of the pilot program conducted under this paragraph, the greater of—

''(aa) 15; or

''(bb) the number of the waivers received by the State in the previous fiscal year;''.

SA 1450. 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. _____. PLAN FOR THE CONTROL AND MANAGEMENT OF ARUNDO DONAX.

(a) DEFINITIONS.—In this section:

(1) ARUNDO DONAX.—The term ''Arundo donax'' means a tall perennial reed commonly known as ''Carrizo cane'', ''Spanish cane'', ''wild cane'', and ''giant cane''.

(2) PLAN.—The term ''plan'' means the plan for the control and management of Arundo donax developed under subsection (b).

(3) RIVER.—The term ''River'' means the Rio Grande River.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall develop a plan for the control and management of Arundo donax along the portion of the River that serves as the international border between the United States and Mexico.

(2) COMPONENTS.—In developing the plan, the Secretary shall address—

(A) information derived by the Secretary of Agriculture and the Secretary of the Interior from ongoing efforts to identify the most effective biological, mechanical, and chemical means of controlling and managing Arundo donax;

(B) past and current efforts to understand—

(i) the ecological damages caused by Arundo donax; and

(ii) the dangers Arundo donax poses to Federal and local law enforcement;

(C) any international agreements and treaties that need to be completed to allow for the control and management of Arundo donax on both sides of the River;

(D) the long-term efforts that the Secretary considers to be necessary to control and manage Arundo donax, including the cost estimates for the implementation of the efforts; and

(E) whether a waiver of applicable Federal environmental laws (including regulations) is necessary.

(3) CONSULTATION.—The Secretary shall develop the plan in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of State, and any other Federal and State agencies that have appropriate expertise regarding the control and management of Arundo donax.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the plan to—

(1) the Committees on the Judiciary of the Senate and the House of Representatives; and

(2) the Committees on Appropriations of the Senate and the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SA 1451. 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 36, after line 17, add the following:

SEC. 139. REPORT REGARDING USE OF LEVEES.

Not later than 90 days after the date of enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to Congress a report regarding the use of flood control levees under the control of the International Boundary and Water Commission by U.S. Customs and Border Protection, which shall—

(1) discuss the purpose and importance of any such use of such levees;

(2) describe the level of degradation of such levees as a result of such use; and

(3) identify any formal agreements that may be needed between the Department of Homeland Security and the International Boundary and Water Commission or the Department of State to ensure needed access to such levees.

SA 1452. Mr. LIEBERMAN 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:

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

---

SA 1453. Mr. LIEBERMAN 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:

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 1454. Mr. LIEBERMAN 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 lieu of the matter proposed to be stricken, 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 1455. Mr. LAUTENBERG (for himself, Mr. BROWNBACK, Mr. MENENDEZ, and Mrs. CLINTON) 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, between lines 32 and 33, insert the following new subsection:

(f) ADJUSTMENT OF STATUS FOR CERTAIN VICTIMS OF TERRORISM.—

(1) SPECIFIED TERRORIST ACTIVITY.—In this subsection, the term ''specified terrorist activity'' means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.

(2) ADJUSTMENT OF STATUS.—

(A) IN GENERAL.—The Secretary shall adjust the status of any alien described in paragraph (3) to that of an alien lawfully admitted for permanent residence, if the alien—

(i) applies for such adjustment not later than 2 years after the date on which the Secretary establishes procedures to implement this subsection; and

(ii) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) RULES IN APPLYING CERTAIN PROVISIONS.—

(i) IN GENERAL.—In the case of an alien described in paragraph (3) who is applying for adjustment of status under this subsection—

(I) the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply; and

(II) the Secretary may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(ii) STANDARDS.—In granting waivers under clause (i)(II), the Secretary shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(C) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(i) APPLICATION PERMITTED.—An alien who is present in the United States and has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may apply for adjustment of status under subparagraph (A).

(ii) MOTION NOT REQUIRED.—An alien described in clause (i) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.

(iii) EFFECT OF DECISION.—If the Secretary grants a request under clause (i), the Secretary shall cancel the order. If the Secretary renders a final administrative decision to deny the request, the order shall be effective and enforceable to the same extent as if the application had not been made.

(3) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—Subject to paragraph (7), the benefits under paragraph (2) shall apply to any alien who—

(A) was lawfully present in the United States as a nonimmigrant alien under the immigration laws of the United States on September 10, 2001;

(B) was, on such date, the spouse, child, dependent son, or dependent daughter of an alien who—

(i) was lawfully present in the United States as a nonimmigrant under the immigration laws of the United States on such date; and

(ii) died as a direct result of a specified terrorist activity; and

(C) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(4) STAY OF REMOVAL; WORK AUTHORIZATION.—

(A) IN GENERAL.—The Secretary shall establish a process by which an alien subject to a final order of removal may seek a stay of such order based on the filing of an application under paragraph (2).

(B) DURING CERTAIN PROCEEDINGS.—The Secretary may not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and has applied for adjustment of status under paragraph (2), unless the Secretary has rendered a final administrative determination to deny the application.

(C) WORK AUTHORIZATION.—The Secretary shall authorize an alien who was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note), and who has applied for adjustment of status under paragraph (2) to engage in employment in the United States during the pendency of such application.

(5) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under paragraph (2) the same right to, and procedures for, administrative review as are provided to—

(A) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(B) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(6) CANCELLATION OF REMOVAL FOR CERTAIN IMMIGRANT VICTIMS OF TERRORISM.—

(A) IN GENERAL.—Subject to the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) (other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (8 U.S.C. 1229b)) and paragraph (7) of this subsection, the Secretary shall, under such section 240A, cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subparagraph (B), if the alien applies for such relief.

(B) ALIENS ELIGIBLE FOR CANCELLATION OF REMOVAL.—The benefits provided by subparagraph (A) shall apply to any alien who—

(i) was, on September 10, 2001, the spouse, child, dependent son, or dependent daughter of an alien who died as a direct result of a specified terrorist activity; and

(ii) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(C) STAY OF REMOVAL; WORK AUTHORIZATION.—

(i) IN GENERAL.—The Secretary shall establish a process to provide for an alien subject to a final order of removal to seek a stay of such order based on the filing of an application under subparagraph (A).

(ii) WORK AUTHORIZATION.—The Secretary shall authorize an alien who was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note), and who has applied for cancellation of removal under subparagraph (A) to engage in employment in the United States during the pendency of such application.

(D) MOTIONS TO REOPEN REMOVAL PROCEEDINGS.—

(i) IN GENERAL.—On motions to reopen removal proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), any alien who has become eligible for cancellation of removal as a result of the enactment of this section may file 1 motion to reopen removal proceedings to apply for such relief.

(ii) FILING PERIOD.—The Secretary shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of the enactment of this Act and shall extend for a period not to exceed 240 days.

(7) EXCEPTIONS.—Notwithstanding any other provision of this subsection, an alien may not be provided relief under this subsection if the alien is—

(A) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or deportable under paragraph (2) or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)), including any individual culpable for a specified terrorist activity; or

(B) a family member of an alien described in subparagraph (A).

(8) EVIDENCE OF DEATH.—For purposes of this subsection, the Secretary shall use the standards established under section 426 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (115 Stat. 362) in determining whether death occurred as a direct result of a specified terrorist activity.

(9) AUTHORITY OF THE ATTORNEY GENERAL.—The requirements and authorities under this subsection pertaining to the Secretary, other than the authority to grant work authorization, shall apply to the Attorney General with respect to cases otherwise within the jurisdiction of the Executive Office for Immigration Review.

(10) PROCESS FOR IMPLEMENTATION.—The Secretary and the Attorney General—

(A) shall carry out this subsection as expeditiously as possible;

(B) are not required to promulgate regulations before implementing this subsection; and

(C) shall promulgate procedures to implement this subsection not later than 180 days after the date of the enactment of this Act.

SA 1456. Mrs. FEINSTEIN (for herself and Mr. CORNYN) 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 appropriate place, insert the following:

SEC. __. HUMAN TRAFFICKING AWARENESS.

(a) FINDINGS.—Congress finds that:

(1) The United States has a tradition of advancing fundamental human rights.

(2) Because the people of the United States remain committed to protecting individual freedom, there is a national imperative to eliminate human trafficking, including early or forced marriage, commercial sexual exploitation, forced labor, labor obtained through debt bondage, involuntary servitude, slavery, and slavery by descent.

(3) To combat human trafficking in the United States and globally, the people of the United States and the Federal Government, including local and State governments, must be aware of the realities of human trafficking and must be dedicated to stopping this contemporary manifestation of slavery.

(4) Beyond all differences of race, creed, or political persuasion, the people of the United States face national threats together and refuse to let human trafficking exist in the United States and around the world.

(5) The United States should actively oppose all individuals, groups, organizations, and nations who support, advance, or commit acts of human trafficking.

(6) The United States must also work to end human trafficking around the world through education.

(7) Victims of human trafficking need support in order to escape and to recover from the physical, mental, emotional, and spiritual trauma associated with their victimization.

(8) Human traffickers use many physical and psychological techniques to control their victims, including the use of violence or threats of violence against the victim or the victim's family, isolation from the public, isolation from the victim's family and religious or ethnic communities, language and cultural barriers, shame, control of the victim's possessions, confiscation of passports and other identification documents, and threats of arrest, deportation, or imprisonment if the victim attempts to reach out for assistance or to leave.

(9) Although laws to prosecute perpetrators of human trafficking and to assist and protect victims of human trafficking have been enacted in the United States, awareness of the issues surrounding human trafficking by those people most likely to come into contact with victims is essential for effective enforcement because the techniques that traffickers use to keep their victims enslaved severely limit self-reporting.

(10) The effort by individuals, businesses, organizations, and governing bodies to promote the observance of the National Day of Human Trafficking Awareness on January 11 of each year represents one of the many examples of the ongoing commitment in the United States to raise awareness of and to actively oppose human trafficking.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that Congress supports the goals and ideals of observing the National Day of Human Trafficking Awareness on January 11 of each year and all other efforts to raise awareness of and opposition to human trafficking.

SA 1457. 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 title I, add the following:

SEC. ___. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—

(1) REDESIGNATIONS.—Chapter 27 of title 18, United States Code, is amended by redesignating section 554 added by section 551(a) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1389) (relating to border tunnels and passages) as section 555.

(2) TABLE OF SECTIONS.—The table of sections for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 554, ''Border tunnels and passages'', and inserting the following:

''555. Border tunnels and passages.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(6)of title 18, United States Code, is amended by striking ''554'' and inserting ''555''.

(c) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Section 551(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1390) is amended in paragraphs (1) and (2)(A) by striking ''554'' and inserting ''555''.

SA 1458. Mr. WEBB 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 304, strike lines 2 through 20 and insert the following:

(ii) APPLICATION.—A Z-1 non-immigrant's application for adjustment of status to that of an alien lawfully admitted for permanent residence may be filed in person with a United States consulate outside the United States or with United States Citizenship and Immigration Services at any location in the United States designated by the Secretary.

SA 1459. Mr. WEBB 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 282, strike line 11 and all that follows through page 283, line 8 and insert the following:

(b) ESTABLISHMENT OF Z NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 401(a), is further amended by adding at the end the following:

''(Z) subject to title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, an alien who—

''(i)(I) has maintained a continuous physical presence in the United States since the date that is 4 years before the date of the enactment of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(II) is employed, and seeks to continue performing labor, services, or education; and

''(III) the Secretary of Homeland Security determines has sufficient ties to a community in the United States, based on—

''(aa) whether the applicant has immediate relatives (as defined in section 201(b)(2)(A)) residing in the United States;

''(bb) the amount of cumulative time the applicant has lived in the United States;

''(cc) whether the applicant owns property in the United States;

''(dd) whether the applicant owns a business in the United States;

''(ee) the extent to which the applicant knows the English language;

''(ff) the applicant's work history in the United States;

''(gg) whether the applicant attended school (either primary, secondary, college, post-graduate) in the United States;

''(hh) the extent to which the applicant has a history of paying Federal and State income taxes;

''(ii) whether the applicant has been convicted of criminal activity in the United States; and

''(jj) whether the applicant has certifies his or her intention to ultimately become a United States citizen;

''(ii)(I) is the spouse or parent (65 years of age or older) of an alien described in clause (i);

''(II) was, during the 2-year period ending on the date on which the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien 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; or

''(III) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph and was born to, or legally adopted by, a parent described in clause (i).''.

(2) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations, in accordance with the procedures set forth in sections 555, 556, and 557 of title 5, United States Code, which establish the precise system that the Secretary will use to make a determination under section 101(a)(15)(Z)(ii) of the Immigration and Nationality Act, as added by paragraph (1).

SA 1460. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) 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:

Beginning on page 270, strike lines 31 and 32, and insert the following:

''(3) FAMILY-BASED VISA PETITIONS FILED BEFORE JANUARY 1, 2007, FOR WHICH VISAS WILL BE AVAILABLE BEFORE JANUARY 1, 2027.—

''(A) IN GENERAL.—The allocation of immigrant visas described in paragraph (4) shall apply to an alien for whom—

''(i) a family-based visa petition was filed on or before January 1, 2007; and

''(ii) as of January 1, 2007, the Secretary of Homeland Security calculates under subparagraph (B) that a visa can reasonably be expected to become available before January 1, 2027.

''(B) REASONABLE EXPECTATION OF AVAILABLITY OF VISAS.—In calculating the date on which a family-based visa can reasonably be expected to become available for an alien described in subparagraph (A), the Secretary of Homeland Security shall take into account—

''(i) the number of visas allocated annually for the family preference class under which the alien's petition was filed;

''(ii) the effect of any per country ceilings applicable to the alien's petition;

''(iii) the number of petitions filed before the alien's petition was filed that were filed under the same family preference class; and

''(iv) the rate at which visas made available in the family preference class under which the alien's petition was filed were unclaimed in previous years.

''(4) ALLOCATION OF FAMILY-BASED IMMIGRANT VISAS.—''.

SA 1461. Mr. KYL (for himself, Mr. SPECTER, and Mr. MARTINEZ) 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 239, strike line 419(b)

On page 260, line 39 strike ''and''

On page 260, line 44, insert the following: ';and

(iii) up to 40,000 will be for aliens who met the specifications set forth in section 203(b)(1) of the Immigration and Nationality Act (as of January 1, 2007)

(iv) the remaining visas be allocated as follows:

(a) in FY 2008 through 2009, 85,401 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

(b) in FY 2010, 56,934 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

(c) in FY 2011, 28,467 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

(d) in FY 2012, 14,234 will be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section

On page 265, line 16, insert the following:

(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification

(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.

Section 214(g) is amended by adding at the end the following new subsection—

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.''

SA 1462. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) 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 409, strike paragraphs (1) and (2) and insert the following:

(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) for the first fiscal year after the effective date described in section 401(c) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, 200,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year, as adjusted in accordance with paragraph (2)(B); or

''(II) 600,000;

''(C) under clause (iii) of section 101(a)(15)(Y), may not exceed 20 percent of the annual limit on admissions of aliens under clause (i) of such section for that fiscal year; or

''(D) under section 101(a)(15)(Y)(ii)(II), may not exceed—

''(i) for the first fiscal year after the effective date referred to in subparagraph (B)(i), 100,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year as adjusted in accordance with paragraph (2)(A); or

''(II) 200,000.''; and

(2) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively;

(3) by inserting after paragraph (1) the following:

''(2) MARKET-BASED ADJUSTMENT.—

''(A) IN GENERAL.—With respect to the numerical limitation in subparagraph (A)(ii) or (D)(ii) of paragraph (1)—

''(i) if the total number of visas allocated for that fiscal year are issued during the first 6 months that fiscal year, 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;

''(ii) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year, the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; or

''(iii) for any fiscal year after 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.

''(B) Y–1 NONIMMIGRANTS.—With respect to the numerical limitation in subparagraph (B)(ii) of paragraph (1)—

''(i) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year and the total number of such visas was—

''(I) not more than 400,000, the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year; or

''(II) more than 400,000, the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; or

''(ii) for any fiscal year after 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.''.

SA 1463. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) 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 409, strike paragraphs (1) and (2) and insert the following:

(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) for the first fiscal year after the effective date described in section 401(c) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, 200,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year as adjusted in accordance with paragraph (2); or

''(II) 400,000;

''(C) under clause (iii) of section 101(a)(15)(Y), may not exceed 20 percent of the annual limit on admissions of aliens under clause (i) of such section for that fiscal year; or

''(D) under section 101(a)(15)(Y)(ii)(II), may not exceed—

''(i) for the first fiscal year after the effective date referred to in subparagraph (B)(i), 100,000; or

''(ii) in any subsequent fiscal year, the lesser of—

''(I) the number for the previous fiscal year as adjusted in accordance with paragraph (2); or

''(II) 200,000.''; and

(2) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively;

(3) by inserting after paragraph (1) the following:

''(2) MARKET-BASED ADJUSTMENT.—With respect to the numerical limitation set in subparagraph (A)(ii), (B)(ii), and (D)(ii) of paragraph (1)—

''(A) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year, the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year; or

''(B) for any fiscal year after 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.''.

SA 1464. Mr. MARTINEZ (for himself, Mr. SPECTER, Mr. KYL, Mr. MCCAIN, and Mr. GRAHAM) 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 224, between lines 29 and 30, and insert the following:

(3) by amending paragraph (3), as redesignated by paragraph (2) of this section, to read as follows:

''(3) The numerical limitations of paragraph (1)—

''(A) shall apply to principal aliens and not to the spouses or children of such aliens; and

''(B) shall not apply to aliens seeking nonimmigrant status under section 101(a)(15)(Y)(i) for a fiscal year who have been granted nonimmigrant status under such section during a previous fiscal year.''; and

---

SA 1465. Mr. GRAHAM (for himself, Mr. KYL, and Mr. MCCAIN) 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 157, strike lines 34 through 39, and insert the following:

(2) OVERSTAY.—Except as provided in paragraphs (3) and (4), an alien who knowingly remains in the United States for more than 30 days after the expiration of the period of authorized admission for such alien shall be—

(A) imprisoned for not less than 60 days; and

(B) barred permanently from receiving benefits under the immigration laws of the United States.

On page 150, strike lines 4 through 20.

On page 286, beginning on line 4, strike all through line 10, and insert the following:

(iii) for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest, the Secretary may, in the Secretary's discretion, waive the application of paragraphs (1)(C), (2)(D)(i) (when the alien demonstrates that such actions or activities were committed involuntarily), (5)(A), (6)(A) (with respect to entries occurring before January 1, 2007), (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 Immigration and Nationality Act; and

In Section 1. Effective Date Triggers,

On page 3, line 43 insert the following:

(d) the Secretary of the Department of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien who was admitted to the United States under Section 101(a)(15)(H)(ii) (as amended by Title IV); Section 101(a)(15)(Y); or Section 101(a)(15)(B) (admitted under the terms and conditions of Section 214(s)) of the ACT, and who has exceeded the alien's authorized period of admission or otherwise violated any terms of the nonimmigrant classification in which the alien was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to national security, homeland security, or public safety.

Parent Visas:

(a) Paragraph 506(b) is amended by striking ''$1,000'' and inserting ''$2,500''

Fee for the new trigger language regarding the establishment and deployment of a Y departure tracking system.

(a) Paragraph 218A(e), as created by the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, is amended as follows:

(1) In subparagraph (3)—

(A) To redesignate paragraphs (C), (D) and (E) as paragraphs (D), (E), and (F), respectively;

(B) To add a new paragraph (C) to read as follows:

''(C) An Exit Tracking Fee, in an amount set by Secretary at a level that will ensure recovery of the full costs of providing the Y nonimmigrant visa exit system described in section 1(a)(6) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and any additional costs associated with the administration of the fees collected''; and

(C) To add a new paragraph (G) to read as follows:

''(G) DEPOSIT AND DISPOSITION OF DEPARTURE FEE.—The funds described in subparagraph (C) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in 218A(e)(3)(C).''

Affidavit requirements:

(a) Amend paragraph (i) of section 601

(1) in subparagraph (2)

(A) amend paragraph (D)(ii) to read as follows:

''(ii) set by notice in the Federal Register such terms and conditions and minimum standards for affidavits described in (C)(VI) as are necessary, when such affidavits are reviewed in combination with the other documentation as described (A) or (C), to reliably demonstrate and provide for verification of the identity of any affiant or verification of the physical presence, identity, or employment information averred to by the affiant, or to otherwise prevent fraudulent submissions.''

Background Checks—

Section 601(g)(3)(B) is amended by adding ''and any other appropriate information'' after ''biometric data provided by the alien.''

Section 601(h)(2) is amended by adding prior to the period at the end of the subsection: ''unless that the Secretary determines, in his discretion, that there are articulable reasons to suspect that the alien may be a danger to the security of the United States or to the public safety. If the Secretary determines that the alien may be a danger to the security of the United States or to the public safety, the Secretary shall endeavor to determine eligibility for Z status as expeditiously as possible.''

Security Checks/Electronic Registration System—

(a) add a new section to title VI to read as follows:

SEC. 626. ELECTRONIC SYSTEM FOR THE PRE-REGISTRATION FOR APPLICANTS FOR Z AND Z-A STATUS.

The Secretary of Homeland Security may establish an online registration process allowing applicants for Z and Z-A nonimmigrant status to provide, in advance of the application described in paragraph 601(f), such biographical information and other information as the Secretary shall prescribe for the purpose of (1) providing applicants with an appointment to provide fingerprints and other biometric data at a DHS facility, (2) initiating background checks based on such information, and (3) other purposes consistent with this Act.

Treatment of Certain Criminal Aliens

Strike page 47, line 38-page 48 line 2 and insert:

''(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to any conviction that occurred before, on, or after enactment of this Act.''

Exit System Trigger for Y Visas—p.3, line 25 add as section 1(a)(6):

(6) *Visa exit tracking system:* The Department of Homeland Security has established and deployed a system capable of recording the departure of aliens admitted under section 101(a)(15)(Y) of the Immigration and Nationality Act, at designated ports of entry or designated U.S. Consulates abroad.

Strike section 111(a) in its entirety and replace with

(a) Section 215 of the Immigration and Nationality Act, (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (h);

(2) by moving redesignated subsection (h), as redesignated by paragraph (1) to the end;

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g); and

(4) by inserting after subsection (b) the following:

''(c) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES—

''The Secretary shall require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status.

''(d) COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS—

''(1) The Secretary shall require aliens who were admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)), section 101(a)(15)(H)(ii), or section 101(a)(15)(Y) to record their departure at a designated port of entry or at a designated United States consulate abroad.

''(2) Aliens who do not record their departure as required in paragraph (1) shall be entered into the database as overstays within 48 hours of the expiration of their period of authorized admission.

''(3) The information in this database shall be made available to state and local law enforcement pursuant to the provisions of section 240D.''

Line edit amendment:

On page 49 lines 7–8 strike '', which is punishable by a sentence of imprisonment of five years or more''

On page 49 line 44 to page 50 line 10 strike ''Unless'' and all that follows and insert:

Any alien whom—

''(i) a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe to be or to have been a member of a criminal gang (as defined in section 101 (a)(52)); or

''(ii) a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe to have participated in the activities of a criminal gang (as defined in section 101 (a)(52)), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang;

''is inadmissible. The Secretary of Homeland Security or the Attorney General may in his discretion waive clauses (i) or (ii).''.

On page 50 line 16 through page 50 line 22, strike ''Any'' and all that follows and insert:

Any alien whom—

''(i) there is reasonable ground to believe is or has been a member of a criminal gang (as defined in section 101(a)(52)); or

''(ii) there is reasonable ground to believe has participated in the activities of a criminal gang (as defined in section 101(a)(52)), knowing or having reason to know that such activities 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 clauses (i) or (ii).''

On page 51, strike lines 8–12 and insert: ''(ii) the alien is, or at any time after admission has been, a member of a criminal gang (as defined in section 101(a)(52)); and''

On page 51, line 24, redesignate (e) as (f). On page 51, line 24, redesignate (f) as (g). On page 51, line 23 insert:

(e) EFFECTIVE DATE.—The amendments made to subsections (b), (c) and (d) shall apply to—

1. Any act or membership that occurred on, before or after the date of the enactment of this Act, and

2. all aliens who are required to establish admissibility on or after the date of enactment of this section, and to all aliens in removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

On page 289, line 35–36 strike ''gang membership, renunciation of gang affiliation;'' and insert ''gang membership;''

Misdemeanor Crime for Knowingly Overstaying Visa and Parole:

On page 52, line 10 strike ''or''

On page 52, line 18 strike the period after ''shipping laws)'' and insert ''; or'' On page 52, line 18 insert:

''(D) knowingly exceeds by 30 days or more the period of the alien's admission or parole into the United States.''

On page 53 redesignate subsections (b) and (c) as subsections (c) and (d) and insert on line 25: .

(b) SPECIAL EFFECTIVE DATE.—Subsection (a)(1)(D) of section 275 of the Immigration and Nationality Act, as amended by this Act, shall apply to all aliens admitted or paroled after the enactment of this Act.

Deposit and Spending of Penalties and Fines in Titles VI—

1. Add a new subsection (z) to section 286 as follows:

(z) IMMIGRATION ENFORCEMENT ACCOUNT.—

(1) Transfers into the Immigration Enforcement Account—Immediately upon enactment, the following amount shall be transferred from the general fund to the Immigration Enforcement Account, $4,400,000,000.

(2) Appropriations—

(a) There are hereby appropriated such sums that are provided under subsection 1 to remain available until five years after enactment.

(b) These sums shall be used to meet the trigger requirements set forth in title I, section 1.

(c) To the extent funds are not exhausted pursuant to (b), they shall be used by the Secretary of Homeland Security on one or more of the following:

1. Fencing and Infrastructure;

2. Towers;

3. Detention beds;

4. Employment Eligibility Verification System;

5. Implementation of programs authorized in titles IV and VI; and

6. Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

2. Strike section 608 and replace with the following:

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)(I)(C)(v) through an installment payment plan.

(b) Any penalties received under this title with respect to an application for Z–1 nonimmigrant status shall be used in the following order of priority:

(1) the first $4.4 billion of such penalties shall be deposited into the general fund as repayment of funds transferred into the Immigration Enforcement Account under section 286(z)(1).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

On page 4, strike lines 12 through 26, and insert the following:

(2) SMUGGLING INVESTIGATORS AND ICE PERSONNEL.—

(A) SMUGGLING PERSONNEL.—During each of the fiscal years 2008 through 2012, the Secretary of Homeland Security 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.

(B) INCREASE IN FULL-TIME UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.—

(i) IN GENERAL.—In each of the fiscal years 2008 through 2011, the Secretary of Homeland Security shall increase by not less than 1,250 the number of positions for full-time active duty forensic auditors, intelligence research specialists, agents, officers, and investigators in the United States Immigration and Customs Enforcement to carry out the removal of aliens who are not admissible to, or are subject to removal from, the United States, to investigate immigration fraud, and to enforce workplace violations.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subparagraph.

(C) CONFORMING AMENDMENT.—Section 5203 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is repealed.

On page 140, beginning on line 4, strike ''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'' and insert the following: ''In each of the two years beginning on the date of the enactment of this Act, the appropriations necessary to hire not less than 2500 a year''.

Beginning on page 290, strike line 13 and all that follows through page 291, line 1, and insert the following:

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status shall, upon submission of any evidence required under subsections (f) and (g) and after the Secretary has conducted appropriate background checks—

(A) shall 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 reenter the United States pursuant to existing regulations governing advance parole; and

(C) may not be considered an unauthorized alien (as defined in section 274A(b) of the Immigration and Nationality Act, as amended by section 302) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY BENEFITS.—No probationary benefits shall be issued to an alien described in paragraph (1) until the alien has passed all appropriate background checks.

Beginning on page 154, strike line 23 and all that follows through page 155, line 8, and insert the following:

''(2) EXCEPTION.—The Secretary of Homeland Security may waive the termination of the period of authorized admission of an alien who is a Y nonimmigrant for unemployment under paragraph (1)(D) if the alien submits to the Secretary an attestation under penalty of perjury in a form prescribed by the Secretary, with supporting documentation, that establishes that such unemployment was the result of—

''(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 Federal or State law or by a policy of the alien's employer; or

''(C) any other period of temporary unemployment that is the direct result of a force majeure event.

''(3) RETURN TO FOREIGN RESIDENCE.—An alien who is a Y nonimmigrant whose period of authorized admission terminates under paragraph (1) shall depart the United States immediately.

''(k) REGISTRATION OF DEPARTURE.—

''(1) IN GENERAL.—An alien who is a Y nonimmigrant whose period of authorized admission has expired under subsection (i), or whose period of authorized admission terminates under subsection (j), shall register the departure of such alien at a designated port of departure or designated U.S. consulate abroad in a manner to be prescribed by the Secretary of Homeland Security.

''(2) EFFECT OF FAILURE TO DEPART.—In the event an alien described in paragraph (1) fails to depart the United States or to register such departure as required by subsection (j)(3), the Secretary of Homeland Security shall take immediate action to determine the location of the alien and, if the alien is located in the United States, to remove the alien from the United States.

''(3) INVALIDATION OF DOCUMENTATION.—Any documentation issued by the Secretary of Homeland Security under subsection (m) to an alien described in paragraph (1) shall be invalid for any purpose except the departure of the alien on and after the date on which the period of authorized admission of such alien terminates.''. The Secretary shall ensure that the invalidation of such documentation is recorded in the employment eligibility verification system described in section 301.

at the appropriate place in Title 3, insert the following:

14 days prior to employment eligibility expiration employers shall provide, in writing, notification to aliens of the expiration of the alien's employment eligibility.

SA 1466. Mr. BIDEN (for himself and Mrs. CLINTON) 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 56, strike line 9 and insert the following:

''(i) VICTIMS OF BATTERY AND EXTREME CRUELTY.—The Attorney General in the Attorney General's discretion may waive the provisions of subsection (a) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of subparagraph (A) of section 204 (a)(1), or classification under clause (ii), (iii), or (iv) of subparagraph (B) of such section, in any case in which there is a connection between—

''(1) the alien's having been battered or subjected to extreme cruelty; and

''(2) the alien's—

''(A) removal;

''(B) departure from the United States;

''(C) reentry or reentries into the United States; or

''(D) attempted reentry into the United States.

''(j) DEFINITIONS.—In this section:

On page 71, line 6, strike ''and''.

On page 71, line 14, strike the period at the end and insert the following: ''; and

(7) by adding at the end the following new subsection:

''(g) APPLICATION OF VAWA PROTECTIONS.—The restrictions on relief under this section shall not apply to relief under sections 240A or 245 on the basis of a petition filed by a VAWA self-petitioner, or a petition filed under section 240(A)(b)(2), or under 244(a)(3) (as in effect on March 31, 1997), if the extreme cruelty or battery was at least one central reason for the alien's overstaying the grant of voluntary departure.''.

On page 150, strike line 9 and insert ''grounds of inadmissability under section 601(d)(2) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 unless the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).''.

On page 150, strike line 31 and insert ''601(d)(1)(A), (D), (E), (F), or (G) of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 unless the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).''.

On page 157, line 7, strike ''; or'' and insert a semicolon.

On page 157, line 11, strike the period at the end and insert ''; or

''(D) relief as a VAWA self-petitioner or under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).

On page 158, line 2, strike ''; or'' and insert a semicolon.

On page 158, line 6, strike the period at the end and insert ''; or

''(D) relief as a VAWA self-petitioner or under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).

On page 271, strike lines 19 through 21 and insert the following:

(d) PETITION.—Section 204(a)(1) of the Immigrations and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking '', (3), or (4)''; and

(B) in clause (vii)(III), insert after ''immediate relative under section 201(b)(2)(A)(i)'' the following: ''(as in effect on January 1, 2007)''; and

(2) in subparagraph (D)(i)(I), by striking ''a petitioner'' and all that follows through the period at the end of the sentence and inserting ''an immediate relative''.

On page 279, line 14, strike ''; or'' and insert a semicolon.

On page 279, line 18, strike the period at the end and insert ''; or

''(iv) relief as a VAWA self-petitioner or under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) or under section 244(a)(3) (as in effect on March 31, 1997).

On page 280, line 2, insert after ''terminated.'' the following: ''The provisions of this paragraph shall not apply to citizen and Y-1 nonimmigrant sponsors described in subsection 214(d)(2)(c)(ii) or section 237(a)(7).''.

On page 303, line 9, insert after ''221 and 222'' the following: ''of the Immigration and Nationality Act (8 U.S.C. 1201 and 1202) unless the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) of such Act or under section 244(a)(3) of such Act (as in effect on March 31, 1997).''.

On page 305, strike line 13 and insert the following:

(A) RESTRICTION ON VISA ISSUANCE OR ADJUSTMENT.—

(i) IN GENERAL.—An

On page 305, between lines 19 and 20, insert the following:

(ii) EXCEPTION FOR CERTAIN INDIVIDUALS.—The restriction under clause (i) does not apply if the alien qualifies for relief as a VAWA self-petitioner or qualifies for relief under sections 240A(b)(2), 101(a)(15)(T), or 101(a)(15)(U) of the Immigration and Nationality Act or under section 244(a)(3) of such Act (as in effect on March 31, 1997).

SA 1467. 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:

At the appropriate place, insert the following:

SEC. ___. B–1 VISITOR VISA GUIDELINES AND DATA TRACKING SYSTEMS.

(a) GUIDELINES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act—

(A) the Secretary of State shall review existing regulations or internal guidelines relating to the decisionmaking process with respect to the issuance of B–1 visas by consular officers and determine whether modifications are necessary to ensure that such officers make decisions with respect to the issuance of B–1 visas as consistently as possible while ensuring security and maintaining officer discretion over such issuance determinations; and

(B) the Secretary of Homeland Security shall review existing regulations or internal guidelines relating to the decisionmaking process of Customs and Border Protection officers concerning whether aliens holding a B–1 visitor visa are admissible to the United States and the appropriate length of stay and shall determine whether modifications are necessary to ensure that such officers make decisions with respect to aliens' admissibility and length of stay as consistently as possible while ensuring security and maintaining officer discretion over such determinations.

(2) MODIFICATION.—If, after conducting the reviews under paragraph (1), the Secretary of State or the Secretary of Homeland Security determine that modifications to existing regulations or internal guidelines, or the establishment of new regulations or guidelines, are necessary, the relevant Secretary shall make such modifications during the 6-month period referred to in such paragraph.

(3) CONSULTATIONS.—In making determinations and preparing guidelines under paragraph (1), the Secretary of State and the Secretary of Homeland Security shall consult with appropriate stakeholders.

(b) DATA TRACKING SYSTEMS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act—

(A) the Secretary of State shall develop and implement a system to track aggregate data relating to the issuance of B–1 visitor visas in order to ensure the consistent application of agency regulations or internal guidelines; and

(B) the Secretary of Homeland Security shall develop and implement a system to track aggregate data relating to admissibility decision, and length of stays under, B-1 visitor visas in order to ensure the consistent application of agency regulations or internal guidelines.

(2) LIMITATION.—The systems implemented under paragraph (1) shall not store or track personally identifiable information, except that this paragraph shall not be construed to limit the application of any other system that is being implemented by the Department of State or the Department of Homeland Security to track travelers or travel to the United States.

(c) PUBLIC EDUCATION.—The Secretary of State and the Secretary of Homeland Security shall carry out activities to provide guidance and education to the public and to visa applicants concerning the nature, purposes, and availability of the B-1 visa for business travelers.

(d) REPORT.—Not later than 6 and 18 months after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security shall submit reports concerning the status of the implementation of this section to the Senate Committees on the Judiciary & Foreign Relations

and to the Committees on the Judiciary and Foreign Affairs of the House of Representatives.

SA 1468. Mrs. MCCASKILL 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:

On page 123, strike line 5 and all that follows through page 124, line 6, and insert the following:

''(1) EMPLOYERS.—

''(A) IN GENERAL.—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 prohibition from the receipt of Federal contracts, grants, or cooperative agreements for a period of not less than 5 years in accordance with the procedures and standards prescribed by the Secretary. The Secretary or the Attorney General shall advise the Administrator of General Services of any such prohibition, 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 prohibition.

''(B) WAIVER AUTHORITY.—After consideration of the views of any agency or department regarding an employer described under subparagraph (A), the Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive the prohibition or may limit the duration or scope of the prohibition under subparagraph (A) if such waiver or limitation is necessary to the national defense or in the interest of national security.

''(C) NOTIFICATION TO CONGRESS.—If the Administrator of General Services grants a waiver or limitation described under subparagraph (B), the Administrator shall submit notice of such waiver or limitation to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives.

''(2) CONTRACTORS AND RECIPIENTS.—

''(A) IN GENERAL.—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 prohibition from the receipt of Federal contracts, grants, or cooperative agreements for a period of not less than 5 years in accordance with the procedures and standards prescribed by the Secretary. Prior to prohibiting 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 prohibit the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of not less than 5 years.

''(B) WAIVER AUTHORITY.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with an employer described under subparagraph (A), the Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive the prohibition or may limit the duration or scope of the prohibition under subparagraph (A) if such waiver or limitation is necessary to the national defense or in the interest of national security.

''(C) NOTIFICATION TO CONGRESS.—If the Administrator of General Services grants a waiver or limitation described under subparagraph (B), the Administrator shall submit notice of such waiver or limitation to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives.''.

SA 1469. Mrs. CLINTON 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:

Insert the following after Section 126:

''SECTION 127. NORTHERN BORDER COORDINATOR.

''(a) IN GENERAL.—There shall be within the Directorate of Border and Transportation Security the position of Northern Border Coordinator, who shall be appointed by the Secretary and who shall report directly to the Under Secretary for Border and Transportation Security.

''(b) RESPONSIBILITIES.—The Northern Border Coordinator shall be responsible for—

''(1) increasing the security of the border, including ports of entry, between the United States and Canada;

''(2) improving the coordination among the agencies responsible for the security described under paragraph (1);

''(3) serving as the primary liaison with State and local governments and law enforcement agencies regarding security along the border between the United States and Canada; and

''(4) serving as a liaison with the Canadian government on border security.''.

SA 1470. 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. ___. ADMISSION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.

(a) IN GENERAL.—Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that—

(A) for a period of at least one year beginning after March 1, 2003, he or she served the United States Government inside Iraq as an employee, volunteer, contractor, or employee of a contractor of the United States Government; or

(B) he or she has a parent, spouse, son, daughter, grandparent, grandchild, or sibling currently residing in the United States who is a United States citizen, lawful permanent resident, asylee, or refugee; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

(b) AUTHORIZATION OF ADDITIONAL REFUGEE ADMISSIONS.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following new subsection:

''(g) ADMISSION OF CERTAIN NATIONALS OF IRAQ.—In addition to any refugee admissions determined under subsections (a) and (b), there are 250,000 refugee admissions authorized for each of fiscal years 2007, 2008, and 2009 for refugees who are nationals of Iraq.''.

SA 1471. Mr. DURBIN (for himself and Mr. GRASSLEY) 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:

Beginning on page 242, strike line 37 and all that follows through line 24, on page 250, and insert 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 and nonimmigrants described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(A) by amending subparagraph (A) to read as follows:

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

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 7 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 '' 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 employers 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 a 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.''.

(d) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(e) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

SA 1472. Ms. CANTWELL 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:

On page 238, beginning with line 13, strike all through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (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.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(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;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), 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

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 30,000—

''(i) is employed (or has received an offer of employment) 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))), or a related or affiliated nonprofit entity; or

''(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) 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, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(2) APPLICABILITY.—The amendment 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.

SA 1473. Mr. COLEMAN (for himself and Mr. DOMENICI) 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 section 1, add the following new subsection:

(e) INFORMATION SHARING BETWEEN FEDERAL AND LOCAL LAW ENFORCEMENT OFFICERS.—

(1) REQUIREMENT FOR INFORMATION SHARING.—No person or agency may prohibit a Federal, State, or local government entity from acquiring information regarding the immigration status of any individual if the entity seeking such information has probable cause to believe that the individual is not lawfully present in the United States. Such probable cause includes the individual's failure to possess an identification document issued by the United States or a State.

(2) REQUIREMENT PRIOR TO IMPLEMENTATION.—Subject to subsection (a), with the exception of the probationary benefits conferred by section 601(h) of this Act, 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, the programs established by title IV, and the programs established by title VI that grant legal status to any individual or that 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, may not become effective until the date that the Secretary submits a written certification to the President and Congress that the requirement set out in paragraph (1) is being carried out.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed—

(A) to limit the acquisition of information as otherwise provided by law; or

(B) to require a person to disclose information regarding an individual's immigration status prior to the provision of emergency medical assistance.

SA 1474. Mr. REID 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:

Insert before section 426 the following:

SEC. 425A. BLANKET PETITIONS TO SPONSOR INTERNATIONAL ATHLETES AND PERFORMERS.

Section 214(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following:

''(F)(i) The Secretary of Homeland Security shall provide for a procedure under which a petitioner for aliens described in section 101(a)(15)(P) may file a blanket petition to import such aliens (including their essential support personnel) as nonimmigrants described in such section instead of filing individual petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for admission of aliens covered under such a petition.

''(ii) A petitioner may file such a blanket petition seeking continuing approval to import the aliens as described in clause (i), for itself and some or all of its parent organizations, branches, subsidiaries, and affiliates (collectively referred to in this subparagraph as 'qualifying organizations'), if—

''(I) the petitioner has an office in the United States where the petitioner has been doing business for not less than 1 year; and

''(II) the petitioner and the petitioner's qualifying organizations—

''(aa) have obtained approval of petitions under paragraph (1) for at least 10 aliens described in section 101(a)(15)(P) during the previous 12 months;

''(bb) have worldwide combined annual sales of at least $5,000,000; or

''(cc) have a United States workforce of at least 500 employees.

''(iii) A petitioner that meets the requirements of clause (ii) may request a blanket advisory opinion from a labor organization described in paragraph (6)(A)(iii).

''(iv) Notwithstanding paragraph (1), the question of importing any alien under a petition described in this subparagraph shall be determined by the Secretary of Homeland Security.

''(v) United States consular officers shall have authority to determine eligibility of individual aliens outside the United States seeking admission under blanket petitions filed under this subparagraph for aliens described in section 101(a)(15)(P), except for visa-exempt nonimmigrants. Visa-exempt nonimmigrants may seek a determination of such eligibility from an authorized Department of Homeland Security officer at a United States port of entry.

''(G) A petition approved under subparagraph (F) for an alien described in section 101(a)(15)(P) shall be valid for an initial period of time determined by the Secretary of Homeland Security, which shall not exceed 2 years.''.

SA 1475. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 1409 submitted by Mr. SCHUMER (for himself and Mrs. HUTCHISON) and intended to be proposed 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 6, after line 12 of the amendment, insert the following:

(d) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by subsection (c)(1), is further amended by adding at the end the following:

''(5) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa recaptured from fiscal years 1996 and 1997 under this subsection to provide employment for an alien as a professional nurse, provided that—

''(i) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(ii) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(I) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(II) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(B) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to this paragraph shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

(e) DOMESTIC NURSING ENHANCEMENT ACCOUNT.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) DOMESTIC NURSING ENHANCEMENT ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(2) USE OF FUNDS.—Amounts collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), and deposited into the account established under paragraph (1) shall be used by the Secretary of Health and Human Services to carry out section 832 of the Public Health Service Act. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

(f) CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a masters degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 286(w) of the Immigration and Nationality Act, there are authorized to be appropriated such sums as may be necessary to carry out this section.''.

(g) GLOBAL HEALTH CARE COOPERATION.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) a list of candidate countries not later than 6 months after the date of the enactment of the Improving America's Security Act of 2007, and annually thereafter; and

''(2) an amendment to the list described in paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(2) RULEMAKING.—

(A) REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendments made by this subsection.

(B) CONTENT.—The regulations promulgated pursuant to subparagraph (A) shall—

(i) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by paragraph (1)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(ii) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(iii) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(B) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''101(a)(27)(A),''.

(C) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(D) NATURALIZATION.—Section 319(b) of such Act (8 U.S.C. 1430(b)) is amended by inserting ''an eligible alien who is residing or has resided in a foreign country under section 317A'' before ''and (C)''.

(E) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries''.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to United States Citizenship and Immigration Services such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(h) ATTESTATION BY HEALTH CARE WORKERS.—

(1) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances,

including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(2) EFFECTIVE DATE; APPLICATION.—

(A) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(B) APPLICATION BY THE SECRETARY.—Not later than the effective date described in subparagraph (A), the Secretary shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 6, 2007, at 10 a.m., to conduct a hearing entitled ''Paying for College: The Role of Private Student Lending.''

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 in order to conduct a business meeting during the session of the Senate on Wednesday, June 6, 2007 at 10 a.m. in Room 406 of the Dirksen Senate Office Building.

The business meeting will consider the following agenda:

S. 506, the High Performance Green Buildings Act of 2007;

H.R. 1195, SAFETEA–LU Technical Corrections Act;

H.R. 798, a bill to direct the Administrator of General Services to install a photovoltaic system for the headquarters building of the Department of Energy;

S. 635, the Methamphetamine Remediation Research Act of 2007;

S. 1523, the Capitol power plant carbon dioxide emissions reduction demonstration project bill.

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 Wednesday, June 6, 2007, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Trade and Globalization: Adjustment for a 21st Century Workforce.''

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

COMMITTEE ON THE JUDICIARY

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senate Committee on the Judiciary be authorized to meet to conduct a hearing entitled ''Patent Reform: The Future of American Innovation'' on Wednesday, June 6, 2007 at 10 a.m. in Dirksen Senate Office Building Room 226.

Witness list

Panel I: The Honorable Jon W. Dudas, Undersecretary of Commerce for Intellectual Property Director of the U.S. Patent and Trademark Office, Department of Commerce, Alexandria, VA;

Panel II: Mr. Bruce G. Bernstein, Chief Intellectual Property and Licensing Officer, InterDigital Communications Corporation, King of Prussia, PA; Ms. Mary Doyle, Senior Vice President, General Counsel and Secretary, Palm, Inc., Sunnyvale, CA; Mr. John A. Squires, Chief Intellectual Property Counsel, Goldman, Sachs & Co., New York, NY; Ms. Kathryn L. Biberstein, Senior Vice President, General Counsel and Secretary, and Chief Compliance Officer, Alkermes, Inc., Cambridge, MA.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, June 6, 2007 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building. 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.

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

PRIVILEGES OF THE FLOOR

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that floor privileges be granted to Julie Blanks, a legislative fellow in my office, for the remainder of today's session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Texas, Mrs. HUTCHISON, as a member of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference for the first session of the 110th Congress.

RECOGNIZING THE EFFORTS AND CONTRIBUTIONS OF THE MEMBERS OF THE MONUMENTS, FINE ARTS, AND ARCHIVES PROGRAM UNDER THE CIVIL AFFAIRS AND MILITARY GOVERNMENT SECTIONS OF THE UNITED STATES ARMED FORCES

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 223, which was 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. 223) recognizing the efforts and contributions of the members of the Monuments, Fine Arts, and Archives program under the Civil Affairs and Military Government Sections of the United States Armed Forces during and following World War II who were responsible for the preservation, protection, and restitution of artistic and cultural treasures in countries occupied by the Allied armies.

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

Mr. WHITEHOUSE. 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. 223) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 223

Whereas the United States Government established the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas in 1943 to promote and coordinate the protection and salvage of works of art and cultural and historical monuments and records in countries occupied by Allied armies during World War II;

Whereas the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas is also known as the Roberts Commission, in honor of its chairman, Supreme Court Justice Owen J. Roberts;

Whereas, in connection with the establishment of the Roberts Commission, the Monuments, Fine Arts, and Archives program (MFAA) was established under the Civil Affairs and Military Government Sections of the United States Armed Forces;

Whereas the establishment of the Roberts Commission and the MFAA provided an example for other countries, working in conjunction with the United States, to develop similar programs, and more than 100 foreign MFAA personnel, representing at least seventeen countries, contributed to this international effort;

Whereas the MFAA was comprised of both men and women, commissioned officers and civilians, who were appointed or volunteered to serve as representatives of the Roberts Commission and as the official guardians of some of the world's greatest artistic and cultural treasures;

Whereas members of the MFAA, called the ''Monuments Men'', often joined frontline military forces and some even lost their lives in combat during World War II;

Whereas, during World War II and for years following the Allied victory, members of the MFAA worked tirelessly to locate, identify, catalogue, restore, and repatriate priceless works of art and irreplaceable cultural artifacts, including masterpieces by Da Vinci, Michelangelo, Rembrandt, and Vermeer, that had been stolen or sequestered by the Axis powers;

Whereas the heroic actions of the MFAA in saving priceless works of art and irreplaceable cultural artifacts for future generations cannot be overstated, and set a moral precedent and established standards, practices, and procedures for the preservation, protection, and restitution of artistic and cultural treasures in future armed conflicts;

Whereas members of the MFAA went on to become renowned directors and curators of preeminent international cultural institutions, including the National Gallery of Art, the Metropolitan Museum of Art, the Museum of Modern Art, the Toledo Museum of Art, and the Nelson-Atkins Museum of Art, as well as professors at institutions of higher education, including Harvard University, Yale University, Princeton University, New York University, Williams College, and Columbia University;

Whereas other members of the MFAA were founders, presidents, and members of associations such as the New York City Ballet, the American Association of Museums, the American Association of Museum Directors, the Archaeological Institute of America, the Society of Architectural Historians, the American Society of Landscape Architects, the National Endowment for the Humanities, and the National Endowment for the Arts, as well as respected artists, architects, musicians, and archivists; and

Whereas members of the MFAA have never been collectively honored for their service and contributions to humanity, and they are deserving of the utmost acknowledgment, gratitude, and recognition, in particular the 12 known Monuments Men who are still alive: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the men and women who served in the Monuments, Fine Arts, and Archives program (MFAA) under the Civil Affairs and Military Government Sections of the United States Armed Forces for their heroic role in the preservation, protection, and restitution of monuments, works of art, and other artifacts of inestimable cultural importance in Europe and Asia during and following World War II;

(2) recognizes that without their dedication and service, many more of the world's artistic and historic treasures would have been destroyed or lost forever amidst the chaos and destruction of World War II;

(3) acknowledges that the detailed catalogues, documentation, inventories, and photographs developed and compiled by MFAA personnel during and following World War II have made and continue to make possible the restitution of stolen works of art to their rightful owners; and

(4) commends and extols the members of the MFAA for establishing a precedent for action to protect cultural property in the event of armed conflict, and by their action setting a standard not just for one country, but for people of all nations to acknowledge and uphold.

ORDERS FOR THURSDAY, JUNE 7, 2007

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., later today, Thursday, June 7; that later today, on Thursday, 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 and there then be an hour of debate equally divided and controlled between the two leaders or their designees for debate to run concurrently with respect to the Coburn amendment No. 1311, as modified, and the motion to invoke cloture on the substitute amendment; that no amendments be in order to the Coburn amendment prior to the vote; and that upon the use or yielding back of time, the Senate proceed to vote in relation to the Coburn amendment No. 1311, as modified; that upon disposition of the Coburn amendment, without further intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the substitute amendment; that Members have until 10:30 a.m. to file any germane second-degree amendments.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. WHITEHOUSE. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 12:41 a.m., adjourned until Thursday, June 7, 2007, at 10 a.m.

DISCHARGED NOMINATION

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar pursuant to an order of the Senate of January 9, 2007:

*MICHAEL W. TANKERSLEY, OF TEXAS, TO BE INSPECTOR GENERAL, EXPORT-IMPORT BANK.

*NOMINEE HAS COMMITTED TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.