not to change anything they are doing; this is not complimenting anything that they are doing or saying that they are doing it particularly well; but to force some sort of reportorial system back to Congress, that is all this amendment does, so perhaps they will get it in their head that they have to do better than they are doing now.

The gentlewoman is right, there is a lot of disorganization and incompatibility and inconsistency in terms of what is happening, and yet it has potential.

Ms. ZOE LOFGREN of California. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentlewoman from California.

Ms. ZOE LOFGREN of California. Mr. Chairman, we have numerous reports that are required. I sit on the committee, which is why I know this. They never do the reports. They are required by law to submit the reports. We have dozens, hundreds of reports that simply have never been delivered. I hope this is an exception, but I do not have a high level of confidence.

Mr. CASTLE. Mr. Chairman, we can tweak them a little bit if this amendment passes because I do believe, and it has worked, and even with the limitations the gentlewoman has shown, it has worked rather well in some areas where they have actually captured people who have done things that they should not have done. I think it could do a heck of a lot more in terms of terrorism, and it should, I intend to force it. We know this department has some start-up difficulties, and we have to deal with that. Having said that, I think this is a good step in the right direction. If we stand behind it and help it work, it will help us all.

I thank the gentlewoman for her support.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

The Acting CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. KING of Iowa) assumed the Chair.

MESSAGE FROM THE SENATE

A message from the Senate Ms. CURTIS, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 1932) “An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for the fiscal year 2006 (H. Con. Res. 95),” and requests a conference with the House on the disagreeing votes of the two Houses thereon, and

That on December 15, 2005, appoints Ms. GINGREY, Mr. BAUCUS, Mr. KENNEDY, Mr. LEAHY, and Mr. LEAHY, to be the conferrees on the part of the Senate.

The SPEAKER pro tempore. The Committee will resume its sitting.

BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005

The Committee resumed its sitting.

PART B AMENDMENT NO. 6 OFFERED BY MR. GINGREY

Mr. GINGREY. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

PART B—AMENDMENT NO. 6

Offered in House Report 109-347, offered by Mr. GINGREY of Georgia:

At the end of title I, insert the following new section:

SEC. 118. SUSPENSION OF VISA WAIVER PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Visa Waiver Program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is hereby suspended until such time as the Secretary, for the reasons that he determines and certifies to Congress that—

(1) the automated entry-exit control system authorized under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is fully implemented and functional;

(2) all United States ports of entry have functional machine readers; and

(3) all nonimmigrants, including Border Crossing Card holders, are processed through the automated entry-exit control system.

(b) REPEAL.—Subparagraph (B) of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)) is hereby repealed.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from Georgia (Mr. GINGREY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. GINGREY. Mr. Chairman, I believe that the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 needs to address a loophole in our immigration system. I have introduced this amendment which suspends, not cancels, but suspends temporarily the Visa Waiver Program until the machine-readable and tamper-resistant biometric identification control system mandated by the PATRIOT Act to be the cornerstone of the entry-exit system is fully operational.

Until we have the technical and human resources to secure our points of entry, we cannot afford to allow visitors to come to the United States without pre-screening them prior to arrival. Despite the fact that the United Kingdom is one of our Nation’s closest friends and allies, the London subway bombings earlier this year were executed in part by British citizens with known ties to terrorism.

We know that terrorists like Zacharias Moussaoui and Richard Reid exploited the Visa Waiver Program to travel to the United States. Do we want individuals like these to fly to America unchecked and to attack our subway system in the name of terrorist groups like al Qaeda under the cloak of the Visa Waiver Program? Do we want French citizens with Islamofascist mindsets to get a free pass through Customs? If not, we need to suspend this program until we are equipped to check the criminal and terrorist backgrounds of every visitor to this country at every point of entry and to confirm the identity of each visitor using biometric identifiers.

The success and failure of the Visa Waiver Program can trace its roots back to 1986 when it was passed as part of the Immigration Reform Control Act. As many of my colleagues know, what we left undone in 1986 is in large part why we need to consider a new immigration reform law in 2005 that is consistent with the new authorities provided by the PATRIOT Act. The Visa Waiver Program was only designed to be a temporary program for a small and select group of nations. Today, 27 countries are eligible under visa waivers, opening the door widely, Mr. Chairman, for French citizens or any potential terror to attack the United States.

Yesterday, the United States USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005 passed by a vote of 251–174, a strong endorsement for securing our Nation against terrorism. The PATRIOT Act acknowledges the problem of the Visa Waiver Program, and I have introduced this amendment to suspend the program until the solution made possible by the PATRIOT Act can realistically take effect. This is an issue that extends beyond apprehending illegal immigrants and actually works to secure our points of entry from those who desire to attack our Nation.

Mr. Chairman, I include for the RECORD a letter from the 9/11 Families for a Secure America in full support of this amendment.


DEAR Mr. Gingrey,

9/11 Families for a Secure America fully supports your amendment to H.R. 4457 to suspend the Visa Waiver Program until the automated entry-exit control system authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is fully implemented.

The recent civil disturbances in France make it quite clear that the time is past when citizens of particular countries should be granted blanket permission to enter the United States without first applying for a visa. Many of the nations of Europe, after decades of permitting mass immigration from nations that sponsor terrorism have created a situation where large numbers of individuals from nations that sponsor terrorism have been granted blanket permission to enter the United States without first applying for a visa.

Do we want citizens of France, of Liechtenstein or of Liechtenstein to come to our shores unchecked and to attack our homeland?

The Committee recognizes the gentleman from Georgia.
in or citizens of Middle Eastern nations. For this reason, citizens of European countries should be subject to the same visa application process which applies to the other nations of the world.

If Islamic extremists commit another 9/11 it will not make any difference to the victims of that attack that the people responsible are French or citizens of Saudi Arabia or Lebanon.

Sincerely,

THE BOARD OF DIRECTORS,
9/11 FAMILIES FOR A SECURE AMERICA

Bruce DeCell, Sergeant, NYPD (retired),
Father-in-law of Mark Petrocelli, age 29.

Billy Boyle, father of Joseph, age 24, WTC North Tower.

Lynn Faulkner, husband of Wendy, WTC South Tower.

Peter and Jan Gadiel, parents of James, age 23, WTC, North Tower 103rd floor.

Grace Godshalk, mother of William R. Godshalk, age 35, WTC South Tower 89th floor.

Joan Molinaro, mother of firefighter Carl Molinaro.

William Sekner, Detective Sergeant (retired) NYPD, father of Jason Sekner, age 31, WTC North Tower 105th floor.

Mr. KING of New York. Mr. Chairman, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from New York.

Mr. KING of New York. Mr. Chairman, these are issues that must be addressed, and I will assure the gentleman that, as chairman of the Homeland Security Committee, that I will work on these issues and address the very real concerns that you have. I would ask in that context you consider withdrawing the amendment with that pledge I make to you.

Mr. GINGREY. Mr. Chairman, I appreciate that spirit of cooperation. I know there are some concerns about the amendment. Indeed, a major airline in my district, in my State, has some concern over it, and people who are concerned about tourism and the economic effects of this amendment.

But I think this is a situation where, when we look back and think about 9/11, it would probably cost our economy $3 trillion if we have another attack of that magnitude. The cost of that, of reduced tourism, would pale in comparison to another $3 trillion cost to our economy if that should occur. I sincerely appreciate the chairman’s willingness to cooperate with us, and I look forward to working with him on this issue.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The Acting CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

PART B AMENDMENT NO. 7 OFFERED BY MR. CAMPBELL OF CALIFORNIA

Mr. CAMPBELL of California. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 7 printed in House Report 109-347 offered by Mr. CAMPBELL of California.

At the end of title III, add the following:

SEC. 308. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE DEPARTMENT OF HOMELAND SECURITY.

(a) In subsection 124 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security” each place it appears; and

(2) by adding at the end the following:

“(d) Enforcement.—

“(1) INELIGIBILITY FOR FEDERAL LAW ENFORCEMENT AID.—Upon a determination that any person, officer, or employee of Federal, State, or local government agency or entity, is in violation of subsection (a) or (b), the Attorney General shall not provide to that person, agency, or entity any grant amount pursuant to any law enforcement grant program carried out by any element of the Department of Justice, including the programs under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 241(i)), and shall ensure that no such grant amounts are provided, directly or indirectly, to such person, agency, or entity.

“In this subsection, ‘law enforcement grant program’ means any grant program under which a grant is provided for law enforcement purposes and ‘law enforcement grants’ means any grant amount provided by such a program.

“(2) VIOLATIONS BY GOVERNMENT OFFICIALS.—In any case in which a Federal, State, or local government official is in violation of subsection (a) or (b), the government agency or entity that employs or, at the time of the violation, employed the official shall be subject to the sanction under paragraph (1).

“(3) DURATION.—The sanction under paragraph (1) shall remain in effect until the Attorney General determines that the person, agency, or entity has ceased violating subsections (a) and (b).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to grant requests pending on or after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from California (Mr. CAMPBELL) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are cities around this country that have laws or executive orders under which they prohibit law enforcement officials from reporting to the Department of Homeland Security when they encounter, through the use of their law enforcement practice, individuals who are aliens, who are foreign nationals and who are in this country illegally. That, first of all, is a violation of Federal law. Both the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 both prohibit cities from adopting that sort of ordinance.

But secondly, it is just wrong. We have Federal law and we have people in the law enforcement activities encountering people who are foreign nationals and in this country illegally, and cities are passing ordinances making it a crime basically for those law enforcement officials to let Department of Homeland Security know that.

The reason this happens is there is no enforcement mechanism on this Federal law right now. What this amendment would do is put in an enforcement mechanism by making those law enforcement agencies in those areas not eligible for Federal grants if they have such a prohibition which is in violation of Federal law.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me say to the gentleman from California (Mr. CAMPBELL) that it is interesting that we come to the floor and try to make like there is a divide in the arresting and detaining of criminals. Every jurisdiction, outside of the Federal jurisdiction, has the right and the responsibility to arrest criminals, whether they be documented or undocumented. There is no divide on that question. Local law enforcement, local sheriffs, local constables; local police, if they see a crime, arrest them and even send them through our judicial system.

Your amendment, however, breaks the back of our local jurisdiction, and it creates an enormous unfunded mandate. It would force cash-strapped State and local governments to enforce civil immigration laws. We want the criminals off the street. But you would force our local governments to take on extra responsibilities without funding.

Let me remind you that the idea of enforcement of terrorism really begins outside of our borders. That is what we are here to talk about, to ensure that we have strong border security enforcement.

I would also offer to say that we hope that the DeFazio-Lungren bill passes in a few moments because that is what it does, it ensures that we protect against those who would come inside. That would protect the Federal jurisdiction and the State. But this amendment preempts any State and local laws that bar their law enforcement officers from assuming the Federal responsibility of enforcing civil immigration laws.

But more importantly, what it does is it forces local jurisdictions to send out information about victims, possibly a rape victim, who may be an undocumented immigrant. And this amendment opposes another unfunded mandate on State and local governments. It undermines effective community policing, increases racial profiling. As well, let me suggest that it requires local government to give information that it might not even have. Then you eliminate their options to secure their own communities.

And so, frankly, this is that most of the law enforcement are against, and it is enormously burdensome, and it breaks up the responsibility of
Chairman, I yield myself such time as I may consume.

Mr. CAMPBELL of California. Mr. Chairman, I yield 45 seconds to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I urge all Members to support Mr. CAMPBELL’s amendment to help rid our communities of dangerous illegal alien criminals. I commend Mr. CAMPBELL for his commitment to immigration reform. His amendment would make sure that cities do not get Federal taxpayer dollars if they have policies in place that harbor and give sanctuary to illegal alien criminals. Sanctuary policies tie the hands of local law enforcement officers and keep illegal aliens who commit crimes in our country rather than deporting criminals according to U.S. law. Under these so-called sanctuary policies, in certain cities the police officers are prohibited from reporting the illegal aliens who commit crimes to Federal immigration authorities for deportation. As a result, taxpayers pay to incarcerate illegal alien prisoners who are later released back onto the streets.

Mr. CAMPBELL of California. Mr. Chairman, I yield the balance of my time.

Mr. CAMPBELL of California. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. HAYworth).

Mr. HAYworth. Mr. Chairman, my colleagues, I welcome the newest Member of the House from California; and I, likewise, welcome this commonsense amendment because in this amendment the gentleman from California encapsulates the challenge facing this House. We come to you regarding to enforcing laws. Let us begin here. Thirty-two cities and counties have not been cooperating. They say let us carve out an exception. Two states in our Union are sanctuaries, Oregon and Maine.

Lady of the House: If border security is national security, if we have found that we have illegally in this Nation over 80,000 convicted felons from other cultures, why should it be difficult for local law enforcement agencies to themselves obey the law? “Yes” on this amendment. It puts some teeth in the bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. PAAN).

Mr. PAAN. Mr. Chairman, would the author please tell me what is broken that needs fixing? Where is the local agency not, I mean, as you say in your bill, you shall not provide any person, agency or entity, pursuing, any grant, even any formula grants. You are going to just bring law enforcement to a standstill here. You are going to create the biggest bureaucracy in the world.

I represent a lot of local governments. I do not know any of them that do not have this information. But I also know that there are times when local law enforcement has undercover agents who are undocumented. I found that out from previous experiences where they may not want to tell anybody that is an undercover agent. And is that the kind of thing? I mean, this is not the law that the local city councils adopt. This is the way law enforcement does their business. And with your amendment, I see that the Attorney General has to know to determine whether that city or county receives any formula funds of any amount, and that they cannot receive those amounts in the future. What are you going to do about Katrina? What are you going to do about all those cities that you are trying to bail out with the floods? I think this amendment is fixing something that is not even broken. I oppose it.

Mr. CAMPBELL of California. Mr. Chairman, I yield 45 seconds to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I rise in strong support of the Campbell amendment. This legislation is quite straightforward. It informs our States and localities to enforce the law. That sounds ridiculous to us, I am sure. But the fact is that one of the main problems with our immigration laws is that we are not enforcing them. And under the immigration reform legislation we passed in 1996, we prohibited States and localities from barring their entities and barring officials from providing immigration information to the Department of Homeland Security. Now, these counties and these States have decided to defy the law. There should be a cost for that. And the cost, according to this amendment, which says we mean what we say, the cost is that they would receive no grant amounts made available to any Federal, State, or local government agency or entity that violates the law. The rule of law is important. Support this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

You know, I wish that we could find common ground that really securing America and not, if you will, unduly burdening our local and State jurisdictions that already comply with the law, that already arrest the criminals. Now you are asking them to engage in civil immigration issues, which should be under Federal jurisdiction.

And my good friend suggests that this is an allowance amendment; it simply allows them to do this. He knows that by the amendment or pronouncement coming from the Federal Government, what he does is he intimidates local jurisdictions and they take on burdens that they truly cannot fund.

We should be focusing on securing the borders, providing an enhanced, pre-testing program for those who are coming into the United States, providing more resources for Border Patrol agents, allowing them to enforce the law better, and the law enforcement authority, being more secure in the visa program that we have. Those are some of the underlying elements that are missing out of this legislation, and I am sad to say that the present amendment will not in any way, I believe, provide any more security than what we have.

Mr. Chairman, I reserve the balance of my time.

Mr. CAMPBELL of California. Mr. Chairman, I yield 45 seconds to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Chairman, I urge all Members to support Mr. CAMPBELL’s amendment to help rid our communities of dangerous illegal alien criminals. I commend Mr. CAMPBELL for his commitment to immigration reform. His amendment would make sure that cities do not get Federal taxpayer dollars if they have policies in place that harbor and give sanctuary to illegal alien criminals. Sanctuary policies tie the hands of local law enforcement officers and keep illegal aliens who commit crimes in our country rather than deporting criminals according to U.S. law. Under these so-called sanctuary policies, in certain cities the police officers are prohibited from reporting the illegal aliens who commit crimes to Federal immigration authorities for deportation. As a result, taxpayers pay to incarcerate illegal alien prisoners who are later released back onto the streets.

Welcome to Congress. You have had an impact right away, Mr. CAMPBELL.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I continue to reserve the balance of my time.

Mr. CAMPBELL of California. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I point out to all Members the reason you must pass this amendment is it is against the law to have a sanctuary city, a sanctuary State. This amendment goes to the heart of the frustrations of the police and deputies. They apprehend the criminal aliens, are forced to turn them back onto the streets. You want to know what is wrong? Somebody says tell me something is wrong.

Newlywed Dallas, Texas, police officer Brian Jackson, 28 years old, is the latest victim of this outrage. He was shot and killed November 13 in the line of duty. The suspect is an illegal alien that had been arrested and released by Dallas Police. On September the 11 and again on September the 16 with the full knowledge that he was violating the law. That is why you need to vote for this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

This bill will not work because local officials are not trained. They do not understand the difference between those who are undocumented or citizens. We are putting an unfunded mandate on it. We are keeping crime victims from reporting the crimes to local law enforcement. We are breaking community policing; and we are putting this heavy burden, and we are not securing America.

Provide resources to the Border Patrol and you will secure America. Provide technology and you will secure America. Vote “no” on the amendment.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from California (Mr. CAMPBELL).

The amendment was agreed to.
The Acting CHAIRMAN. The rules of the House do not permit consideration of the amendment offered by Ms. JACKSON-LEE of Texas. The Acting CHAIRMAN. The request of the gentlewoman is not timely.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. The request of the gentlewoman is not timely.

PART B AMENDMENT NO. 8 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

PART B AmENDMENT NO. 8 OFFERED BY MS. JACKSON-LEE OF TEXAS

Amend section 402 to read as follows:

SEC. 402. EXPANSION AND EFFECTIVE MANAGEMENT OF DETENTION FACILITIES.

(a) In general.—Subject to the availability of appropriations, the Secretary of Homeland Security shall fully utilize—

(1) all available detention facilities operated or contracted by the Department of Homeland Security; and

(2) as many alternatives to detention as possible, to cost effectively increase available detention capacities, including the use of temporary detention facilities, the use of State and local correctional facilities, private space, and secure alternatives to detention (in accordance with subsection (b)).

(b) Secure Alternatives to Detention Program.—

(1) Nature of the Program.—For purposes of this section, the secure alternatives to detention referred to in subsection (a) is a program under which eligible aliens are released to the custody of suitable individual or organizational sponsors who will supervise them, use appropriate safeguards to prevent them from absconding, and ensure that they make required appearances.

(2) Program Development.—The program shall be developed in accordance with the following guidelines:

(A) The Secretary shall design the program in consultation with nongovernmental organizations and academic experts in both the immigration and the criminal justice fields.

Consideration should be given to methods that have proven successful in appearance assistance programs, such as the appearance assistance program developed by the Vera Institute and the Department of Homeland Security’s Intensive Supervision Appearance Program.

(B) The program shall utilize a continuum of alternatives based on the alien’s need for supervision, including placement of the alien with a private individual or organizational sponsor, a supervised group home, or in a supervised, non-renal community setting that has guards stationed along its perimeter.

(C) The number of beds shall be sufficient to contract with nongovernmental organizations and individuals to implement the secure alternatives to detention program.

(D) Eligibility Operations.—

(1) Selection of Participants.—The Secretary shall select aliens to participate in the program from designated groups specified in paragraphs (1) through (5). The Secretary determines that such aliens are not flight risks or dangers to the community.

(2) Voluntary Participation.—An alien’s participation in the program is voluntary and shall not confer any rights or benefits to the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(E) Authorization of Appropriations. — There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.

402 of the Immigration and Nationality Act (8 U.S.C. 1229a) may participate in the program.

(B) Rules of Construction.—

(1) Aliens Applying for Asylum.—Aliens who have established a credible fear of persecution and have been referred to the Executive Office for Immigration Review for an asylum hearing shall be considered to have been in expedited removal proceedings and the custody status of such aliens after service of a Notice to Appear shall be determined in accordance with paragraphs (G) and (H) of subsection (c) and any aliens in removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

(H) Unaccompanied Alien Children.—Unaccompanied alien children shall be considered to have been in the care and exclusive custody of the Department of Health and Human Services and shall not be subject to expedited removal and shall not be permitted to participate in the program.

(I) Designated Groups.—The designated groups referred to in paragraph (1) are the following:

(A) Alien parents who are being detained with one or more of their children, and their detained children.

(B) Aliens who have serious medical or mental health needs.

(C) Aliens who are mentally retarded or autistic.

(D) Pregnant alien women.

(E) Elderly aliens who are over the age of 65.

(F) Aliens placed in expedited removal proceedings after being rescued from trafficking or criminal operations by Government authorities.

(G) Other groups designated in regulations promulgated by the Secretary.

5. Implementing Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to implement the secure alternatives to detention program and to standardize the care and treatment of aliens in detention under the Secure Alternatives to Detention Program.

6. Decision Making Program Not Reviewable.—The decisions of the Secretary regarding when to utilize the program and to what extent of aliens to participate in the program shall not be subject to any judicial review.

7. Reporting Requirements.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on the Judiciary of the Senate a report that details all policies, regulations, and actions taken to comply with the provisions in this section, including maximizing detention capacity while decreasing the cost-effectiveness of detention by implementing the secure alternatives to detention program, and a description of efforts taken to ensure that all aliens in expedited removal proceedings are residing under conditions that are safe, secure, and healthy.

8. Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.

II. To the extent that funds are appropriated to the Secretary of Homeland Security for the purposes of this Act, the Secretary shall—

(a) implement policies and procedures—

(i) to ensure that aliens are not released to the custody of persons who are not able to provide adequate supervision;

(ii) to ensure that aliens released under such policies and procedures are living in environments with sufficient security;

(iii) to ensure that aliens released under such policies and procedures are provided with appropriate monitoring devices;

(iv) to require that all aliens released under such policies and procedures comply with all reasonable conditions;

(v) to ensure that aliens released under such policies and procedures remain available for service of a Notice to Appear;

(b) provide assistance and support to the States and localities for the purpose of implementing the alternative to detention programs established under this Act;

(c) conduct research and develop an evidenced-based model for the implementation of the alternative to detention programs established under this Act.

12. Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this section.

III. To carry out this Act, the Secretary shall—

(a) establish policies and procedures—

(i) to ensure that aliens are not released to the custody of persons who are not able to provide adequate supervision;

(ii) to ensure that aliens released under such policies and procedures are living in environments with sufficient security;

(iii) to ensure that aliens released under such policies and procedures are provided with appropriate monitoring devices;

(iv) to require that all aliens released under such policies and procedures comply with all reasonable conditions;

(v) to ensure that aliens released under such policies and procedures remain available for service of a Notice to Appear;

(b) provide assistance and support to the States and localities for the purpose of implementing the alternative to detention programs established under this Act;

(c) conduct research and develop an evidenced-based model for the implementation of the alternative to detention programs established under this Act.

From Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

My amendment is very concise and very direct. The amendment deals with eligible aliens who are released to the custody of suitable individual or organizational sponsors who will supervise them, prevent them from absconding, and ensure required appearances.

Decisions on eligibility for participation are made on case-by-case determination by DHS with no judicial review. The various options for secure alternatives include placement with sponsor, group home or supervised environment with adequate security.

There is a need for secure alternative programs because my good friends over on the west side and other law enforcement agencies have been telling us there is a need to criminalize the elderly, the sick, children, and others who are now undocumented in the country.

The annual population of aliens in DHS custody is more than 200,000. We will add another 11 million. The gap between the number of noncitizens in immigration proceedings on a given day and the number of detention beds available to the DHS continues to grow.

This is a simple, straightforward amendment that I think would allow alternative sites to be established with criteria given by the Secretary of Homeland Security so that you can, in essence, provide secure alternatives for the elderly, the sick, the infirm, and children. When you make criminals out of 11 million undocumented who are here in the United States, by their very presence are made criminals, then I would assure you that this particular secure alternative program is needed. I would ask my colleagues to support this amendment.

Ms. ZOE LOFGREN of California. Mr. Chairman, will the gentlewoman yield?

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield to the gentlewoman from California.

Ms. ZOE LOFGREN of California. Mr. Chairman, I would just like to rise in support of this very intelligent amendment. You know, most people do not realize that we actually have fewer beds, detention space in America today than we did on September 11. We have more beds today than we did on September 11, 2001.

I have a bill that has not been scheduled for action that relates to unaccompanied minor children, and I would like to just mention the plight of one young boy, Malik Jarno, who came to the United States in his Boy Scout uniform to go to a Boy Scout jamboree. He is slightly retarded and he ended up, a long story I will not bore you with, being arrested. He did not commit any crime and was put in a jail, a 16-year-old in a jail, put in a jail with adults. It is absolutely wrong to treat children in that manner.

Bills with amendments as a new 15 DEG 7, 2005, Jkt 049060, PO 00000, Frm 00192, Fmt 7634, Sfmt 0634, E:\CR\FM\K15DE7.168 H15DEPT1.
The gentlewoman’s amendment would make sure that children are treated appropriately while their matters are being reviewed. It does not say what the outcome has got to be, but just that we do not put children in prison with adults. Civilized nations do not do that. And I commend the gentlewoman for her amendment. It would also increase the ability to hold those who are not currently able to be held since, for reasons we cannot understand, the Bush administration has 700 fewer beds today than we did on September 11, 2001.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). Who claims time in opposition to the amendment?

Mr. McCaul of Texas. Mr. Chairman, I claim the time in opposition.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. McCaul of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me say at first, I have great respect for the gentlewoman from Texas, and I know this is a well intentioned amendment. However, I believe there are numerous problems with this amendment. It is unnecessary and seeks to create a class of aliens who will be not detained with the rest of the alien population. However, the mandatory detention provision of H.R. 4377 preserves the already existing parole authority under section 212(d)(5)(A) of the Immigration and Nationality Act that waives mandatory detention and releases aliens for urgent humanitarian reasons or for significant public benefit. In other words, the Secretary already has the authority and has discretion to release juveniles and aliens who have serious medical conditions in which continued detention would not be appropriate and women who have been medically certified as pregnant, the very classes that the gentlewoman seeks too release.

Also, this amendment creates a whole new bureaucracy that is not necessary. It takes away power from the department and those who are really experienced with these issues and concerns in child detention and has discretion to release juveniles and aliens and empowers independent groups, NGOs and academic experts from the immigration and the criminal justice field, with the authority to design this program separate and apart from the Department of Homeland Security. This amendment also requires the Secretary of Homeland Security to enter into contracts with groups including the NGOs and individuals to implement the program.

Simple put, this amendment applies only to illegal aliens who are in expedited removal, which is typically 30 to 90 days. Such individuals will be removed quickly from the United States. Allowing them to be released outside of what the statute already prescribes would only create more incentive for them to enter into and remain in this country.

In addition, this amendment seeks to provide release of asylum who are already protected under this bill. H.R. 4377 does not change current law regarding those with valid claims of asylum. They currently have and, if this bill passes, will still have that right. Detention of such aliens is still discretionary once placed into asylum proceedings.

And, finally, this amendment seeks to shift the authority for unaccompanied alien children to the Department of Health and Human Services. We have a serious and significant youth alien gang problem in the United States, MS-13, for instance, whose members are primarily from El Salvador and enter illegally into the United States across our land borders. Some of these gangs are dangerous criminals and such members of alien gangs who could potentially be not only criminals but terrorists. This amendment provides for a sweeping shift of power from the Department of Homeland Security to HHS to deal with such aliens. I submit that HHS has the expertise to deal with aliens.

We are in a crisis. That is why we are debating this bill today, and mandating this change in law is not how the government should be responding to these types of serious problems. This provision, simply put, removes all discretion from the Secretary of Homeland Security, where it properly resides, to determine who should be detained and not detained. And, therefore, for those reasons, I respectfully oppose this well intentioned amendment.

Ms. ZOE LOFGREN of California. Mr. Chairman, will the gentleman yield?

Mr. McCaul of Texas. I yield to the gentlewoman from California.

Ms. ZOE LOFGREN of California. Mr. Chairman, I know the gentleman is a decent person, and I respect that. But I do not know if he is aware of the government’s dismal record of arresting the 16-year-old in his Boy Scout uniform having attended the International Boy Scout Jamboree and then putting him in jail with adult prisoners. The record is not a pretty one, and I just want to give those full power to lock up anyone he wants to if they are a criminal, but we have a very serious problem.

Mr. McCaul of Texas. Mr. Chairman, reclaiming my time, I am sure we can point to extreme examples, but the fact of the matter is that the statute does already provide and gives the Secretary of the Department of Homeland Security discretion to release juveniles, aliens with medical conditions and aliens who are medically certified as pregnant. I yield to the gentleman for his consultation. The芙蓉的因素 that extraordinary circumstances are addressed by the law. And, therefore, this well intentioned amendment, I believe, is unnecessary.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

First of all, I, too, have respect for the gentlewoman from Texas, but I think he should read the bill and see that the bill already has a secure alternative program in place. This amendment does not require the Secretary of Homeland Security to be advised or the program to be structured by a number of groups that he might consult with. It only allows the Secretary to seek advice. Also, this provides only the ability to set criteria for the different secure alternative programs that might be put in place, that might help the elderly, the infirm, the sick and children. And I give an example. In 1996, the INS contracted with the Vera Institute of Justice to run a 3-year demonstration program in New York. It was effective, and it worked. These are the kinds of programs that could be handled by the secure alternative program amendment that I offer.

Mr. Chairman, I reserve the balance of my time.

Mr. McCaul of Texas. Mr. Chairman, I yield myself such time as I may consume.

The gentlewoman’s, again, well-intentioned amendment says that the Secretary shall, mandatory language, shall design a program in consultation with appropriate government agencies and academic experts in immigration and criminal justice. Again, this is a very serious matter, and I believe that the Secretary of the Department of Homeland Security is in the best position to make these determinations, not outside groups. And, of course, the Secretary can get any advice he wishes, but this is a decision for him to make and not for outside nongovernmental organizations. Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I think if my colleagues would studiously and deliberately think about what this amendment stands for, they would understand that this is simply an advisory amendment that allows the Secretary to consult with very reasonable organizations who understand the importance of providing secure alternatives for detainees who happen to be infants or children or the elderly. The Center for Gender and Refugee Studies, the Episcopal Migration Ministries, the Ethiopian Community Development Center, the Florence Immigrant and Refugee Advocacy Center, the Illinois Coalition for Immigrant and Refugee Rights, the Immigrant Children’s Advocacy Program, the Kurdish Human Rights Watch, Midwest Immigrant and Human Rights Center, Mississippi Immigrants Rights Project, the Florida Immigrant Advocacy Forum, Political Asylum Project of Austin, U.S. Committee on Refugees and Immigrants, and a number of other
individuals recognize that this is a reasonable approach. It is a risk-based approach that would allow the Secretary to consult to protect these detainees. I ask my colleagues to support this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

PART B AMENDMENT NO. 9 OFFERED BY MR. CASTLE

Mr. CASTLE. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 9 printed in House Report 109-347 offered by Mr. Castle of Delaware.

At the end of title IV, insert the following new section:

SEC. 408. REPORT ON APPREHENSION AND DETENTION OF CERTAIN ALIENS.

(a) REPORT REQUIRED.—Not later than two years after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on—

(1) the number of illegal aliens from noncontiguous countries who are apprehended at or between ports of entry since the date of enactment of this Act;

(2) the number of such aliens who have been deported since the date of enactment of this Act; and

(3) the number of such aliens from countries the governments of which the Secretary of State has determined, for purposes of section 1701(h) of the Arms Export Control Act (22 U.S.C. 2780(h)), or other provisions of the Arms Export Control Act of 1961 (22 U.S.C. 2371), or other provisions of law, are governments that have repeatedly provided support for acts of international terrorism.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Homeland Security should develop a strategy for entering into appropriate security screening watch lists the appropriate background information of illegal aliens from countries described in subsection (a) of this section.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from Delaware (Mr. CASTLE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Delaware.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer this straight-forward amendment to the legislation before us today.

Following the attacks of 2001, I was essential that we improve our ability to track and identify terrorists attempting to cross our borders. Chairman SENSENBRENNER and Chairman KING have drafted legislation to better detect terrorist infiltrators, and I applaud them for their hard work on this important issue.

While most of the illegal immigrants who enter the United States do so for the purposes of finding work and making a better life, there are also those that may take advantage of our porous borders to enter the country and take part in terrorist activities. In fact, reports project that as many as 4,000 immigrants from countries identified as high risk will be arrested trying to enter the country illegally this year. As we speak, terrorists are using alien smugglers and document fraud to enter the United States illegally. After 2 years of this bill’s enactment, my amendment would provide essential oversight on the effectiveness of this system by requiring the Department of Homeland Security to report to Congress on the number of illegal aliens from noncontiguous countries who are apprehended at or between ports of entry and the numbers of such aliens from countries identified by the Secretary of State as sponsors of terrorism.

My amendment would also encourage Homeland Security to develop a strategy for entering into appropriate security screening watch lists the appropriate background information of illegal aliens from countries sponsoring terrorism into appropriate security screening watch lists.

With millions of illegal immigrants flooding our vastly unsecured borders, there remains a huge vulnerability to terrorist attack. There is no doubt that al Qaeda and other terrorist groups will take advantage of any area that we fail to secure. Illegal aliens from countries known to sponsor international terrorism, in particular, should raise red flags, and Congress and the Department of Homeland Security need to closely monitor these trends.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Who claims time in opposition to the amendment?

There was no objection.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

I agree, again, with the gentlewoman from California. I am worried about her pessimism in all this as to whether we can get these kinds of reports or not.

But I think it is important to do this. I think it is very important that we ask this Department to come forward with this information. This basically is, again, a study after 2 years. They have got to give us the report. But, by God, we have got to hold them to it, too. I just think we have to know how these systems are working.

I do not think there is any question that the systems we have been talking...
Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentlewoman. You have made some very valid points, and I think it is pertinent to support Mr. CASTLE’s amendment; but I would appreciate if he would recognize some of the dilemma that we face.

One of my colleagues from Texas, Mr. Ortiz, was one of the first Members, I think, to question the number of OTMs, which your amendment in part would give us some answers to by providing information for those undocumented aliens who would be coming through the southern border who were not from contiguous countries.

One of the issues that all of us are concerned about is the route of terrorism that might occur and might be utilized by individuals coming from places other than Mexico. As you well know, over the years, unfortunately, we have had a gap in our enforcement, and those individuals have been released on their own recognition.

My concern is as you have this thoughtful amendment, and I ask you to consider this, we, frankly, do not have enough detention beds, and the enforcement, internal enforcement officers, and also Border Patrol officers, even though this is a report, to deal with the large numbers of those who are coming in that we have been able to ascertain. In fact, 110,000 OTMs have been released last year due to lack of detention facilities. Legislation that I offered asked for 100,000 detention beds.

So I just raise that with the gentleman. I think the amendment is thoughtful, but we still are without the resources to do what we need to do on these particular detainees or undocumented aliens.

Mr. CASTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just respond to a moment, if I may, to the gentlewoman from Texas. I do not disagree with what you are saying. Part of the reason to get reports is to understand exactly where the problems are. Do we have insufficient detainee and foot patrol officers and a whole variety of other things, for all that matter, judicial personnel or whatever it may be, to take care of some of the problems that exist.

It is fine to make the initial detention; but if you cannot do anything with it, you have not really achieved much in terms of perhaps preventing terrorism. So I do not disagree at all, and that is the point of my goal.

I do not disagree with the gentlewoman from California. I think there are a lot of holes in all this; and I do not expect immediate, strong, good reports. As a matter of fact, I think we are going to have to get some of these reports. But I think it is going to give us information that is helpful. That is the reason we have come forward with the amendment, probably to underline a lot of what you are concerned about and saying in terms of what we have to improve with respect to this whole situation.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentlewoman from Texas. Ms. JACKSON-LEE of Texas. Mr. Chairman, I think as long as we collectively, the gentlewoman from California, myself, are raising concerns, and you accept or at least recognize that they exist, I do think getting a handle on the numbers and maybe seeing that they are larger than, and it would be wonderful if they are less than, but if we at least have a definition of the problem. I thank the gentlewoman for his amendment.

Mr. CASTLE. Mr. Chairman, reclaiming my time, I do recognize the problems you have raised, and I do think those are things that we have to consider.

I do appreciate everybody’s support for the bill.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. Gingrey). The question is on the amendment offered by the gentleman from Delaware (Mr. CASTLE).

The amendment was agreed to.

PART B AMENDMENT NO. 10 OFFERED BY MS. GINNY BROWN-WAITE OF FLORIDA

Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 10 printed in House Report 109-347 offered by Ms. Ginny Brown-Waite of Florida:

At the end of title VI, insert the following new section:

SEC. 615. DECLARATION OF CONGRESS.

Congress condemns rapes by smugglers along the international land border of the United States and urges in the strongest possible terms the Government of Mexico to work in coordination with United States Customs and Border Protection of the Department of Homeland Security take immediate action to prevent such rapes from occurring.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentlewoman from Florida (Ms. Ginny Brown-Waite) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the reports of the lawlessness along our borders are unprecedented. Stories about the number of young girls and women who smugglers and society’s drugs rape as they attempt to cross the border are widespread.

Numerous recent articles have told stories of Minuteman members who are haunted by cries of women who are being raped and abused, who when they
first heard the cries, they actually thought they were coyotes wailing in the desert. These are women and young girls being raped. All along the southern border, the sight of women’s undergarments hang from border fences as trophies. This is appalling, and yet it is also shocking. There are stories of mattresses tucked in caves for more convenient access to rape young girls as young as 8- and 9-years-old crossing the border. Violent acts against females in this manner are despicable. Congress cannot and should not tolerate this behavior.

H.R. 4437, the Border Protection, Antitererism, and Illegal Immigration Control Act of 2005, takes decisive action to reduce and eliminate this criminal activity. My amendment to the bill is a declaration that Congress condemns these rapes along the United States border.

Additionally, my amendment urges the Government of Mexico and U.S. Customs and Border Protection to work together to take immediate action to prevent such rapes from continuing.

We all understand that the best mechanism for preventing these rapes is to encourage legal citizenship and to stop people from crossing our borders illegally and therefore putting themselves in harm’s way. By including my amendment in the underlying legislation, this House is sending a loud and clear message of its dedication to improving all aspects of border security. Urging both the United States and Mexico to take action is a good first step toward a peaceful, safe, and secure border.

The bill also provides a tremendous overhaul of the United States immigration policies, and I am very pleased that the House is debating this issue before we adjourn for the year. As a member of the Committee on Homeland Security, I look forward to implementing these measures, and I also look forward to the time when reports of rape and cruelty to young girls and women are not an issue on our border.

Mr. Chairman, I urge my colleagues to support my amendment, and I thank the gentleman for his recognition of this amendment’s merits.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS asked and was given permission to revise and extend her remarks.)

Ms. HARRIS. Mr. Chairman, I rise today in strong support of this amendment offered by my colleague from Florida. Shockingly, thousands of women who cross the U.S. border illegally from Mexico are promised safe passage in return for sex and money. These women are not given safe passage, but rather become the trophies of criminal rapists as they hang the u nderwear of their victims on the border fences.

But human trafficking and sexual exploitation impacts every corner of the globe; and the United States must lead an intensive, multilateral effort to stop it. Last year, an estimated 27 million people were forced into slavery around the world. I have heard the heart-wrenching stories of women and children, young girls, who are tricked, kidnapped, and sold into slavery.

These crimes occur in many forms, from sex trafficking to involuntary servitude. Women, even young girls, are told they will be taken out of the country where restaurants and hair salons are needed. When these girls enter the country, their identification is taken away and there is no restaurant, no salon, only brothels. Furthermore, these girls are commonly told they must pay a debt for their transportation into the country, and they are forced to sell their bodies to pay off this debt. Our borders must not become the avenues for pimps, traffickers to make millions of dollars.

These victims are left with insufficient education and access to social services, no education, or job opportunities. Sex trafficking rings are frequently linked to corruption, and law enforcement in some regions are even bribed to ignore these sex slavery rings, and stop.

Mr. Chairman, this amendment before us today takes the necessary first step not only condemning the exploitation of people along our borders but also strongly urges immediate action clear to prevent such abuse from occurring in the future. I strongly urge my colleagues to vote in favor of this amendment and condemn this lawlessness on our borders.

The Acting CHAIRMAN (Mr. SIMPSON). Who claims the time in opposition to the amendment?

Ms. ZOE LOFGREN of California. Mr. Chairman, I claim the time in opposition although I do not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentlewoman will control 5 minutes.

There was no objection. Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this amendment. The amendment calls on the Mexican Government to work closely with U.S. Customs and Border Protection to take immediate action to prevent the occurrence of rape along the U.S.-Mexican border.

Rape is a horrendous crime. Every 2½ hours somewhere in the United States someone is sexually assaulted, and only 36 percent of the rapes are reported to the police. It is safe to assume that the rate of reporting is considerably less along the border.

The women who are crossing our border are extremely vulnerable, and they are likely to tell law enforcement officials they were raped while trying to cross the border without their papers. The smugglers know that these women are vulnerable, and they take advantage of them. I think in many ways this amendment makes clear what many have been talking about today, and that is the need to gain control of the situation at the border.

I have talked today a lot about how dysfunctional the administration of our laws has been. We do not have enough Border Patrol agents; they are not properly equipped; we do not have enough prosecutors; we do not have enough judicial personnel; we are citing and releasing individuals and letting them go. We have a chaotic situation at the border, and we need to create an orderly situation at our borders. We need to take control of it. It is not occurring right now.

Part of that, and again this has been discussed, is to regularize the ability of individuals who want to come and be part of the American Dream so that they do not have to be with smugglers, vulnerable victims of crime, victims of rape; that there is some orderly mechanism for moving back and forth across the border, to do the jobs that we know are not going to get done without them.

Earlier today, not on the record, someone said, Well, you know, if this bill passes, that is the end of salads in America. I think we need to contemplate the role that immigrant labor plays in the area of agriculture, fast food, tourism, the hotel industry, the tourist industry and the like. I think it is a mistake that the underlying bill does not deal with that issue.

I do agree, however, that the gentlewoman’s amendment really calling on our two governments to coordinate, to fight this horrendous crime of rape is well intentioned, it is something I can support; and I hope it does some good.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

The amendment was agreed to.

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. SIMPSON). The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 11 offered by MR. HUNTER.

Mr. HUNTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN (Mr. SIMPSON). The Clerk will designate the amendment.

SEC. 901. FINDINGS.

The Congress finds the following:

(1) Hundreds of people die crossing our international border with Mexico every year. Illegal narcotic smuggling along the Southwest border of the United States is both dangerous and prolific.

(2) Over 155,000 non-Mexican individuals were apprehended trying to enter the United States along the Southwest border in fiscal year 2005.
SEC. 902. CONSTRUCTION OF FENCING AND SECURITY IMPROVEMENTS IN BORDER AREA FROM PACIFIC OCEAN TO GULF OF MEXICO.

Section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 8 U.S.C. 1103 note) is amended—

(1) in the subsection heading by striking "NEAR SAN DIEGO, CALIFORNIA;" and

(2) by amending paragraph (1) to read as follows:

"(1) SECURITY FEATURES.—

"(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall provide for at least 2 layers of reinforced fencing, the installation of additional physical barriers, roads, lighting, cameras, and sensors—

"(i) extending from 10 miles west of the Tecate, California, port of entry to 10 miles east of the Tecate, California, port of entry;

"(ii) extending from 10 miles west of the Calexico, California, port of entry 5 miles east of the Douglas, Arizona, port of entry;

"(iii) extending from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas;

"(iv) extending from 5 miles northwest of the Del Rio, Texas, port of entry to 5 miles southeast of the Eagle Pass, Texas, port of entry;

"(v) extending 15 miles southwest of the Laredo, Texas, port of entry to the Brownsville, Texas, port of entry.

"(B) PRIORITY AREAS.—With respect to the border described—

"(i) in subparagraph (A)(i), the Secretary shall ensure that an interlocking surveillance system is installed along such area by May 30, 2006 and that fence construction is completed by May 30, 2007; and

"(ii) in subparagraph (A)(v), the Secretary shall ensure that fence construction from 15 miles northwest of the Laredo, Texas port of entry to 15 southeast of the Laredo, Texas port of entry is completed by December 31, 2006.

"(C) EXCEPTION.—If the topography of a specific area has an elevation grade that exceeds 10%, the Secretary may use other means of securing such area, including the use of surveillance and barrier tools.

SEC. 903. NORTHERN BORDER STUDY.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a study on the construction of a state-of-the-art barrier system along the northern international land and maritime border of the United States and shall include in the study—

(1) the necessity of constructing such a system; and

(2) the feasibility of constructing the system.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall report to the Congress on the study described in subsection (a).

SEC. 904. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Secretary of Homeland Security shall take all necessary steps to secure the Southwest international border for the purpose of saving lives, stopping illegal drug trafficking, and halting the flow of illegal entrants into the United States.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from California (Mr. HUNTER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, a few years ago, in fact in 1994, we mandated the construction of a fence along the California border, a triple fence. And that fence, with a basic fence on the border, a Border Patrol road, then a secondary higher fence with an overhang, a second Border Patrol road and then a third fence were designed to stop the massive drug trade and the smuggling of narcotics and people across what was the most prolific smugglers’ corridor in America, that between Tijuana and San Diego.

At that time we had some 10 border murders a year. We had gangs that roamed that area that they called a “no man’s land” to the point where Joseph Wambaugh wrote the best seller “Lines and Shadows” about the no man’s land that existed between Tijuana and San Diego. We had some 300 drug trucks a month crashing that border and running up with cocaine for our children.

We built that fence, Mr. Chairman, and in doing that we knocked down the number from 10 a year to zero. We knocked down the border drive-throughs from 300 a month to zero. We knocked down the smuggling of both illegal aliens and narcotics to almost zero where that fence was.

I might say that the great Border Patrol chief, Mr. Sylvester Reyes, stood in testimony, even adversely to his administration, and testified to the sufficiency of that fence.

This proposal, Mr. Chairman, is 700 additional miles of fence, and it has a great humanitarian aspect. The first piece of this fence, 361 miles from Calexico to Douglas, Arizona, is the area through which most of the people come who have represented those 400 deaths a year. The addition of a secondary higher fence and dehydrations in the deserts of Arizona.

If we had 400 college kids or high school kids or neighborhood kids a year dying in a lake in a city, we would immediately fence it. By fencing that area we are going to prevent those deaths. We cannot fence it by the next year, which will start in the end of May this coming year, but we have in this legislation directed interlocking cameras so we can see people who are coming across the border while we are building the fence and we can respond. We can both deport them, and we can also save their lives, Mr. Chairman.

The second piece that is mandatory here is the 15 miles on each side of Laredo, across the river from Laredo is Nuevo Laredo where the drug lords reign, where they kill the local law enforcement officers within, some cases, a few hours of their taking office. If we don’t dry up that massive land smuggling of cocaine we are coming across that smugglers’ jump-off point in Nuevo Laredo by fencing both sides with a double fence, 10 miles on each side of Nuevo Laredo, and we want to have it done and it is mandated by this bill by the end of the year this next year, we will have done great things for the people of America and the good citizens of Nuevo Laredo.

This has a great humanitarian aspect to it, and we costed it out. It is roughly $2.2 billion. That is a fraction of what we spend each year to incarcerate the criminal aliens whom we currently have in massive numbers in our Federal penitentiaries and in our local jails.

That is the essence of this. Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Who claims time in opposition to the amendment?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I claim time in opposition.

The Acting CHAIRMAN. The gentleman from California.

Mr. FARR. Mr. Chairman, I rise in opposition to this amendment and what it says about the United States of America.

I wish this debate had been held in committee and that something more than just the last-minute long list of amendments could be debated right here tonight, because I think most of the Members of this House have not really read this amendment nor understand the implications.

This amendment allows the Secretary of Homeland Security to not only build a wall between Mexico and the United States but to study building a wall across Canada, across our U.S. borders. In so doing, it gives the political appointee the authority to waive all laws, not only all environment laws but also notwithstanding any other provision of the law, child labor laws, laws that protect workers ensuring safe and healthy workplaces, Davis-Bacon laws, civil rights provisions, ethics laws for clean contracting and procurement policy, laws and statutes that give small businesses a fighting chance for winning contracts for construction.

There is no recourse to the abuse of power and certainly no good will come as demonstrated in this manner in safeguarding our national borders.

Large bodies of rational lawmakers and avoid overreacting in the hysteria of a few.

Mexico is California’s number one trading partner. Our border with Mexico is the busiest in the world. More people and commerce legitimately cross that border than any other border in the world. Why would the Government of the United States at a time when we are advocating support for enforcement of law, why would the government now want to forbid the use of aid to finish the fence? Not only the importance of securing our border can justifiable placing a government official above the law.
How can we celebrate tearing down the Berlin Wall, fight undemocratic regions around the world, and build respect for law here at home with this kind of message?

Allowing a political appointee to waive the law and prohibit legal appeals is not winning the war on terrorism; it is supporting it.

Ronald Reagan said, “General Secretary Gorbachev, if you seek peace, if you seek prosperity for the Soviet Union and Eastern Europe, if you seek liberalization, come here to this gate. Mr. Gorbachev, open this gate. Mr. Gorbachev, tear down this wall.”

Unfortunately, someone will have to say that about this wall some day because an America with walls between Canada and Mexico is not an America that reaches out for the people of this world to come here legally.

Mr. HUNTER. Mr. Chairman, I just wanted to mention that Ronald Reagan closed down the border when our agent Kiki de la Garza was murdered and the killer was not produced forthrightly by Mexican authorities.

Mr. Chairman, I yield 2 minutes to the gentleman who is a co-author of this legislation and a tireless worker for the border fence in San Diego. Mr. DREIER. Mr. Chairman, I agree with my friend from California (Mr. FARR). We look forward to when we can tear this down. We want to be able to tear this down because we see an end to illegal drug trafficking, when we see an end to illegal crossings of our border, when we see economies of scale because of trade. But until that time, because of the success that we have seen with the 14-mile border fence from the Pacific Ocean to the Otay Mesa, it is absolutely essential that we build on that success.

We are in the midst of completing that 3½ mile gap, and Mr. HUNTER has just referred to the diminution that we have seen in illegal crossings running across the border and people running across the border at that fence.

This is a humanitarian issue as well. It is humanitarian because when we look at the 1,500 people, fellow human beings, who have died in the desert because of the fact that they have crossed illegally into our country, the existence of these fences at the most dangerous spots along our 2,000-mile border will go a long way toward saving the lives of our fellow human beings.

It is absolutely essential that we do all that we can to strengthen our relationship in trade, to strengthen our relationship in working with the Mexican government, but when we have a problem that is killing people, literally killing people, and costing the United States of America billions of dollars, the existence of this fence is the right thing to do. And I do anxiously look forward when we see things improved to the point where we can completely tear down this wall.

Ms. JACKSON-LEE of Texas. Mr. Chairman, my good friend knows that the fence is no substitute for good intelligence.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. DEFAZIO), a member of the Homeland Security Committee and the Transportation Committee. Mr. DEFAZIO. Mr. Chairman, they are proposing here to build an extensive triple-wall fence along the Mexican border, ostensibly building on the success of a very short section of fence, and they are using phrasing that we should study building a fence along the entire 2,000-plus-mile Canadian border. They are not talking much about that. Here is a picture of one of the world’s existing fences that completely surrounds an area. It is in Melilla; and like Ceuta, which is attempting to keep Africans from getting into the Spanish parts of Morocco, they do not work.

The EU paid for these double fences. They used deadly force. They kill people there, and people still go over it, around it, and through it. It is 10 feet high with concertina wire on top. They will make it 20 feet high with concertina wire on top. It does not work.

Where Hong Kong was walled off by the Communist Chinese, again, a fairly extensive piece of land, and they could use deadly force, businesses were set up on the Communist Chinese side of the border, the entrepreneurs there, to guarantee to get people through in less than a minute. And they did. And it did not work.

They say it is only $2.2 billion. We could do a lot more with $2.2 billion. We could do some interior enforcement to keep illegal people from working here. We could hire more Border Patrol agents. There are a lot of things we could do with $2.2 billion, but to build or extend this fence, yeah, it will make someone rich like Bechtel or Halliburton or whoever is going to build the fence. They will have a pile of money out of it; but it is not going to work. It does not work in Africa. It did not work in Communist China, again, where they are using deadly force. Are we going to use deadly force?

How about some enforcement on the Mexican side of the border? Well, they do not want to go there because they all voted for NAFTA. They do not want to say let us withdraw from NAFTA unless the Mexicans put enforcement in there. Right now people line up on the border at night and the Mexican police say, hi, how you doing? Okay. And then they run across.

How about a little bit of international cooperation? There are a lot of things we could do here, but the things we could do that are effective offend big business who are the patrons of the Republican Party. That is interior enforcement, employer enforcement. People do not come here to go on welfare; they come here to go to work. If they could not get work, they would not sneak across the border. If we force the Mexican Government to do something on their side by threatening to withdraw from NAFTA, which we can do with 6 months’ notice, again, big business would not allow the Republicans to do that or George Bush certainly would not do it because he is for open borders. But they can pretend how much they are doing something.

They are wasting $2.2 billion of taxpayer money to do something that has not worked anywhere else in the world even where they are willing to shoot the people that go through the fence, Communist China, Morocco. It is not going to work here either.

And what about Canada? Come on, guys, talk about the Canada part. Tell us about the 2,000-plus-mile fence along the Canadian border. That is going to be a real piece of work.

Mr. HUNTER. Mr. Chairman, I yield 1½ minutes to the gentleman from California (Mr. ROYCE) who has been a major proponent for this fence.

Mr. ROYCE. Mr. Chairman, I rise in support of this amendment. Of course, the circumstance is that in San Diego this fence has worked. In San Diego those crossing and apprehended where we have erected something have dropped from 202,000 a year in 1992 to less than 9,000 by 2004. So, yes, people still find a way around the fence, but not many. And if we are going to be serious, the establishment of a border fence project like this is probably going to work in these small places and in these other communities that it has on San Diego, which is to say crime rates have fallen to a fraction of what they were.

San Diego is no longer one of the most prolific drug smuggling corridors. So where is the fence needed? On these corridors you see here. This is where we can have the maximum impact.

Why is it important? Partly because this has become post-9/11 a national security concern. If we do nothing to stop people attempting to enter illegally our southern borders, when we know that al Qaeda operatives have been in Communist China, again, a fairly extensive piece of land, and they could use deadly force, businesses were set up on the Communist Chinese side of the border, the entrepreneurs there, to guarantee to get people through in less than a minute. And they did. And it did not work.

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In this time of 21st century technology, my good friends and colleagues, who I have great respect for on the other side of the aisle, want to put into place the old Berlin Wall, again the same wall that Ronald Reagan had torn down, the same wall that will be as insidious and destructive as the Berlin Wall.

I think it is important to note for those who are talking about the area of Laredo, part of the State of Texas, and many of my colleagues from Texas have mentioned on this issue, but my friends should realize that the reason for the drug cartels in Nuevo Laredo is because we busted the Colombian drug cartels in Colombia, and they simply moved to Mexico.

So, rather than the old Berlin Wall, again, what we really need is an effective law enforcement at the border. We are going to put the Berlin Wall up, but we are not going to have 15,000 extra Border Patrol agents.

I would offer to say that the Berlin Wall, without law enforcement, is misleading the American people into false security.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. GOODE), my great cosponsor on this.

Mr. GOODE. Mr. Chairman, I want to thank Chairman HUNTER, Chairman DREIER and all of the supporters of this amendment.

Will this wall, will this fence make America absolutely safe, absolutely secure, and will it stop every illegal alien? No, it will not, but it will make us more secure. It will make us safer, and it will surely cut down the horrific numbers that flood into this country.

Vote to help save America. Vote yes on Hunter.

Ms. JACKSON-LEE of Texas. Mr. Chairman, how much time remains?

The Acting CHAIRMAN (Mr. SIMPSON). The gentlewoman from Texas (Ms. JACKSON-LEE) has 3 1/2 minutes remaining. The gentleman from California (Mr. HUNTER) has 2 1/2 minutes remaining. The gentlewoman from Texas has the right to close.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is my pleasure to yield 1 minute to the distinguished gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I thank the gentlewoman for yielding me time. I just want to make a comment to my colleagues from California. Yes, the fence they showed was a fence that has been built without waiving any laws, a fence that is in existence. It did not need to do this Draconian kind of legislation here where you are going to an appointed official and giving them the authority to waive every law.

What really bothers me, and nobody has mentioned, is your suggestion that this is a Berlin Wall is only off by about 180 degrees.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me just briefly bring to the attention of the colleagues again the point that we are trying to make.

We started out by saying that border security has no divide among Democrats and Republicans. It has no divide among Americans, but there is a right way to do and to enhance border security.

In this legislation, are going to offer the old Berlin Wall, again separating the north from the south, separating us from our Canadian neighbor.

It is interesting, however, that when we ask for 15,000 more border patrol agents, increased recruitment and training of those agents, adding more equipment to those agents, we get a resistance.

We need to do sensible, comprehensive immigration reform, not one that simply feels good, because the American people need real security.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Chairman, I thank the chairman for the time.

I rise in support tonight of the Hunter amendment. Nine years ago, Congress decided to build a 14-mile fence along the San Diego-Mexico border to curb drug trafficking and illegal immigration. As a result, the number of people caught crossing the border illegally along this area dropped by nearly 200,000 in 12 years.

Mr. Chairman, Americans are upset. They understand that too much of our border is still vulnerable. The world’s a different place than it was 9 years ago, and illegal entry has grown well beyond that 14-mile stretch of land.

By mandating construction of a security fence along the five most dangerous areas of the southern border, this amendment seeks to take the next step in making our Nation safer.

Additionally, I would like to thank Chairman HUNTER for working with me to include language requiring the Secretary of Homeland Security to conduct a study on the use of physical barriers along the northern border.

I urge my colleagues to support the Hunter amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I reserve my time.

Mr. HUNTER. Mr. Chairman, I yield the remaining time to close to the gentleman from California (Mr. DANIEL E. LUNgren), the former Attorney General of the State of California, who understands border control.

Mr. DANIEL E. LUNgren of California. Mr. Chairman, I have heard the references to the Berlin Wall. There is only one problem: The Berlin Wall was built to keep people in, not keep people out. I do not recall in searching my memory a single example of people trying to jump over the Berlin Wall to get into East Germany.

This is for a different purpose. It is a different thing, and your suggestion that this is a Berlin Wall is only off by about 180 degrees.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the remaining time.

I thank the distinguished gentleman for his recharacterization of the Berlin Wall. It kept people out, and it kept people in, and that is what we are saying about the largest gated community in the western hemisphere. It will keep the good people of Canada, the good people of the southern border out, the trade and commerce, the friendship that we have developed, and it will cause no extra security to the American people.

Might I suggest to you that the 9/11 Commission reinforced the fact that it is intelligence, good intelligence, that keeps Americans secure. It is good equipment, good resources, good Border Patrol agents that are trained, professionally developed, not the false hood of a security fence that cannot provide any security.

Might I remind my friends that the Berlin Wall allowed people to jump out
and to jump in. The Berlin Wall was not a secure wall for the East Germans. People escaped from East Germany. People will escape from Mexico and the southern border. This will only injure the relationships of our security. I believe this amendment is doomed to fail, and it should fail because the falseness of a security fence will not allow any Americans to sleep good at night. Let us reinforce the intelligence community of America. Let us reinforce our Border Patrol agents, and let us reinforce friendship. Together, we can fight against terrorists, and we can fight against those who would come into the United States, undetected, with real immigration reform and a comprehensive immigration plan as offered by many of our colleagues, such as Gutierrez, Kolbe, McCain and Kennedy. Let us talk about comprehensive reform.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Hunter).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. Hunter) will be postponed.

PART B AMENDMENT No. 12 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B Amendment No. 12 printed in House Report 109-347 offered by Mr. DeFazio:

At the end of the bill, add the following (and conform the table of contents accordingly):

TITLE —PRESCREENING OF AIR PASSENGERS

SEC. 1. IMMEDIATE INTERNATIONAL PASSENGER PRESCREENING PILOT PROGRAM.

(a) Pilot Program.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall initiate a pilot program to evaluate the use of automated systems for the immediate prescreening of passengers on flights in foreign air travel, as defined by section 40102 of title 49, United States Code, that are bound for the United States.

(b) Requirements.—At a minimum, with respect to a passenger on a flight described in subsection (a) operated by an air carrier or foreign air carrier, the automated systems evaluated under the pilot program shall:

(1) compare the passenger’s information against the integrated and consolidated terrorist watchlist maintained by the Federal Government and provide the results of the comparison to the air carrier or foreign air carrier before the passenger is permitted to board the flight;

(2) provide functions similar to the advanced passenger information system established under section 441 of the Tariff Act of 1930 (19 U.S.C. 1431); and

(3) make use of machine-readable data elements on passports and other travel and entry documents in a manner consistent with international standards.

(c) Operation.—The pilot program shall be conducted—

(1) in not fewer than 2 foreign airports; and

(2) in collaboration with not fewer than one air carrier or foreign air carrier participating in the pilot program.

(d) Evaluation of Automated Systems.—In conducting the pilot program, the Secretary shall evaluate not more than 3 automated systems. One or more of such systems shall be commercially available and currently in use to the Department of Homeland Security.

(e) Privacy Protection.—The Secretary shall ensure that the passenger data is collected under the pilot program in a manner consistent with the standards established under section 552a of title 5, United States Code.

(f) Duration.—The Secretary shall conduct the pilot program for not fewer than 90 days.

(g) Passenger Defined.—In this section, the term “passenger” includes members of the flight crew.

(h) Report.—Not later than 30 days after the date of completion of the pilot program, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an assessment of the technical performance of each of the tested systems, including the system’s accuracy, scalability, and effectiveness with respect to measurable factors, including, at a minimum, passenger throughput, the rate of flight diversions, and the rate of false negatives and positives;

(2) a description of the provisions of each tested system to protect the civil liberties and privacy rights of passengers, as well as a description of the adequacy of an immediate redress or appeal process for passengers denied authorization to travel;

(3) cost projections for implementation of each tested system, including—

(A) projected costs to the Department of Homeland Security; and

(B) projected costs of compliance to air carriers operating flights described in subsection (a); and

(4) a determination as to which tested system is the best-performing and most efficient system to ensure immediate prescreening of international passengers. Such determination shall be made after consultation with individuals in the private sector having expertise in airline industry, travel, tourism, international security, and computer security issues.

(i) Plan to Fully Deploy the Best-Performing and Most Efficient System Tested by Not Later Than January 1, 2007.

The Acting CHAIRMAN. Pursuant to House Resolution 610, the gentleman from Oregon (Mr. DeFazio) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Hopefully, this will be a relatively noncontroversial amendment, unlike the preceding.

We are doing something nonsensical today. We have, post-9/11, required that manifests be submitted to the United States of America to our law enforcement authorities for incoming flights for all passengers on board. That is good. That was only voluntary until 9/11.

Unfortunately, we do not require that this be done until the flight has left, and we have all seen that a number of times flights have been turned back. They have had to land in Canada or Maine. People have had to be off-loaded. It would be so much better if we could have a program where we could vet the manifest before the plane leaves.

So this amendment would set up a pilot program. The technology exists. It is being done in Australia and elsewhere very successfully. This is a pilot program so that we could show that this will work so that we can both make America more secure and facilitate international air travel.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does the gentleman from California claim the time in opposition?

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I do claim it; although I do not oppose it.

The Acting CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

Mr. LUNGREN. Mr. Chairman, it gives me great pleasure to be involved in this bipartisan amendment with my friend from Oregon.

The amendment addresses a dangerous flaw in our current system.

Under current practices, Customs and Border Protection does not receive the names of passengers on board international flights bound for the U.S., until after the flight is in the air, as the gentleman explained.

When CBP finally gets the passenger manifest, it sends it over to the Transportation Security Administration, TSA, so they can compare it against the terrorist watchlist. At that point, if they find a name match, there is no way to reconcile the situation.

This has resulted in numerous high-profile instances where a plane was forced to divert en route because there were doubts that the individual on board was not a terrorist. Fortunately, there is a commercially available system in use for flights to Australia that provides the airlines with a cleared or not cleared decision for each passenger in real-time, not 4 hours before or not 2 hours after they have taken off, but in real-time, at the time of check-in.

The system has been offered free of charge to CBP on a pilot basis. They have declined the offer and have yet to operate it. Fortunately, the Australians have been trying to internally develop a new system for over a year now. I believe we are wasting valuable time.
This amendment, at a minimum, will force CBP to conduct a test of the commercially available systems within 90 days of the date of enactment. If CBP cannot complete the development of its own proprietary system, we will also get a real apples-to-apples comparison of the various options.

Ultimately, Mr. Chairman, this amendment will speed implementation of this vital program to ensure that the airlines will know who can board the plane safely and who cannot long before the plane leaves the ground.

I believe everyone agrees that is the best possible situation. We have, on a bipartisan basis I think, been frustrated by the responses we have received as to why they cannot develop their own program and why they then resist conducting a pilot program utilizing something that has already been done in another country.

The only question it seems to me is scalability: Can they scale up to the volumes we have in the United States because obviously Australia is a smaller country with a smaller number of people? But in this computerized era in which we live today, I do not believe that scalability is a problem. That is the reason for this pilot project.

I would like to thank the gentleman from Oregon for his efforts and his willingness to work with me on this language. I would urge all Members to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DeFAZIO. Mr. Chairman, the chairman has spoken so eloquently that I don’t think I can improve upon it.

□ 2100

Mr. Chairman, I yield back the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). This will entail a 15-minute vote following a 5-minute vote.

The Acting CHAIRMAN, Mr. DeFAZIO.

Mr. Chairman, the pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed, in the following order: Amendment No. 8 by Ms. JACKSON-LEE of Texas.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from California (Mr. HUNTER). The result of the vote was announced as above recorded.

Mr. Chairman, the pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. HUNTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.
The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—aye 260, noes 159, not voting 14, as follows:

[Roll No. 64] AYES—260

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