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Senate

The Senate met at 10 a.m. and was called to order by the Honorable BARACK OBAMA, a Senator from the State of Illinois.

PRAYER

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

Let us pray.

Eternal Spirit, help us to be honest with ourselves and with one another. Search our hearts, know our thoughts, and purify our motives so that we will treat others with respect and honor.

Guide our Senators in their work. Help them to bear the cross of change and challenge and to refuse to be intimidated by the difficult. Give them the courage and humility to take their burdens to You and leave them. In all their striving, remind them that it is a greater blessing to give than to receive. Help them this day to know You more fully, love You more deeply, and serve You more faithfully.

We pray in Your hallowed Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BARACK OBAMA led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 7, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BARACK OBAMA, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007

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

The bill clerk read as follows:

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

Pending:

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

Dodd/Menendez amendment No. 1199 (to amendment No. 1150), to increase the number of green cards for parents of U.S. citizens, to extend the duration of the new parent visitor visa, and to make penalties imposed on individuals who overstay such visas applicable only to such individuals.

Sessions amendment No. 1235 (to amendment No. 1150), to save American taxpayers up to $24 billion in the 10 years after passage of this act by preventing the earned-income tax credit—which is, according to the Congressional Research Service, the largest antipoverty entitlement program of the Federal Government—from being claimed by Y temporary workers or illegal aliens given status by this act until they adjust to legal permanent resident status.

Whitehouse (for Coburn/DeMint) modified amendment No. 1311 (to amendment No. 1150), to require the enforcement of existing border security and immigration laws and Congressional approval before amnesty can be granted.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate prior to a vote on amendment No. 1311, as modified, and the motion to invoke cloture on the substitute amendment No. 1150, with the time equally divided and controlled between the two leaders or their designees.

If no one yields time, time will be charged equally to both sides.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I understand Senator COBURN will be here shortly and has some time set aside. He indicated he will yield some time to me. I will take a couple of minutes.

First, there are not any of my colleagues on the floor, but I assume the objection that was received last night to my request to dispense with the current business and make pending my amendment No. 1323 will still be in effect. I renew it, and if any change has been made with regard to it, I hope they will permit it, but I assume, based on what I know, that there is still an objection to bringing up that amendment.

I have quite a number of amendments, 10 or more amendments, that have been filed but cannot be made pending because it requires unanimous consent to move those amendments to pending status, and that means if cloture is granted later this morning, those amendments will not be on the list and cannot be given a vote.

I am not trying to run around and move something through to which I understand there is an objection, but I want to make the point that a number of Senators have a number of important amendments that are filed but cannot be made pending, and they will fall and not get a vote if we move forward with this premature cloture vote. So I strongly object to cloture. I believe it denies us the right to amend this bill which is seriously flawed.

I note that the particular amendment I want to bring up is named for Charlie Norwood, a Congressman from Georgia, who died recently. He was a tremendous patriot who shared my

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

concern. We worked together in drafting his amendment that was introduced in the House which was designed to clarify that local law enforcement officers have an opportunity to participate in enforcement of Federal immigration laws simply as they go about their normal course of duties. If they arrest someone for speeding or some offense of that kind, then they could check their records, and if they are here illegally, they could detain them for Federal officials.

Actually, in many instances, that is still doable today, but in a couple of areas it is vague. The lawyers for the departments have objected to their police officers participating because they think there might be a problem.

This is a critically important amendment. If it is not adopted, it indicates to me that the persons pushing this legislation do not want it to work because there are 600,000 to 800,000 State and local law enforcement officers and only about 1,200 ICE agents and only a fraction of them not on the border, 2,000, something of that nature of ICE agents. They cannot cover this country. They have to rely on State and local officers, who, by the way, caught individuals during their crime sprees or plans to attack us on 9/11. They were apprehended in traffic stops. John Malvo was apprehended. Other terrorists have been apprehended for speeding but let go because the local officers were not participating effectively in the system.

One of the weaknesses of this bill is that the professionals who understand how this system works were not invited and were not in the room with the people who wrote this political bill. A bunch of politicians wrote it. They did not understand sufficiently the details that are critical to a successful report.

I note that Kent Lundgren, former chairman of the National Association of Former Border Patrol Agents, has said this is a bill which will not work. ''Based on my experience,'' one individual said, ''it is a disaster.'' Another said that the system will not work as proposed today, that it represents, according to Mr. Hugh Brien, former Chief of Border Patrol for the United States from 1986 to 1989—this is what he said just a couple of days ago: It is a ''sell out.'' It is ''a complete betrayal of the Nation.'' He said it is ''a slap in the face'' to the millions of Americans who come here legally.

He came here as an immigrant legally. He was former Chief of the Border Patrol, and he made these strong statements about this bill.

I see my friend, Dr. COBURN, is here. I know he has an amendment. I am glad to have made my comments beforehand and I, once again, express concern that amendments are not being accepted, and we should not invoke cloture.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

AMENDMENT NO. 1311, AS MODIFIED

Mr. COBURN. Mr. President, I understand, as agreed upon, I will have 20 minutes to discuss amendment No. 1311, as modified. I call up my amendment, and in that 20 minutes, I ask unanimous consent that the Senator from Texas be given 1½ minutes of that time to speak.

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

Mr. COBURN. The amendment is pending?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. COBURN. Mr. President, I yield 1½ minutes to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am happy to wait until Senator COBURN is finished, and then I would like to be recognized for 5 minutes following his remarks.

The ACTING PRESIDENT pro tempore. That would exceed the amount of time allotted.

Mrs. HUTCHISON. How much time is allotted to our side?

The ACTING PRESIDENT pro tempore. Your side has 22 minutes 45 seconds.

Mrs. HUTCHISON. Mr. President, let me make an inquiry. I wanted to speak for 1 minute on the Coburn amendment and then for 4 minutes or so on cloture. Is the time allotted only for the Coburn amendment at this time?

The ACTING PRESIDENT pro tempore. There is concurrent debate on the Coburn amendment and cloture for which 1 hour is divided equally between the two sides.

Mrs. HUTCHISON. Mr. President, I say to the Senator from Oklahoma, it is my intention to speak against his amendment and then against cloture. I don't want to take from his time. That is not fair. So I ask the Senator from Oklahoma what is the allocation that he wishes to make?

Mr. COBURN. Mr. President, I was promised 20 minutes last night. I will be happy to try to finish my remarks in less than 20 minutes and give the Senator from Texas the remaining time.

Mrs. HUTCHISON. Mr. President, I appreciate that.

Mr. COBURN. Mr. President, the Coburn-DeMint trigger amendment—that is what this amendment is—is about setting right what has been promised since 1986. It is about requiring that the existing border security and immigration laws we have on the books today be enforced and that the fact they are being enforced be approved by Congress before the amnesty in this bill can be granted.

The Federal Government has an obligation to secure the U.S. borders and enforce U.S. laws. The American people expect that their laws will be upheld. If the U.S. borders are not secure and an estimated 12 million—of which 4.5 million or 5 million have overstayed their visas and make up part of this 12 million illegal immigrants in our country today.

The United States faces a history since the 1986 amnesty bill of being overpromised and undersold on immigration enforcement by their Government. The Federal Government has failed and has rightfully lost the trust of the people. How can the people trust that this time things will be any different than 1986? This is not about having welcoming arms; this is about the security of this country and the rule of law.

This amendment is the first step to help restore some of the trust Congress has lost. It says that before this bill can go forward, the President must demonstrate to Congress, and Congress must agree, that current laws are being enforced—laws that are on the books.

This amendment is common sense. If the agencies can demonstrate that U.S. borders are secure and immigration laws are enforced, then the American people have reason to believe that this time things will be different. They will demonstrate that compassion, once again, so often seen in the past.

What will the trigger do? This trigger is the legislative mechanism for ensuring that the Federal Government meets certain legal obligations before the process for legalizing illegal immigrants can begin. It is very simple. It will add to the current trigger amendment. It takes several provisions of existing law, laws that are on the books, and requires they be fully implemented before we grant amnesty or legal status to illegal aliens.

What are they? The Department must achieve and maintain operational control over the international maritime borders of the United States, as required by a law passed last year by 80 to 19 in this body—the Secure Fence Act.

All databases maintained by the Department with information on aliens shall be fully integrated, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act of 2002. That is not accomplished yet.

No. 3. The exit portion of the U.S. visa system is to be fully implemented, as required by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. That is not being enforced.

That the provision of law that prohibits States and localities from adopting sanctuary policies is fully enforced by section 642 of the Illegal Immigration Reform and Responsibility Act of 1996; that the Department employ fully operational equipment at each port of entry in accordance with section 303 of the Enhanced Border and Security and Visa Entry Reform Act of 2002; aliens with border crossing cards are prevented from entering unless their biometric card is matched to them, as required by section 1101(a)6 of Title VIII of United States Code.

How this trigger works. It requires the agencies that are responsible for

implementing these laws and the various portions of them to report to the President when they have been fully implemented, and that the President review the certifications and either approve or deny them. If the President denies the agency has fulfilled the requirement, according to the law, the President must instruct the agency on what to do and when to bring it up to date. Congress shall then, on an expedited basis, once the President has certified, review the report and pass a resolution affirming the laws have been enforced; that they have been implemented.

We are not ever going to gain back the trust of the American people on immigration until we do what we have already passed. It is not about not welcoming people, it is about the rule of law and understanding that only can they have a future if we maintain the rule of law.

Why is this needed? The Gregg amendment did several good things, but it didn't go far enough. It lacked two key elements. It did not require that existing laws be implemented and enforced. Why is it we are debating that existing laws should be enforced? We are ignoring existing laws. And the Gregg amendment did not require congressional approval.

A recent Rasmussen report found two-thirds of Americans believe it does not make sense to debate new immigration law until we can first enforce and control our border and enforce existing laws.

The bill is flawed because it allows those here illegally to adjust to legal status before any of the new or old enforcement provisions are made. It requires those who are here illegally become legal before we have control of the border. This is not about not wanting and admiring and accepting the work ethic of those who come here, but it says we must secure our border.

Remember Fort Dix, NJ? One out of three of those involved in Fort Dix, NJ, were terrorists who came in through our southern border.

This amendment requires before any illegal alien is allowed to adjust their legal status that Congress certify the Department of Homeland Security has operational control of the border.

The second problem: It creates a new temporary worker problem without first having a mechanism in place to verify that temporary workers and visitors leave when their visas expire. We are going to set up a whole new program and we cannot even tell you now when they have exited under the current U.S. visa law. It has never been implemented, the visa exit system. So we have a system that controls who comes into the country but no control over who goes out. You cannot have a temporary worker program if you don't know when they come in or go out under the existing proposed statute under this bill.

The U.S. visa exit component is key to the successful new temporary program. The system created in the 1996 bill for the U.S. visa program was supposed to be in place September 30, 1998. The deadline was changed to October 15 and then to March 30, 2001, except the exit portion has never been operational. It has never been implemented.

The third problem addressed: The American public does not trust we will enforce the laws we have; namely, they do not trust the enforcement provisions in this bill, such as the employer verification system, will be implemented. Congress continues to pass laws that do not get enforced and then does nothing to ensure they are enforced. Part of the purpose of the last amnesty was to enhance our enforcement so Americans could maintain sovereignty, as President Reagan put it.

Specifically, on November 6, when President Reagan signed into law the Immigration Reform and Control Act of 1986, he stated this legislation would help meet the challenge to our sovereignty caused by illegal immigration. He highlighted three provisions of the 1986 bill, including employer sanctions—nonexistent—to increase enforcement of our immigration laws, and legalization of those here illegally more than 4 years later. The amnesty happened, yet significant portions of employment sanctions and the increased enforcement measures have been delayed or, in some instances, never implemented.

Americans have a right to question whether things will be different this time. What this amendment will do is ensure that a employer verification system, required by the current trigger, is actually implemented and working properly before we grant legal status to those who are here illegally. It is not enough to allow Presidential certification; that will not likely be reviewed. We have that problem now. Congress must review, discuss, have hearings, and then publicly vote to certify that the provisions required in this bill, and by prior laws, are functioning. That is when we will regain the trust of the American people.

This amendment will provide the transparency and accountability to the public Americans want. Not only that, if the public views the enforcement mechanism as inadequate and not in compliance with our laws, they will be able to hold elected officials accountable at the voting booth.

The May 30, 2007 Rasmussen report revealed the public does not support or trust this immigration bill. Seventy-four percent do not believe illegal immigration will decline if the Senate passes this bill. Forty-one percent believe illegal immigration will increase, as we heard the group of retired Border Patrol agents state.

Interestingly, if those polled had a chance to improve the legislation, 75 percent would make changes to increase border security measures and reduce illegal immigration. Sixty-five percent of Americans are willing to accept a compromise on illegal status if you can assure them the rest of the laws are going to be enforced. This bill does not require that, and what they are going to get is the same thing they got in 1986.

What this amendment will do is to help improve enforcement at the borders. It will reduce illegal immigration, it will give the public confidence, and it will give elected officials the opportunity to vote on the status of where we are in terms of enforcing the law.

How did we get here? We got here through well-intentioned mistakes. We got here because we gave amnesty in 1986. We said we were going to have employer verification, and we told the American people the borders would be secure. What this amendment does is, it says: Fool me the first time, shame on you. Fool me the second time, shame on me. What this amendment does is assures the American people that this time, as we grant amnesty to those who came here illegally, it is not going to happen again.

There is no assurance in this bill that this is not a repeat of 1986. It is not about not being compassionate to those who are here and are contributing. It is not about saying no. As a matter of fact, 65 percent of the American people want to say yes, if you can prove to them things are going to be different this time. However, under this bill, there is nothing that will say things will be different.

I praise the people who worked on this bill, who put together this compromise. But I think history points us in a direction that says we have to have proof this time. We have to know if we do this again, with at least 12 million people, if we grant amnesty—and I know the President says it is not amnesty, but if you come here illegally and eventually are legal, that is amnesty—if we are willing to do that, this time the American people ought to have the assurance we are not going to do that again; that we are going to have an immigration enforcement policy, an employer verification system, an entrance and exit system, and border security that is going to make sure we don't repeat the mistakes of the past. I believe this bill needs a lot more work. I believe it has a lot of complications that are unforeseen, and complications that we are aware of at this time.

I wish to take a moment to thank the majority leader for allowing me this time, and Senator KENNEDY for working with me to allow me this time to talk about this amendment. I believe we have a critical problem in our country. The President's ratings are low, but our ratings are even lower. The trust of the American people in this institution is less than a third of the people in this country.

How do we build it up? We build it up by passing this amendment. We build it up by showing them we understand their concerns, we understand they are

willing to accept and allow people who came here illegally to live here as citizens and get on that pathway to citizenship provided we do the necessary things to not go back to this again. This bill is severely lacking in demonstrating that proof to the American people.

We have to build their confidence. We have to regain the trust of the American people that we will, in fact, this time do what is necessary to secure our borders and control our borders. We are at risk, as the discovery of the Fort Dix belated plan reflects, in terms of our own national security. So it is not all about immigration, it is about national security, and there is nothing in this bill that forces the President of any party who is in charge or forces the Congress to do anything different than we have done in the past.

I believe it is highly important we have this trigger mechanism for the assurance of the American people that we have a secure border; that we have a visa entrance and exit system that works; that we have employer verification that works; that those key things are intact before we grant legal status to those who are here illegally.

I say again I appreciate Senator KENNEDY working with me in allowing me the time to do this, and Senator REID for his graciousness for this time.

I yield to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. There is 6 minutes 15 seconds.

Mrs. HUTCHISON. I thank the Chair.

Let me say first I thank the Senator from Oklahoma for allowing me to have the rest of his time, and I don't disagree with one thing he said. I agree with his purpose. However, I have to oppose the amendment for this reason:

Last year, the House put in the Secure Fence Act specificity about exactly where the fence would go. There was no requirement that the local people, private property owners, cities that are right on the Rio Grande River would have any input whatsoever. I do not think Congress can say that the priority fencing is 15 miles on either side of the port of entry of Laredo. It might be 10 miles. We might be spending billions of dollars that are unnecessary putting in 15 miles. It might not even be possible to put it in certain places because of the geography and the topography.

We have an amendment in the underlying bill that does require local input so that Congress is not mandating, but, instead, the Border Patrol chiefs, who have been designated by the Department of Homeland Security, will make these decisions.

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

Mrs. HUTCHISON. I am happy to yield.

Mr. COBURN. Would that not negate the direction of the Secure Fence Act of last year?

Mrs. HUTCHISON. It would most certainly—it doesn't negate the purpose.

Mr. COBURN. No, no. I agree. But it would relieve that problem as you saw in the Secure Fence Act of last year, of 2006.

Mrs. HUTCHISON. Would what?

Mr. COBURN. Your underlying language would alleviate that problem in the 2006 Secure Fence Act?

Mrs. HUTCHISON. It doesn't relieve the specificity of miles of fence. It does relieve the specificity of exactly where it goes.

Mr. COBURN. So that would supersede whatever we had in the Secure Fence Act in my amendment?

Mrs. HUTCHISON. That is correct.

Mr. COBURN. So therefore your argument, I believe, is moot, because if you have that in the underlying bill, then that problem is solved and you should be able to support this amendment.

Mrs. HUTCHISON. Unfortunately, I am afraid the amendment overrules that minor revision in the Border Fence Act to which, frankly, I have to say to the Senator from Oklahoma, we had agreement from the leadership on both sides of the aisle in both Houses that we would take out that particular part. But the leadership changed, and we were not able to vote against and hold up the bill because it was the Defense supplemental bill to which that Border Fence Act was attached. To have held up the bill would have been to hold up our Defense supplemental, which of course overrode everything. That is why we waited to try to fix that minor part in this bill, which we have done and which would be undercut by the Coburn amendment.

I find myself having to oppose the amendment of the Senator from Oklahoma, even though in many ways I understand his purpose and agree with his purpose. Nevertheless, I must protect the rights of my constituents—cities and private property owners. We have to have the input from those local people, and the Border Patrol should be the ones deciding exactly where those fences are needed, not the Congress, most of whom have not ever visited Laredo, TX.

I do hope we can defeat the Coburn amendment and go forward with the bill—well, not go forward with the bill as it stands today but certainly with this part of the bill.

I would like to use the remainder of my time to talk about cloture because I am most certainly strongly against cloture on the underlying bill that is before us. Not that there isn't some good in this bill, but this bill is not ready to be closed out.

The good parts of the bill are the border security parts. Border security has specific benchmarks that must be met before the trigger is pulled for the guest worker program to go forward. That is a good part of this bill.

I added an amendment at midnight last night that shores up the Social Security protection in this bill. There was a loophole in the underlying bill that would have allowed people to gain Social Security credit for hours worked illegally, for days and months and years worked illegally. That would have hurt our Social Security system. We fixed that last night. That is a good part of this bill. There are good parts that need to be worked on to make this a better bill.

However, closing this bill out now would be worse than the present law today, or the present lack of law today. We have chaos in this country with the estimated 12 million, maybe even 20 million illegal people here. We know there are security lapses. We have to fix that. I respect very much the bipartisan work that has been done on this bill, but it is not yet ready. The 5-year sunset of the guest worker program is a killer. We could not possibly say that we are going to fix the chaos that happened after the 1986 act because there were not laws for a guest worker program that worked—oh, but it is only going to last 5 years. That would add to the chaos.

Mr. President, I ask unanimous consent for 1 more minute.

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

Mrs. HUTCHISON. I also wish to make sure I have the opportunity to propose an amendment that would take the amnesty out of this bill. I could never vote for cloture until we have the opportunity to address the amnesty issue.

My amendment would require every person who is seeking a Z–1 or Z-A visa, the people who are going to try to work in our country legally, to return home to apply from there. I think that would make a huge difference in this bill. It would take out the amnesty because it would say, if you are going to work in our country today or tomorrow or 2 years from now or 25 years from now, you will apply from outside the country to come in legally so we have control of our system.

I hope we can avoid the cloture so we can work on this bill in a positive, productive way and do what is right for our country today, tomorrow, and in the long term.

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

Mr. REID. Mr. President, we have worked long and hard on this piece of legislation. It is a very complicated bill, as it should be, because we have a complicated problem—that is immigration. We have come a long way since we started the debate on this matter. It is fresh in my mind what went on last year when we had the debate on an immigration bill that passed the Senate. Last year we worked long and hard. We had 23 rollcall votes prior to cloture. Seven amendments in addition to that were done by voice vote last year. Postcloture, we had 3 that went by voice, there were 11 that were voted on.

This year we have had 28 rollcall votes on amendments. We have had 14 amendments by voice, a total of 42 amendments. So we are way ahead of where we were last year.

I understand that people were concerned yesterday about not having enough amendments. I think everyone had an opportunity to offer amendments. But it is interesting—we had people who were saying: This amendment that passed is a deal breaker. On the other side: We had an amendment that passed that is a deal breaker. So I guess whether a bill is improved is in the eye of the beholder because there was certainly disagreement about what improved or didn't improve the bill. I also think it is interesting people agitated for amendments and then, when the vote didn't go their way, they were upset.

This is a bill we have pushed down the road a long way. I hope we can finish it. I spoke last night—I don't know what time it was, it was 4:30 a.m. European time. I called to see if Mr. Bolton, the President's Chief of Staff, was with the President. He was. I didn't want to disturb him at that time of day. But I did have a good long conversation with the Secretary of Homeland Security, Judge Chertoff. That was 10:30, 11 o'clock last night. I explained to him how this legislative process works. He asked me to go over it with him again because he wanted to make sure he understood it.

I told him, as much as any piece of legislation we have had here—other than the supplemental appropriations bill this past 6 months—this is the President's bill. He has worked long and hard. He has had Cabinet officers working with Democrats and Republicans to come up with a bill, the so-called compromise. Some call it a grand compromise, but it is at least a compromise. I told him the vast majority of Democrats want this legislation to move forward. I think someone should get word to the President that, if this bill goes down with the vast majority of the Democrats voting for this action to move forward—if the Republicans vote against it, he and I discussed what the headline is going to be. The headline is going to be: Democrats Vote To Continue This Bill, the Republicans Vote Against It—The President Fails Again.

I don't think that is good. I think we need to show we have the ability to work with the White House.

I know there are some people who would like us to stay on immigration for the rest of this work period. We have 3 weeks left. It would make some people as happy as larks to be able to spend the rest of this work period on immigration. Why? Because some don't want us to go to the next two matters we are going to have to deal with.

No. 1 is energy. When we went home during the Memorial Day break, there were two things people wanted to talk to me about. One of them wasn't immigration. The Iraq war and gas prices, that is what people wanted to talk about wherever I went. I spent a lot of time in Nevada, but I traveled to other places in the country. It was the same there: Iraq, end this war, and do something about these gas prices.

We are going to take up energy. That will be what we do after we do the immigration bill. So I know some people don't want us to go there. After we finish that, we have the obligation to do, for our military and our country, a Defense authorization bill. Again, there will be a debate on Iraq. I am sure some will want to talk about timelines. I am sure some will want to talk about readiness. I am sure there will be people wanting to talk about transitioning the mission. Maybe there will be some efforts to do away with the original authorization of the war. I don't know for sure. That is an issue some people would just as soon we stay away from.

I know people would like us to stay on this forever, but the question is, When is enough enough?

Mr. President, I ask unanimous consent that the cloture vote be delayed to occur today at 5 p.m.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Reserving the right to object—there is objection on this side of the aisle to moving the cloture vote to later today. Let me repeat publicly what I have said earlier, both publicly and privately, to my good friend the majority leader.

Republicans are going to need more amendments. We have had 12 rollcall votes on our side of the aisle on this bill to date. I think, at a very minimum, we need to have the same number of Republican rollcall votes on this bill we had last year. I think we can get there. We are not going to get there by shutting off additional important and worthwhile amendments on this side of the aisle. But it is certainly not my goal to not get this bill to passage, provided we have fair treatment on this side of the aisle.

I do think we made progress last night. I think we can make a lot of progress today. But we are not there yet. So I wish to make it clear that I urge a ''no'' vote on cloture, shortly. But again, having said that, I think we have a chance to get enough amendments processed to possibly finish this bill in the near future.

Therefore, Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, I am disappointed because, as I indicated, last year we had 14 votes postcloture. But I have learned a little bit about this place, that sometimes you have to do indirectly what you cannot do directly. It makes so much sense that, if people want more amendments, it would be wise to agree to our suggestion that we put over the cloture vote to later this evening. We could process amendments during that time and have a cloture vote tonight.

I understand there is going to be an objection, but I am going to do indirectly what I can't do directly. That is, everyone should know, if cloture is not invoked this morning—if the Republican leader says he is going to recommend to all his folks that they vote no on cloture, I am sure cloture will not be invoked. But everyone should know, we are going to have another cloture vote this early evening. We are going to process as many amendments, in the meantime, as we can. I hope there could be some more work done on what other amendments postcloture; that is, germane amendments. I know of a couple that are germane. I have told people they can have votes on those. I repeat what I have said on this floor several times, what I have told the managers of the bill and I have told individual Senators: We are not going to block, as we can do, procedurally, votes on the germane amendments that are postcloture. We are going to go ahead and process as many of those as we can reasonably do. If we have to spend the 30 hours doing it, we will. Otherwise, we will get a list of amendments that the Parliamentarian will determine are germane, and we will set up a period of time to vote on those and move on.

So I would hope that everyone understands that if cloture is not invoked, we are going to go ahead, and I will get on the right side of the issue, as we have to do here procedurally, to have the ability to bring this up early evening time. During that period of time, I hope the people who feel they have not had enough amendments are assuaged and we can go ahead and have a cloture vote and move forward. I had a member of our caucus explain it this way, Mr. President. She said: It is like running a marathon. I told her afterward that I was envious that she had thought of this and I hadn't because I have run a few marathons. She described it so well. It was Senator CANTWELL from Washington. She said: You know, about the 22nd-mile mark, you are really tired, and you think, maybe I should have quit earlier. But I can see the end up here now, and I am going to go ahead and finish the race.

That is how I feel. There are times during this debate that I feel we would all be better off having walked away from it. It was hard. All of these phone calls coming into our offices, people accosting you as you walk out of the building, lobbying groups for and against this. But we have withstood that. Now, as Senator CANTWELL said, I think we may be about at the 24-mile mark.

As with a marathon, Mr. President, there are times when you are running a marathon that you feel euphoric—I feel so strong, I am out here alone, I am able to travel those miles—and then, just like that, it can change. Well, the euphoria is gone. The determination is here. I think we need to complete this marathon. So I am disappointed we are not going to have cloture today. But everyone should know we will have cloture again later on in the day.

I ask unanimous consent, Mr. President, that the cloture vote on the bill be delayed to occur only if the substitute amendment is agreed to.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. I know the manager of the bill is here. The two leaders have used a lot of time. If you would like us to extend the time—OK. We can go right to the amendments. Thank you for being so patient.

Mr. President, I ask unanimous consent that there be 2 minutes of debate equally divided before the cloture vote.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, what is the time? When are we going to have the Coburn vote, and when is the cloture vote? How much time are we allocated?

The ACTING PRESIDENT pro tempore. There is 17 minutes remaining to the Senator from Massachusetts. There will then be a vote on the Coburn amendment and then the vote on cloture, with 2 minutes prior to cloture.

Mr. KENNEDY. Mr. President, I am not sure we will need all of the 17 minutes. I think we had initially planned to vote close to the hour. I think that is very possible.

I thank Senator COBURN for raising these issues. These issues which are included in his amendment are not greatly dissimilar from the measures in terms of adding additional what we call ''triggers'' to the legislation.

Let me just go back a step and relate why we have real reservations about the Coburn amendment. When we examined the broken immigration system—and we have had scores of hearings in the immigration committee and the Judiciary Committee—what was offered on a number of different occasions said: We can solve our problem just by building a fence in the southwest border or just by having strong security in the southwest border. It is 1,800 miles down there, and we can fence off different areas and then use different kinds of technology, and that is going to solve the challenges we are facing with immigrants coming across the border.

As we continued on through the course of the hearings, we say that in and of itself will not work. As Governor Napolitano said, if we just put a fence down along the southwest border, you put a 40-foot fence in, there are going to be 41-foot ladders that are going to come over that.

What you need to do, as Governor Napolitano and others testified, including the Secretary of Homeland Security, who said: You need to have a comprehensive measure. You have to have a comprehensive measure if we are going to secure the borders. We need to have a comprehensive measure, which means we have to do all we possibly can to secure the borders by the latest in technology, and I will mention that in a moment. But, also, if we are going to secure those borders, we are going to have to recognize that there is going to be pressure even on those borders. So we have to organize and structure some kind of way for people to come in the front door. Otherwise, they are going to go over the back door, which means they are going to scale the various fences.

We say: No, we want to protect American workers. So we worked out an elaborate program to make sure that anyone who is going to come into the United States through the front door is not going to displace an American worker. We worked out a process and a system to make sure there are no American workers who want to take that job, there are only those who want to come in to be able to work in those areas. We have gone through that in the course of the debate.

But you need not only that—if you want to make sure you are not going to still have some leakage in there, you are going to have interior enforcement. You are going to have it in the employer situation. You have to have that. Otherwise, we are going to go back to what has been roundly criticized here, and legitimately so—1986. So you have to have important interior enforcement in the workplace. So we had to include those provisions in this legislation as well.

Then, if you are really going to have some kind of opportunity to make sure you are going to look out after the national security interests of the United States, you are going to have to know who is here, not that you are just going to have millions of people living in the shadows—we do not know their names, we do not know their addresses, we do not know where they are living—we have to bring them out. To bring them out, we cannot just do that, bring them out automatically, because they have broken the law. So we worked out a system where these individuals pay heavy fines, and effectively they will go to the back of the line. So anybody who has been trying to get in here legally will be able to do so before they will have any kind of opportunity to move ahead toward effectively normalizing their lives and moving on to the opportunity for a green card.

So it became very apparent that all of these elements work and work together, and if we accept the Coburn amendment, we are interrupting this whole kind of a process. What we have heard time and time again is that if you interrupt this process, then you have a breakdown in the whole kind of condition and you are going to be inundated with the undocumented aliens.

We want to stop the Border Patrol—highly trained, highly committed, highly dedicated individuals—from chasing after landscapers across the border. We want them to be looking after terrorists and the criminal element, right? Right. Therefore, you have to make sure you are going to have the other aspects of the security measures put in place. What does that mean? That means internal security. But the Coburn amendment suspends that program, suspends the interior security in terms of the employers hiring the undocumented aliens. With that, it is a continuation of a broken and a failed system.

I would just say finally that this proposal, in terms of our security interests, may not be perfect, but it does provide the 20,000 additional agents, it does provide 200 miles of vehicle barriers, 370 miles of fencing, 70 ground-based radars and cameras, four unmanned aerial vehicles, detention rather than catch-and-release programs, and many other kind of features.

We have followed what has been recommended by the Department of Homeland Security to get the best security we could. But the idea that we are going to suspend some of those elements which have been intertwined—and as Secretary Chertoff said very eloquently: You need them all. I appreciate the fact that the good Senator from Oklahoma says: Well, let's hold certain parts back until we get everything in place. Our answer is: You better start getting everything in place if you really want to have a secure border.

I withhold the remainder of my time and yield 5 minutes to the Senator from Mississippi.

Mr. LOTT. Mr. President, first, let me yield to the Senator from South Carolina, who has a unanimous consent request to make. I yield for that purpose.

Mr. DEMINT. Mr. President, I am speaking on behalf of Senator GRASSLEY, who I understand last night got an agreement that he could bring up 10 of his amendments this morning. I am not here to speak on them but just to give the numbers and to bring them up, as was agreed last night.

Mr. Presdient, if I can request from Senator KENNEDY that I just read off those amendment numbers.

Mr. KENNEDY. If the Senator would yield on my time, that is the intention of the leadership. What we would like to do is try to work out these groups of amendments with the Republican leadership. We intend to do that as soon as we get to the beginning of the vote. Rather than make that judgment at this particular time, we would ask if the Senator would defer. We will work those out. Obviously, we are going to work them out with the Republican leaders because we have been instructed to cooperate, to work and do as much as we possibly can during the day. I know our leader has given those assurances to the Senator.

I am just reluctant to shortchange the process now. But I will certainly work with the Senator during the course of these votes here and do the best we can, and he, obviously, can preserve his rights for later in the morning.

Mr. DEMINT. I thank the Senator. Senator GRASSLEY understood that these could be brought up before the cloture vote. I will certainly defer to our leadership to work these in, but our commitment to him is that we bring them up before cloture.

Mr. LOTT. I reclaim my time. I thank the Senator from South Carolina for doing that and assure him and Senator GRASSLEY that we are going to protect Senator GRASSLEY's interests and that he will be part of the discussion.

Let me just talk about where we are. You know, when you have the legislative process in full bloom in the Senate, it sometimes is bumpy. Of course, last night we proved once again the absolute rule that if the Senate is in voting, you know, at midnight or 1 o'clock, we are going to mess up. It happens every time, and yet leaders continue to do it. I used to do it. It is one of the dumbest things we do around here. But, look, this is a part of the process. This is a worthwhile effort.

If anybody in America likes where we are with illegal immigration, and legal immigration, if they think what we have now is good or tolerable, fair or responsible, then, fine, let's try to kill this bill—kill it with amendments, kill it with debate, vote it down. I don't think that is responsible. This is one of the biggest issues facing this country, and the question is, Do we have the courage, tenacity, and the ability to get anything done anymore? If we cannot do this, we ought to vote to dissolve the Congress and go home and wait for the next election. Can we do anything anymore?

I don't like a lot of these amendments. I don't like a lot that is in the bill. I was in and out of the meetings, but I was not one of the people who worked in the so-called ''grand bargain.'' Some people are acting now as if it was a sinister operation. I don't believe so. Everybody knew there was an effort under way. Republicans were involved, Democrats were involved, the administration was involved, conservatives, liberals, agriculture—everybody. Now we are going to pick it to death. I just don't think this is responsible.

I am getting calls. But I would say to my constituents: Do you have no faith in me after 35 years that I am just going to buy a pig in a poke here or be for something that is bad?

Last year, I voted against what we came up with because I did not think it got better; it got worse. But we have an obligation to try, and we should not get all in a twit because we made one mistake or we don't get the one we wanted. Look, I voted for amendments that passed and amendments that failed. Get over all of that. This is a big issue. This is the U.S. Senate, the great deliberative body. Are we going to belie that description or are we going to step up to this challenge and try to get it done right?

We should vote down cloture now. Cloture should not have been filed. You can't ram the Senate. You can't ram the minority around here. It just will not work. All it does is make people get madder, and it takes longer.

So we are going to have a vote on cloture, and we are going to defeat cloture because more amendments are legitimately pending. But I am serving notice that I am going to be a part of trying to help to find a way to get to a conclusion, to a vote. Vote it up. Vote it down. But to try to kill it with all of those amendments that are being thrown up here for the purpose of killing it, to me, is not an appropriate way to proceed.

Our leaders work through difficult times. They are being pulled and pushed by members on both sides. This is the time where we are going to see whether we are a Senate anymore.

Are we men or mice? Are we going to slither away from this issue and hope for some epiphany to happen? No. Let's legislate. Let's vote. I think the majority leader has a right to expect that at some point we end it, try to cover as many objections and as many amendments as we can. But at some point we have to get this done.

Unfortunately, the idea that then we are going to go to a debate on a nonbinding, irrelevant amendment by Senator SCHUMER, if we defeat this legislation, if we fall off into that kind of character debate on a nonbinding resolution—we are fixing to drop off into a basement we haven't been in in a long time.

I urge my colleagues, let's step back from the precipice. Let's legislate. Let's find a way to take up things. Do we need to take up energy? Yes. We need an energy policy. We need it now. But can we do it? I want to be a part of a process that gets results for the American people. I don't know why else you would want to serve in this institution.

I appreciate the legislative leadership Senator KENNEDY has been providing. I know it is not easy. His own colleagues and those of us over here have been beating him up. He is a nice poster child, and I thank him very much for what he does. One thing I have learned the hard way: when it comes to legislating, when you are dealing with Senator KENNEDY, you better bring your lunch because you are going to get educated. You are going to learn a lot, and you are going to get a result. Hopefully, it is going to be a good one. Good luck.

Mr. KENNEDY. And a dinner too. I thank my friend from Mississippi, and I commend him for a constructive and positive attitude. Those of us who know him and respect him know that he is a fierce fighter for his values, but he also is an institutionalist. He understands the responsibilities of this institution in dealing with the Nation's challenges.

How much time remains?

The PRESIDING OFFICER (Mr. BROWN). The Senator has 2 minutes 30 seconds.

Mr. KENNEDY. Mr. President, there are going to be few issues that come before the Senate that are more important than immigration reform. Our immigration system is broken. This is a national security issue. It is an internal kind of security issue. It is basically also a fairness and humane issue about how we are going to treat each other. It involves all of these factors. We are going to have a cloture petition that is going to be filed. There is no sense or expectation that it will be a defining moment because we have heard now that it will not be achieved. But we have every intention of continuing today, Democrats and Republicans, working all day long and into the early evening responding to some of the questions and issues that have to be raised. We will do our very best, as we did until midnight last night, all through yesterday, to give opportunities for Members to introduce amendments and get an expression by the Senate because the country expects us to take action.

I am convinced with the goodwill that has been expressed this morning, we have a real opportunity to see the beginning of a light at the end of the tunnel. Hopefully, by late afternoon we will have a clear direction about where we are going.

I thank the leadership for all it has done. I hope the Senate will reject the Coburn amendment.

We will have the cloture rollcall now, and since we can certainly assume it will not be enacted, we will announce a series of votes, and we will continue to move forward on the legislation over the course of the day.

I yield back the remainder of my time. Is the vote on the Coburn amendment first?

The PRESIDING OFFICER. It is.

Under the previous order, the question is on agreeing to Coburn amendment No. 1311, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''no.''

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—42

Alexander	Crapo	McConnell
Allard	DeMint	Nelson (NE)
Baucus	Dole	Pryor
Bayh	Dorgan	Roberts
Bond	Ensign	Rockefeller
Bunning	Enzi	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hatch	Snowe
Cochran	Inhofe	Stabenow
Coleman	Isakson	Sununu
Conrad	Landrieu	Tester
Corker	Lott	Thune
Cornyn	McCaskill	Vitter

NAYS—54

Akaka	Feingold	Menendez
Bennett	Feinstein	Mikulski
Biden	Graham	Murkowski
Bingaman	Hagel	Murray
Boxer	Harkin	Nelson (FL)
Brown	Hutchison	Obama
Brownback	Inouye	Reed
Byrd	Kennedy	Reid
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Kyl	Schumer
Casey	Lautenberg	Specter
Clinton	Leahy	Stevens
Collins	Levin	Voinovich
Craig	Lieberman	Warner
Dodd	Lincoln	Webb
Domenici	Lugar	Whitehouse
Durbin	Martinez	Wyden

NOT VOTING—3

Johnson	Kerry	McCain

The amendment (No. 1311), as modified, was rejected.

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes of debate equally divided prior to a vote on the motion to invoke cloture.

Who yields time?

The Republican leader is recognized for 1 minute.

Mr. MCCONNELL. Mr. President, I said earlier this week that Republicans would not allow themselves to be stuffed on this bill. The Senate isn't a factory. We don't push things down the line. But one has to wonder whether the Democratic majority has been told otherwise based on the number of times it has moved to stifle debate on important legislation over the last 5 months.

Let's look at the last Congress. On this date in the 109th Congress, Republicans had sought to limit debate only nine times. On this date in the Congress before that, Republicans had filed for cloture nine times. On this date in the Congress before that, Republicans had filed for cloture only two times.

Contrast that with the current regime. To date in this Congress, the Democratic leadership has sought to cut off debate not two times, not nine times, but 32 times.

This is what is called a power grab. But the result won't be power, it will be failure. At this rate, the Democratic leadership will have achieved at least one impressive thing—just one—in the 110th Congress: an all-time record for cloture filings because it is well on pace to shatter the existing record.

There is a saying about courtship: Shoot for two, end up with zero. So far, this would be a fitting epitaph for a Congress that has sought to do much but has accomplished little.

Republican patience was wearing thin before we took up this bill, and we said so, repeatedly. The Democratic leadership knew on a bill of this magnitude, Republicans would do more than complain about it. We would insist that minority rights be honored. They weren't. For this reason I will oppose cloture on the bill and encourage my colleagues to do the same.

Democrats and Republicans have said from the outset that this bill would only pass if it was a bipartisan effort. Once it hit the floor, that meant minority Members would have the chance to be heard through a fair and full amendment process. That is the way to fix this bill.

Mr. REID. Mr. President, I think the distinguished Republican leader has outlined the problem, the problem that exists with the Republicans in the Senate.

The reason there weren't a lot of cloture motions filed in the last Congress is, as the distinguished Republican leader has pointed out, we believed in legislating, not delaying. Most of the motions that have been filed regarding cloture have been on motions to proceed to bills—dilatory tactics by the Republicans—and it is very frustrating to them that in spite of that—in spite of that—we have been able to accomplish much, including ethics lobbying reform, minimum wage, 9/11 Commission recommendations. We did the budget. We were able to do the continuing resolution. We did stem cell research. We have done some very good work, and we are going to continue to do that.

We have spent a lot of time on the Republicans delaying what the American people want us to do, and that is legislate. In spite of that, we were able to move on and do some significant legislating, as we are going to continue to do.

As I said this morning, we want to finish this legislation in a positive vein. The minority said they wanted more amendments. They got more amendments. We don't know if there is a magic number, but we will work and make sure—I think we are in the process now of lining up four amendments on each side. We should dispose of those fairly quickly. I have indicated that we are willing to do whatever is necessary postcloture to take care of as many of the postcloture germane amendments as we can. We are happy to do that. This is very important.

I spoke last night to the Secretary of Homeland Security, one of the people who represented the President in these negotiations. This bill that is on the Senate floor is not a Democratic bill. It is a bill that has been worked on by Democrats and Republicans in cooperation with the President of the United States and his people. My message to Secretary Chertoff last night was that—it seems a little unusual to me when we have worked so hard and we have offered opportunities for all of these amendments, and we are going to offer more. My message to him is, why in the world would anyone object to delaying the cloture vote? But that is what has happened.

I think that is unfortunate because I told the Secretary of Homeland Security, Judge Chertoff, the message in the newspaper is going to be: Democrats Support Cloture to Continue Debate on Immigration; Republicans Oppose It—President Bush Fails Again.

Let's have some successes around here. We need to work with the President. He needs to work with us. Here is a way that it can be done.

I know there are people who want us to stay on this bill for the rest of this work period, but we have other things we need to do that some do not want us to work on. When we went home for our Memorial Day break, what were the issues people talked about more than anything else? Ending the war in Iraq and gas prices. So when we finish this, we are going to move on to energy—gas prices. When we finish that, we are going to move to the Defense authorization and again have a debate on ending the Iraq war. I know people don't want us to do that, but we need to do that. That is what the American people want us to do.

So I cannot accomplish directly what I think should be done, and that is have a cloture vote that is successful right now. But I can do indirectly what I can't do directly. If the cloture vote doesn't succeed, I will change my vote so I will be on the winning side, and I will bring up the cloture vote later today. We are going to continue working this bill.

As my friend, the distinguished junior Senator from Washington said this morning in a caucus we had, she said: You know, what we have done here is like a marathon. When you run a marathon, you run 22 miles, you have 4 miles more to go, and you look back and think of all the times you wanted to quit, but right now, as tired as you are from running a marathon, you can see the end.

The race is up there and we need to continue. This is a marathon. We owe it to the American people to move forward on this legislation to improve a broken system. That is what we are trying to do. I hope my Republican colleagues vote for cloture. If they don't, they will have another opportunity later today and, hopefully, we can process some amendments in the interim.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, one of the pressing items the distinguished majority leader failed to mention was he filed cloture on the motion to proceed to a motion that would allow us to express our views about the appropriateness of the continued service of the Attorney General. There are plenty of people around here who have had something to say about that. There have been hearings about it, calls for resignation. The distinguished majority leader wants to use up floor time,

precious floor time in the Senate so that we can express ourselves on the Attorney General's service, something each of us could do individually at any point we want. That is not exactly a pressing item.

If we want to finish this bill, the message is clear. There needs to be at least as many Republican rollcall votes this time as last year. The way to do that is not to invoke cloture and try to stuff the minority, as has been done 32 times already this year. The way to do that is to process amendments, make it possible for amendments to get pending, continue to discuss them, finish the bill when we get to an appropriate level with our amendments that produces a degree of comfort on this side of the aisle that we have had an adequate opportunity to express ourselves on probably the most important issue we will deal with in this entire Congress. This is no small matter. It is a big issue, a big problem, and it requires broad bipartisan cooperation to bring a bill such as this to a conclusion. Therefore, I urge a ''no'' vote on cloture.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have a lot to say about the failed Attorney Generalship of Alberto Gonzales, but this is not the time to do that. I may not have that opportunity because the only issue that will be before the Senate is a simple vote on a motion to proceed. If the minority does not wish to proceed to have a vote of confidence on him, it will not happen. If there were ever an opportunity for a legislative body to speak about what is going on in the administrative branch of Government, it is with what is happening in that Justice Department.

All you need to do is read the newspaper today to find out what is going on in that Justice Department. Should we have confidence in Alberto Gonzales? I don't think so.

But we are on immigration. This is a day for getting along. I am going to do the best I can to get along, and I hope everyone will do that and continue to work on a bipartisan basis to move forward on immigration.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 1150 to Calendar No. 144, S. 1348, comprehensive immigration legislation.

Harry Reid, Jeff Bingaman, Dick Durbin, Charles Schumer, Daniel K. Akaka, Jack Reed, Mark Pryor, Joe Biden, Amy Klobuchar, Daniel K. Inouye, Herb Kohl, H.R. Clinton, Evan Bayh, Ken Salazar, Debbie Stabenow, Frank R. Lautenberg, Joe Lieberman.

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

The question is, Is it the sense of the Senate that debate on Senate amendment No. 1150, an amendment in the nature of a substitute offered by the Senator from Nevada, Mr. REID, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 33, nays 63, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—33

Akaka	Feingold	Menendez
Bayh	Feinstein	Mikulski
Biden	Harkin	Murray
Brown	Inouye	Nelson (FL)
Cantwell	Kennedy	Nelson (NE)
Cardin	Klobuchar	Obama
Carper	Kohl	Reed
Casey	Lautenberg	Salazar
Clinton	Leahy	Schumer
Dodd	Lieberman	Whitehouse
Durbin	Lincoln	Wyden

NAYS—63

Alexander	DeMint	McConnell
Allard	Dole	Murkowski
Baucus	Domenici	Pryor
Bennett	Dorgan	Reid
Bingaman	Ensign	Roberts
Bond	Enzi	Rockefeller
Boxer	Graham	Sanders
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hagel	Smith
Byrd	Hatch	Snowe
Chambliss	Hutchison	Specter
Coburn	Inhofe	Stabenow
Cochran	Isakson	Stevens
Coleman	Kyl	Sununu
Collins	Landrieu	Tester
Conrad	Levin	Thune
Corker	Lott	Vitter
Cornyn	Lugar	Voinovich
Craig	Martinez	Warner
Crapo	McCaskill	Webb

NOT VOTING—3

Johnson	Kerry	McCain

The PRESIDING OFFICER. On this vote, the yeas are 33, the nays are 63. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII the clerk will report the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 144, S. 1348, comprehensive immigration legislation.

Harry Reid, Jeff Bingaman, Dick Durbin, Charles Schumer, Daniel K. Akaka, Jack Reed, Mark Pryor, Joe Biden, Amy Klobuchar, Daniel K. Inouye, Herb Kohl, H.R. Clinton, Evan Bayh, Ken Salazar, Debbie Stabenow, Frank R. Lautenberg, Joe Lieberman.

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

The question is, Is it the sense of the Senate that debate on S. 1348, a bill to provide for comprehensive immigration reform, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Michigan (Mr. LEVIN) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 34, nays 61, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—34

Akaka	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Brown	Kennedy	Obama
Cantwell	Klobuchar	Reed
Cardin	Kohl	Salazar
Carper	Lautenberg	Schumer
Casey	Leahy	Whitehouse
Clinton	Lieberman	Wyden
Dodd	Lincoln	
Durbin	Menendez	

NAYS—61

Alexander	Dole	Pryor
Allard	Domenici	Reid
Baucus	Dorgan	Roberts
Bennett	Ensign	Rockefeller
Bond	Enzi	Sanders
Boxer	Graham	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith
Burr	Hagel	Snowe
Byrd	Hatch	Specter
Chambliss	Hutchison	Stabenow
Coburn	Inhofe	Stevens
Cochran	Isakson	Sununu
Coleman	Kyl	Tester
Collins	Landrieu	Thune
Conrad	Lott	Vitter
Corker	Lugar	Voinovich
Cornyn	Martinez	Warner
Craig	McCaskill	Webb
Crapo	McConnell	
DeMint	Murkowski	

NOT VOTING—4

Johnson	Levin
Kerry	McCain

The PRESIDING OFFICER. On this vote, the yeas are 34, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote on which cloture was not invoked.

The PRESIDING OFFICER. The motion to reconsider is entered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent that I be recognized at any time today when I return to the floor.

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

Mr. REID. So it doesn't frighten people, the only reason I intend to do that is because we are working on a unanimous consent agreement now, and Senator DODD can speak or Senator SESSIONS can speak or whoever wants to talk—they can do that. At least we can get the consent done. What we are working on now is to have three Republican amendments, three Democratic amendments. I hope we can get that done very quickly.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I wish to make a few comments on the process and the substance of the bill. I will take a few minutes, I alert my colleagues.

This is one of the most complex pieces of legislation that has come before the Senate. There have been months and months of negotiations. I was part of those negotiations, at least on the Republican side, trying to put a bill together with some good, solid principles that would help fix our immigration problem because I think most people agree that the immigration system in this country is broken.

We now find ourselves deep into this process—but certainly not all the way through the process—because of the complexity of the issues we are dealing with. Yesterday afternoon a bipartisan group of folks sat down to discuss several of the issues. The more you talk about this bill, the more you realize that when you fix one problem, it creates another problem or problems. For example, have you fixed the problems with the Z visa program and the problems with the temporary worker program? Have you fixed the problems related to when folks are going to leave the country? Especially with the temporary worker program, is there going to be a strong and reliable exit visa system in place so you know that when temporary workers' visas expire they are actually going to exit?

That is easy to do, as we found out yesterday, in airports. It is much more difficult to do when it comes to land based exits. But we do have to design a system that is strong and effective. Otherwise, this temporary worker program will result in millions of people staying here illegally in the future.

What we have been arguing for on this side is to make sure we get this right. It is too important a piece of legislation to rush it through the Senate because of other priorities. Right now, I do not think that the American people believe there is an issue with much higher priority than fixing our immigration system. The system literally is broken, and we have to design an immigration system that is good for America.

In the long run, we want to be a welcoming country, a land of immigrants, but also a nation of laws, where people respect the rule of law.

I have several amendments I would like to get offered before debate is shut down on this bill. What fixes there are in this bill, as far as whether people who are here illegally get Social Security, but these fixes do not go far enough. On this topic, I have an amendment that actually would fix the Social Security problem.

When we began negotiating this bill, at least amongst Republicans, we said to the American people that if the foreigners who are now here illegally are going to get a chance to get a green card and eventually citizenship, they must not be put at the front of the line. I have heard it argued, that such illegal immigrants are not put at the front of the line. That is because there was a little sleight of hand done. They actually got their own separate line. So you have people legally applying for a green card from outside the country over here. The folks who are here illegally today, they have their own separate line. They only compete amongst themselves. But anybody here illegally today, who can prove they have been here before the first of the year, is virtually guaranteed a green card, while those waiting outside the country literally can take years, if not decades to receive the same status.

Regarding the merit-based system that was put into the bill, I have another amendment that would say to Z visa holders: You can stay here. But if you want to get a green card and eventually citizenship, you would get in line with all of the other merit-based immigrants who seek that same goal. Not at the front of the line, not at the back of the line, the Z visa holders would get in line with everybody else who is applying for a green card. Then whether an applicant received a green card would be decided based on merit. It is a reward system. Merit is not just whether you have an advanced degree or not. Merit means you have had a steady job. Merit means health insurance. Merit means you have learned English and learned it well, taken an American civics class and learned what America is about.

We should apply the same standards to the Z visa holders that we are applying to the rest of the folks who are applying for green cards and eventually citizenship from outside of the United States.

As we are going through this afternoon, we are trying to figure out how many amendments would be fair. The bottom line is what is fair is to get a good bill that will fix the immigration system for the United States; not to just have a process where we look like we have a certain number of amendments but actually where we design a bill we can all be proud of. Right now there are still very serious flaws with this bill.

I will not take up any more of my colleagues' time, but I wished to say a few words about the process and about how important it is to get this bill right for the present and the future of the United States.

I yield the floor.

AMENDMENT NO. 1199

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, my amendment prevents this bill from dividing millions of families by making it easier for U.S. citizens and their parents to unite. I offer it with the cosponsorship of my good friends, Majority Leader Senator REID and Senator MENENDEZ.

The amendment has also been endorsed by over 25 organizations including the American Jewish Committee, the National Council of La Raza, the Episcopal Church, and the U.S. Conference of Catholic Bishops.

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

This amendment does three things. First it increases this newly established cap from 40,000 to 90,000. 90,000 is the average number of green cards issued to parents each year. Last year, however, 120,000 parents entered the U.S. on green cards. If this bill is really serious about eliminating backlogs, then it ought to set practical caps. It is not the place of the Congress to tell American citizens to wait a year or two or three or more to see their parents.

Second, it extends the newly created temporary parent visitor visa from 30 to 180 days. To think that a parent can only be with his child or grandchild for 1 month out of 12 is simply unacceptable. Yet under this provision, a tourist can be in America six times longer than the parent of a citizen. That is not the America I know; nor is it an America that cherishes family values. Parents must be allowed to stay with their families for longer.

Third, this amendment prevents collective punishment for parent visitor visa overstays. Under this bill, if the overstay rate exceeds 7 percent for 2 years, either all nationals of countries with high overstay rates can be barred or the entire program can terminated. This type of collective punishment is wrong and unjust. We should not punish law abiding people because of the misdeeds of others.

My amendment does not strike at this bill's core; nor is it a partisan

issue. It is one of basic fairness to our fellow citizens. I especially reject the notion that imposing such excessive restrictions are necessary to reduce ''chain migration.'' The fact is that once parents of citizens obtain visas, they usually complete the family unit and are not likely to sponsor others.

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

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

I know that the distinguished ranking member of the Judiciary Committee, Senator SPECTER, may raise a question with respect to how the Dodd-Menendez amendment is currently drafted, arguing that by upping the subceiling on parent immigrant visas from 40,000 to 90,000 annually, my amendment introduces discretion to the Department of Homeland Security in deciding what to do on issuing family immigrant visas among the subceilings as we get close to the annual cap of 567,000 contained in the bill.

I would have preferred to raise the overall 567,000 annual cap currently in the bill by the additional 50,000—the increase my amendment provides for the parent immigrant visa subceiling.

But had I done so, I would likely have faced a 60-vote threshold due to a budget point of order as my colleague Senator MENENDEZ did last night on his family unification amendment.

There is nothing scientific about the 567,000 annual immigrant visa cap currently contained in the bill. Am I to believe that this grand compromise bill will be destroyed if an additional 50,000 parents of American citizens are granted green cards annually so they can be closer to their American children and American grandchildren?

The so called discretionary authority granted to the Department of Homeland Security that Senator SPECTER may argue is created by this amendment can easily be fixed in conference by raising the current cap by 50,000.

I refuse to let the technicalities of the subceilings and overall ceilings contained in this complex legislation cloud the real issue Senators will be deciding as they cast their votes on this amendment; namely, do my colleagues believe that parents and grandparents are important members of the American nuclear family or do they believe that they are merely distant relatives—irrelevant to the daily lives of our families?

I believe the former. I would suspect most of my colleagues do as well.

And so, I urge my colleagues not to think of this amendment in terms of numbers and caps, but in terms of its human impact. I urge them to vote for it in order to remove the obstacles created by this bill which will prevent American citizens—we are talking about American citizens—from having their loving parents be with them to share the joys and challenges of the American family.

Mr. President, I ask unanimous consent to have printed in the RECORD the list of organizations supporting this amendment at the end of my remarks.

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

(See Exhibit 1.)

Mr. DODD. I will cite a couple of them for my colleagues. The 25 or 30 organizations include the American Jewish Committee, the National Council of La Raza, the Episcopal Church, the U.S. Conference of Catholic Bishops, among many other organizations; Asian American organizations, Asian American Justice Center. There is a long list here. As I say, I will include that as requested in the RECORD.

But, again, Mr. President, this ought not to be a complicated proposal for my colleagues. It is one that I think all of us should endorse and support. I don't see this violating the core agreement. It is not the deal breaker that we hear about, but it is merely doing what I think most Americans and most of our colleagues would agree on: letting U.S. citizens have the opportunity, at least to a larger extent than this bill would allow, to have their parents be a part of the family unit, that nuclear family.

EXHIBIT 1

DEAR SENATORS: We, the undersigned organizations, write to share with you our support of the Dodd amendment to the proposed immigration bill. Under current law, parents of U.S. citizens are defined as immediate relatives, along with spouses and minor children, and are exempt from visa limitations.

The proposed legislation removes them from this category, subjects them to an annual cap of 40,000 green cards, and creates a new parent visitor visa category that would allow them to stay in the United States for only 30 days. Typically, 90,000 visas are issued each year to parents—the proposal reduces the number of visas available by more than half. The agreement also penalizes all parents from a particular country by barring them from entering into the United States should the rate of overstay of parents from that country be above 7 percent in two consecutive years.

The debate around this provision goes to the heart of the value we place on family. Parents are not distant relatives but absolutely vital members to most families. Often, parents enable their adult children to work by providing free and trusted care for their grandchildren. Immigrant parents also contribute their labor and talents to small, family owned businesses. The American economy also benefits from having dollars earned here, be spent here instead of having to be sent overseas to family members left behind.

Contrary to some arguments, immigrant parents coming through the family system will not burden taxpayers or the economy. In fact, as non-citizens, they are generally ineligible for a majority of federal public benefits unless they earn them through sufficient work. Moreover, their adult children must sign affidavits of support and prove that they have sufficient resources to support their parents.

The Dodd amendment recognizes these close family ties and the economic and societal benefits that accrue when they are honored by:

Increasing the green card cap to 90,000. The number 90,000 represents the average annual number of green cards issued to parents. The proposed bill slashes this number by more than half to 40,000. This amendment would ensure that sufficient numbers of green cards are available for parents to come to the United States.

Extending the parent visa to 180 days, and making it renewable and valid for three years. These are already accepted timeframes for other temporary visas, 180 days is the length of a tourist visa; H–1Bs are valid for three years. The proposed bill, however, limits parents to an annual stay of 30 days, and does not specify long-term validity. This is too short an allotment—particularly for parents who come to help their children.

Making penalties for parent visa overstays applicable only to guilty parties. The proposed bill states that if the overstay rate among visa holders exceeds 7 percent for two years, all nationals of countries with high overstay rates can be barred from this visa program or the program can be terminated. Sponsors of overstays are also barred from sponsoring other aliens on this visa. This amendment strikes language that unfairly collectively punishes those who have not violated the law, allowing law-abiding parents to continue to unite with their children.

The Dodd amendment unites parents with their families in the U.S. by increasing the annual cap on green cards for parents; extending the duration of the parent visa; and ensuring that penalties imposed on overstays are not unfairly applied to others. We are asking that you vote for this amendment.

Respectfully,

American Friends Service Committee
American Immigration Lawyers Association
American Jewish Committee
Asian American Justice Center
Asian & Pacific Islander
American Health Forum
Asian Pacific American Labor Alliance, AFL–CIO
Association of Asian Pacific Community Health Organizations
Association of Community Organizations for Reform Now
Congressional Asian Pacific American Caucus
Congressional Hispanic Caucus
Dominican American National Roundtable
Hebrew Immigrant Aid Society
Hmong National Development
League of United Latin American Citizens
Legal Momentum
Mexican American Legal Defense and Education Fund
National Asian Pacific Center on Aging
National Council of La Raza
National Federation of Filipino American Associations
NETWORK, A National Catholic Social Justice Lobby
Organization for Justice & Equality
Service Employees International Union
Southeast Asia Resource Action Center
The Episcopal Church
The Jewish Council for Public Affairs
Unitarian Universalist Association of Congregations
United Methodist Church, General Board of Church and Society
U.S. Citizens for United Families
U.S. Conference of Catholic Bishops
World Relief

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to add Senators DURBIN and BOXER as cosponsors of amendment No. 1392.

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

Mr. MENENDEZ. Mr. President, I rise to offer strong support for Senator DODD's amendment. I appreciate his leadership. I am proud to be a cosponsor of this amendment in order to protect, again, the right of U.S. citizens.

Before I get to the heart of what Senator DODD seeks to do, I think it is time for a little review of where we are. I do not quite understand the process of a grand bargain in which there are alleged core elements of it that are inviolate, that cannot be touched, and then see amendment after amendment, such as confidentiality, that undermine the ability of the earned legalization process and others that ultimately seem to undermine the efforts of what I thought was that grand bargain, and yet don't seem to disrupt the apple cart. Yet when amendments such as the family reunification amendment I offered last night, the one that Senator DODD is offering now, when they are raised: Oh, this will be a deal killer. This bill has become more punitive. It has become more onerous. It has become more impossible to achieve comprehensive immigration reform with every amendment that has passed. It has moved increasingly to the right in the process—on confidentiality, on Social Security, on earned-income tax credit, on incarceration, on visa revocation. The list goes on and on.

Yet the grand bargainers don't seem to be affected by those. But when we try to keep families together, it is a calamity.

Under current law, we recognize that parents are integral to the family structure and that they remain so even after their children have grown up. That has been our bedrock principle. As such, we correctly characterize parents as part of an immediate family which exempts them from the green card caps when applying for legal permanent residency. Unfortunately, under the grand bargain, it removes these individuals from the immediate relative category and sets an arbitrary, insufficient annual cap for green cards for the parents of United States citizens at 40,000.

This is less than approximately a third of what last year was the number of visas for parents. It is less than half of the average number of visas issued in the past 5 years. By saying that parents are no longer members of the immediate family, I don't know how much more nuclear this family can continue to get under, particularly, Republican proposals. I always thought, listening to the debates on family values, that parents—the matriarch, the patriarch—were core elements of a family. They take existing law, the right of a United States citizen to claim their parents as part of an immediate family, and do away with that right and then supplant it with a limitation where we will give you a limited right to bring up to, collectively across the country, 40,000. By saying parents are no longer members of the immediate family and imposing unreasonable caps on the amount allowed to rejoin their U.S. citizen children, we are not only breaking up families, we are also effectively creating an entirely new backlog, even as we are trying to eliminate it with this legislation.

This not only changes the spirit of our immigration policy, it also, once again, deemphasizes family structure, all without a single hearing on the issue of family or the value of family in our immigration system in either the 109th or the 110th Congress.

This is not only about the rights of potential immigrants to enter the country. Rather, more importantly, this is about the rights of United States citizens who wish to live with and possibly care for their parents. As it stands under the legislation, the right of those American citizens to be reunited with their parents is virtually totally undermined. From a moral perspective, this undermines the family values I so often hear my colleagues talk about.

I have heard the words of the late Pope John Paul who, clearly, from a moral perspective, said:

> Attention must be called to the rights of migrants and their families and to respect for human dignity.

I have heard it from President Bush when he said:

> Family values don't end at the Rio Grande.

I guess when it comes to your parents, it does. But this agreement, similar to his proposal before, belies those words. Besides the moral imperative to keep families united, practically speaking, a breakdown of family structure often leads to a breakdown of social stability. People living with stable families are more likely to succeed, more likely to contribute to our Nation, more likely to strengthen our communities, less likely to be anything but an exemplary citizen. U.S. citizens want to be together with their family members. That is a natural human instinct. Yet here we are debating a provision of this legislation that undermines the very essence of family.

This may be the next-to-last shot the Senate will have on standing up for some values for families. I will be offering another amendment on the new point system that will determine future immigration that, hopefully, will give more points to families as part of an overall new system, but ultimately the Dodd amendment and my amendment are likely to be the last opportunities for the Senate to put its votes where its values are.

In this case, Senator DODD makes an important point. For those who argue the chain migration issue—and I won't take out my chain again to remind people how we dehumanize family members, and we want to make them an abstract object so we can do away with it—the bottom line is, if a U.S. citizen is already claiming their parents, they have ended the chain, if we want to even refer to it in those terms, because that parent can only come here by virtue of a U.S. citizen claiming them. So it means it has to be their son and daughter. That basically ends the chain. This is not a chain migration issue. This is the core of family reunification, to have parents with their children, with their grandchildren who, by the way, under U.S. law, that U.S. citizen is responsible for them financially without question; otherwise, they don't qualify. They don't get their petition approved. It is not just a familial relationship that gives you the ability to claim as a U.S. citizen your parents, you must also show the financial ability to sustain them when you claim them; otherwise, even that right is extinguished.

Here we have a foolproof situation—no chain migration, no public charge, and, ultimately, the opportunity to strengthen family. If the Senate cannot vote for the Dodd amendment, it simply does not believe in family values.

I yield the floor.

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

Mr. SANDERS. I thank the Chair.

In a moment, I want to talk about an amendment I will be offering with Senator GRASSLEY to the immigration reform bill. That is amendment No. 1332. I should mention this amendment has been endorsed by the AFL–CIO. It was endorsed by the Programmers Guild and by the Institute of Electrical and Electronics Engineers.

Before I speak about the amendment, it is important, as we debate the immigration bill, to talk about what is happening to the lives of Americans who live in the middle class and the working families of the country. I fear that in this long and complicated immigration bill, sometimes we lose track of the impact of this bill on the lives of American workers. This bill deals in a reasonable way in terms of dealing with the very serious problem of illegal immigration. It says we must strengthen our borders and not allow people to so easily come into the country. That is long overdue, and it is absolutely right. It says finally we must begin to hold employers accountable for the illegal immigrants they are hiring, something the Bush administration has been very reluctant to do. That is extremely important.

This bill also carves out a path to citizenship which, frankly, is the right thing to do. But also what this bill does not do is analyze effectively the impact of various aspects of this legislation—the guest worker program, H–1B program—on the lives of American workers. The basic premise under which this bill operates in those areas is a false one. What it says is there are

jobs out there, large numbers of jobs, that American workers won't take. I think that is true to some degree, but this bill grossly exaggerates that problem. Because the truth is, if employers paid living wages for jobs, we would be very surprised at the number of people in this country who would be delighted to hold those jobs. But if people are going to pay starvation wages and not provide health care or other benefits, yes, it is true American workers may not gravitate to those jobs.

The truth is, over the last many years, there has been a war going on in this country, and that is not the war in Iraq. It is not the war in Afghanistan. It is the war being waged against the American middle class, the American standard of living, and, indeed, the American dream itself. This is an issue, unfortunately, we do not discuss enough on the floor of the Senate. It is not discussed enough in the corporate media.

The American public understands that since President George Bush has been in office, over 5.4 million more Americans have slipped out of the middle class and into poverty. The American people understand that nearly 7 million more Americans have lost their health insurance, and we are now almost at the level of 47 million Americans without health insurance. The American people understand that for the average American family, their income has fallen by over $1,200 and 3 million more Americans have lost their pensions.

What does all of this have to do with the immigration bill? It has everything to do with the immigration bill, because we have to take a hard look at what various aspects of this bill do in terms of bringing workers into this country and what it means to people who are struggling on $8 or $9 an hour or, in fact, what it means to young people who someday aspire to hold a professional position. That is an issue we have not focused enough attention on.

Some people say: Yes, it is true, poverty is increasing. Yes, it is true, there are millions of people working at the minimum wage or near. But if you have a college degree, you don't have to worry. There are plenty of these good professional jobs out there that pay people good wages. The truth is, even college graduates in today's economy are not getting ahead. From the years 2000 through 2004, we have seen the wages of college graduates decline by 5 percent. According to a new study by researchers at MIT, earnings of the average American worker with an undergraduate degree have not kept up with gains in productivity over the last 25 years. In other words, despite an explosion in technology and worker productivity over the past 30 years, millions of American workers, including college graduates, are working longer hours for lower wages. In America today, the personal savings rate is below zero. People are spending more than is coming in. That has not happened since the Great Depression. Home foreclosures are at their highest level in nearly four decades.

What I fear the most is if we keep going in the direction in which we are moving now economically, what we are going to see is our children are going to have a lower standard of living than we do. In fact, according to a recent joint study by the Pew Charitable Trust and Brookings Institute, men in their thirties earned on average 12 percent less in 2004 than their fathers did in 1974, after adjusting for inflation. Incredibly, men today are earning less than their fathers did despite a huge explosion in technology and worker productivity.

In addition, it is important to note that over the last 6 years, this country has lost more than 3 million good-paying manufacturing jobs.

Why do I raise that within the context of an immigration bill? I raise that because the argument of all the large corporations that are supporting this legislation is: My goodness, we have a crisis in America. It is that wages are going down. It is not that more and more Americans are losing their health care and their pensions. The crisis is, supposedly, there are all these jobs out there—jobs in teaching, psychology, nursing, hotels, restaurants—and we cannot find American workers to do those jobs.

Let me tell the business community: Raise wages, provide decent benefits, and you are going to have all kinds of people flocking to those jobs.

During the debate over NAFTA and permanent normal trade relations with China—which I participated in as a Member of the House of Representatives—we were told by all the corporate interests who pushed that legislation on the Congress not to worry about the blue-collar jobs we would lose. I remember it distinctly. They said: Well, yes, it is true. If we open up our markets, yes, it is true we are going to lose a lot of these factory jobs. They are going to go to China, Mexico, whatever. But don't worry because if your kid does well in school, becomes computer proficient, your kid is going to have a great job out there at good wages. That is the future of America. Don't worry about the blue-color jobs. You have all these white-color information technology jobs.

Well, guess what is happening. From January of 2001 to January of 2006, we have lost 644,000 information sector jobs. Alan Blinder, the former Vice Chairman of the Federal Reserve, has told us between 30 and 40 million jobs in this country are in danger of being shipped overseas.

The middle class of this country is being squeezed 24 hours a day, 7 days a week.

When Americans get up in the morning and they take their kids to daycare, they find the cost of childcare is unaffordable. That is certainly true in Vermont. It is true all over this country. Working families cannot afford quality childcare.

When they drive to work, and they stop at the gas station to fill up their gas tanks, what they are paying in Vermont now is $3.10 a gallon for gas, and in other parts of the country it is even higher. ExxonMobil earns record-breaking profits and manages to find $400 million for a retirement settlement for their former CEO.

When workers go to their jobs, they are being squeezed as often as not by their employer who is cutting back on their health care and pension benefits. Then, if workers stand up for their jobs, they want to form a union, they are told that those jobs could go to China: So take your cutbacks.

When workers come home, they open up their mailbox only to find that the interest on their mortgage payments and their credit cards in some cases is doubling or tripling. There are working people in this country who are paying—if you can believe it—27, 28, 29 percent in interest rates, while big banks are making record-breaking profits.

When Americans go to the hospital, they are told by their insurance companies their premiums and copays will be going up or, even worse, they are not covered for the medical procedures they need.

When they want to send their kids to college, they look at the cost of tuition, and they find colleges costing $30,000, $35,000, $40,000, $45,000 a year, and people are making $30,000 a year. We are seeing kids in this country now—low-income kids—not going to college and others coming out deeply in debt.

Now, in the midst of all of that, we have this immigration bill, a bill that would allow employers to hire hundreds of thousands, if not millions, of workers from other countries in both low-skilled jobs and high-skilled jobs.

It is important to note—and this point has not been made often enough, but it is important to note many of the same corporate groups that supported NAFTA, that supported PNTR with China, and other disastrous trade agreements, that these same businesses that fought against an increase in the minimum wage, saying: Hey, $5.15 an hour, we don't have to go higher than that; these same companies that have outsourced hundreds of thousands of jobs to China, to Mexico, to Vietnam, to India, to other low-wage countries, these same companies are supporting this legislation.

Let's understand that, and let us ask why that is the case. Why are companies that opposed the minimum wage, that oppose the right of workers to form unions, that oppose anything that makes sense for the American middle class supporting this legislation?

Some of those groups are the National Restaurant Association, the Business Roundtable, the American Hotel & Lodging Association. These are all groups that opposed raising the minimum wage above $5.15 an hour, and they are sitting here saying: Well, we think this immigration bill is a good bill for us.

High-tech companies that have sent hundreds of thousands of jobs overseas, they think this legislation is good. Why? Why do they think it is good legislation? Well, if you listen to them, they will tell you two things: First, in terms of low-skilled jobs, they say they need foreign workers to do the jobs Americans will not do. In terms of high-skilled jobs, they say they cannot find enough Americans who are smart enough, who are skilled enough, who are well educated enough to be engineers, to be scientists, to be mathematicians, et cetera.

In other words, corporate America tells us they need a new guest worker program because they cannot find any Americans for construction jobs, for manufacturing jobs, hotel jobs, restaurant jobs. Then they tell us they need more foreign agricultural workers because no American is willing to break their back working in the fields, picking strawberries or lettuce for poverty-level wages and no health care.

Then—this is what gets me—they tell us they need more H–1B visas because Americans are not smart enough to be computer professionals; engineers; university professors, they cannot find anybody to be a university professor; accountants—I guess Americans do not add very well—we cannot do that work; financial analysts; nurses, I guess we do not have the capability of producing nurses; psychologists, Americans, I guess, cannot do that; lawyers—lawyers—lawyers—my God, if there is anything the United States is capable of producing it is lawyers, but I guess we need more lawyers to come into this country; and elementary school teachers, I guess the young people who graduate from college in America are not quite qualified to be school teachers.

Now, if Americans will not take low-skilled jobs that pay poverty-level wages and, presumably, if they are not smart enough to do high-skilled jobs, I think the question we have to ask is: What kind of jobs are going to be available for the American people? Can't do low-skilled jobs; can't do high-skilled jobs. Hey, what is there for us?

I happen to think the Congress should be spending a lot more time discussing this issue and making it easier for us to create decent-paying jobs for American workers instead of allowing corporate interests to drive wages down by importing more and more people to do the work Americans should be doing and, conversely, exporting and outsourcing a lot of decent jobs.

As someone who, as a young man, worked in a hotel and worked in a restaurant, I can tell you the guest worker provisions, for the most part, have nothing to do with a shortage of workers but have everything to do with a concerted effort by corporate America to drive down wages for our people.

Now, one of the largest corporations that is involved in an association in support of this legislation is Wal-Mart. I made this point yesterday, but I think it is worth repeating. Wal-Mart says, being a part of this association, that apparently there is a shortage of Americans willing to work at Wal-Marts. Well, let's take a look at that.

Two years ago, when Wal-Mart announced the opening of a new store in Oakland, CA, 11,000 people filled out applications for 400 jobs. I think most Americans know that Wal-Mart is not a great employer. Wages are low. In many instances, they do not provide 40 hours a week; health care benefits are not particularly good.

Oakland, CA: For 400 jobs, 11,000 people filled out applications. More recently, in January of 2006, when Wal-Mart announced the opening of a store in Evergreen Park outside Chicago, over 24,000 people applied for 325 jobs at that store. What does that tell us? It tells us that even in low-paying jobs, such as at Wal-Mart, when given the opportunity, Americans want those jobs. They want to make a living for their families.

So the idea Wal-Mart and other similar-type companies would say: Gee, we can't find workers to do that work, is just plain wrong. What they want to do is have a surplus of workers coming into this country so wages do not go up. So instead of having to raise wages and benefits, in order to attract workers and retain workers, what you do is simply open the door and you bring in more and more cheap labor. That enables them to keep wages low.

Then we have the situation with high-skilled jobs, with our professional jobs. Again, we have associations and organizations made up of different corporate groups that are strongly supporting this immigration bill, and they include, among others, companies such as Motorola, Dell, Hewlett-Packard, IBM, Microsoft, Intel, and Boeing, to name a few. These are corporations with a main argument that we cannot find Americans to do this work, and we need to go all over the world to bring in people.

Well, I find it interesting that many of these same companies that tell us they cannot find workers in the United States are exactly the same companies that have recently announced major layoffs of thousands of American workers: We can't find workers. Oh, by the way, you are fired. We need more workers from abroad. Five hundred workers are gone. We are laying you off. It does not make a whole lot of sense to me.

Let me give you a few examples. A few days ago, the Los Angeles Times reported Dell would be eliminating 10 percent of its workforce, slashing 8,800 jobs. But Dell, last year, applied for nearly 400 H–1B visas to bring people into this country—at the same time they lay off 8,800 workers. Maybe they might want to retrain some of those 8,800 workers for these new positions, if possible, rather than simply bringing in new employees from abroad.

Dell is not alone. The Financial Times, on May 31, reported Motorola would be cutting 4,000 jobs, on top of an earlier 3,500 job reduction, designed to generate savings of $400 million. Yet last year, Motorola received 760 H–1B visas. The list goes on and on. It is IBM. It is Citigroup—companies bringing in foreign professional workers at the same time they are laying off American workers.

So we have a situation where, on one hand, these companies say they cannot find highly skilled American workers while, on the other hand, they are eliminating thousands of American jobs.

What upsets me is how our young people feel about this situation. These are kids who go to school—sometimes they borrow a lot of money to go to college—they work hard, and what they are looking forward to, whether through a BA or a BS or an MA or a Ph.D., is a good, secure, challenging, meaningful job with a decent income. What they are seeing is companies saying: We do not want you. We want somebody from abroad who will work at lower wages than you. I think that must be very discouraging for so many of our young people.

Madam President, the amendment I am offering today, along with Senator GRASSLEY, is a pretty simple amendment. What it would do is it would prohibit companies that have announced mass layoffs from receiving new visas of any kind, unless these companies could prove that overall employment at their companies would not be reduced by these layoffs. In other words, we are calling their bluff, and we are saying: You can't lay off large numbers of American workers and then tell us you desperately need workers, professionals from abroad. Those companies which are truly experiencing labor shortages would not be impacted by this amendment and could continue to receive increases in foreign workers, but companies that are reducing their U.S. workforce by laying off thousands of Americans would be prevented from importing workers from abroad.

The bottom line is, the companies that are laying off thousands of Americans shouldn't be allowed to import workers from overseas. Let us stand up for the American people. Let us stand up for American workers. Let us support this amendment.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 1236

Mr. TESTER. Madam President, I thank the good Senator from Vermont for his comments. I appreciate them very much. I think they are on the mark.

I would like to address amendment No. 1236, the Baucus-Tester amendment. I ask unanimous consent that Senators AKAKA, SUNUNU, LEAHY, and COLLINS be added as cosponsors.

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

Mr. TESTER. Madam President, I also ask unanimous consent that Senator AKAKA be recognized for 10 minutes following my remarks.

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

Mr. TESTER. Madam President, I am proud to offer this amendment 1236 with my colleague, Senator BAUCUS, as well as the Senators I just listed as cosponsors. It strikes a portion of the bill that relates to the REAL ID Act. These REAL ID Act provisions are not central to the bill. We all want secure documents, but REAL ID is not needed to meet heightened security requirements. If we leave these provisions in place, the result of this legislation will be to bully the States into accepting something they do not want. If we do not pass the Baucus-Tester amendment, we will expand the REAL ID Act and we will impose significant new costs on employers, open up prospective employees' most sensitive personal information to theft, and create new administrative headaches for workers, employers, and State governments alike.

Do not misunderstand, it is right for employers to have to do their part to make sure they do not hire illegal immigrants, and if they do hire illegal immigrants, we need to penalize them. But what we do not want to do is impose a massive new tax on employers, and that is exactly what this bill would do in its current form.

This bill requires employers to use REAL ID-compliant documents to verify prospective employees' immigration status, and that means employers will have to link into the national database that REAL ID will create. If, as expected, the Department of Homeland Security mandates that employers confirm the biometrics of the employee, employers will need to purchase expensive biometric card-reader machines and train employees and staff on how to use them. This will amount to a massive new tax on businesses, and these costs will be on top of other mandates employers will pay to screen their workers and get linked into the national ID database created by the proposed employment eligibility verification system.

Our amendment would also lift a burden off potential employees. This bill mandates that every potential employee present a REAL ID driver's license by June 1, 2013, to begin every new job. State government organizations such as the National Governors Association and the National Conference of State Legislatures have said these States need at least until 2018 to implement REAL ID. This means many States will not even be able to provide their citizens with the documents they would need under the mandates of this immigration bill by 2013. What happens then? Are the people in these States not allowed to get work? That is what will happen if you leave this provision in the bill.

Sixteen States have passed legislation or resolutions opposing REAL ID or preventing the States from being a part of REAL ID. So unless the Baucus-Tester amendment is adopted, individuals who live in these States may not be able to get jobs because they will not have the REAL ID-compliant documents.

Finally, this provision threatens workers' privacy. REAL ID creates the first true national ID card system by aggregating every adult's most sensitive, personally identifiable information in one place without any protections for the data or limitations on who can access it. We are going to give to every employer in America access to this system. This invites identity theft on the part of unscrupulous employees and government workers with access to this REAL ID database.

So we know that including REAL ID in this bill is a recipe for disaster. It will be harder to hire folks, it will be more expensive to hire them, and it may even be impossible to hire many people. It opens employee personal identification information to identity theft.

We can remove this section from the bill and still have a strong employment eligibility verification system. We can lift a significant burden from employers and employees, and we can limit the adverse effects of this bill on States. The Baucus-Tester amendment will do exactly that. I urge my colleagues to support it.

Mr. LEAHY. Madam President, I rise today in support of the Baucus-Tester-Sununu-Leahy-Akaka-Collins amendment to strip the references to the problematic REAL ID program from the underlying immigration bill.

We may agree or disagree about the merits of the actual REAL ID program, but as hearings in the Judiciary Committee and the Homeland Security and Government Affairs Committee have shown, REAL ID is far from being ready for primetime. In fact, the Department of Homeland Security has not even released final regulations directing the States on REAL ID implementation. With 260 million drivers in this country, I do not see how we could have the massive national databases required by REAL ID and this immigration bill up and running by the 2013 deadline set in this bill.

In addition to numerous privacy and civil liberties concerns, REAL ID is an unfunded mandate that could cost the States in excess of $23 billion. Opposition spans the political spectrum, from the right to the left. A large number of States have expressed concerns with the mandates of the REAL ID Act by enacting bills and resolutions in opposition. Georgia, Washington, Oklahoma, and Montana have gone so far as to indicate that they intend to refuse compliance with it. The National Conference of State Legislatures and the National Governors Association have expressed concerns about the costs imposed on the States. The reaction to the unfunded mandates of the REAL ID Act is a good example of what happens when the Federal Government imposes itself rather than working to create cooperation and partnership.

On top of that, even though they are not even in production yet, REAL ID cards are rapidly becoming a de facto national ID card—since they will be needed to enter courthouses, airports, Federal buildings, and now workplaces all across the country. In my opinion, REAL ID raises multiple constitutional issues whose legal challenges could delay final implementation for years.

For any new immigration measures to be effective, they must be well designed. Forcing employers, employees, and the States to use this troublesome national ID card will slow down the hiring process, stifle commerce, and not serve as an effective strategy. As a result, we should not jeopardize the future success of the immigration reforms sought in this legislation by tying REAL ID too closely to it. I do not see how it is possible for all of the States to have their new license programs up and running by the 2013 deadline called for in this bill. Thus, I think that instead of mandating REAL ID in this bill, we should support the Baucus-Tester amendment to strip REAL ID from this bill and put together a workable employment verification system that does not needlessly burden every legal job seeker in this country with the onerous and problematic requirements of REAL ID.

Mr. BAUCUS. Madam President, I rise today in support of an amendment with my good friend from Montana, JON TESTER. Our amendment would repeal all references to REAL ID in the immigration bill.

Supreme Court Justice William Douglas once wrote that ''the right to be let alone is indeed the beginning of all freedom.''

If the right to be let alone is the beginning of all freedom, then Real ID is a step toward the end.

REAL ID creates the framework for a national ID card and is a big Federal unfunded mandate. In sum, REAL ID requires two things:

No. 1, Federal agencies can only accept State-issued driver's licenses in compliance with new Federal regulations. These new regulations would require all State-issued licenses to include a cardholder's personal information such as their home address and their fingerprints.

No. 2, this information would then, by law, be accessible by all other States on an electronic database.

These requirements may sound harmless to many, but REAL ID has serious flaws. Three merit special attention.

No. 1, REAL ID puts America on track for a national ID card. This raises both privacy and practicality concerns.

No. 2, REAL ID represents a large unfunded mandate on the States.

No. 3, REAL ID poses a potential national security risk by dictating to States where their precious homeland security dollars should be spent, and it creates a magnet for identity theft.

Let me take a moment to walk through these concerns individually.

The standardized national driver's licenses created by REAL ID could become a key part of a system of identity

papers—similar to a national ID. These standards would require State DMVs to collect extensive personal information from all cardholders.

To issue a driver's license, the DMV will be required to collect birth certificates, utility bills, and other documents to verify an individual's residency. These documents would then be stored within the DMV database and accessible by all 50 States.

The machine-readable technology required by REAL ID will enable businesses from taverns to airlines to collect personal information about their clients. They could then sell this personal information to anyone willing to pay.

In addition, Federal agencies could use this new ID as an ''internal passport,'' tracking American's movements around the country.

Americans will need a federally approved ID card to travel on an airplane or open a bank account. Seniors will need a new ID to collect Social Security payments. Citizens will need a new driver's license to take advantage of nearly any Government service.

Finally, REAL ID requires that driver's licenses contain American's actual addresses. No post office boxes are allowed. The legislation fails to offer exceptions for judges or police. I can't imagine how such a violation of privacy could make our Nation more secure.

In addition to causing problems for individuals, REAL ID is a nightmare for the States. REAL ID requires States to remake their driver's licenses, restructure their computer databases, and create extensive new document-storage systems.

It is no wonder, therefore, why 15 States have passed legislation rejecting REAL ID. Another 11 have pushed bills rejecting REAL ID through one of their legislative chambers.

From Washington State to Maine, Nevada to Georgia, red States and blue States, coastal States and the bread basket, all agree—they will not accept the provisions of REAL ID.

In my home State of Montana, REAL ID has caused real headaches. It is estimated that it would cost $2.6 million for Montana to comply with REAL ID.

Nationwide, the Department of Homeland Security estimates that the cost of implementing REAL ID could reach as much as $11 billion—a gross unfunded mandate from the Federal Government.

My friend, Montana's Governor Brian Schweitzer, signed a law in April that bans Montana's Department of Motor Vehicles from enforcing the requirements of REAL ID. Republicans and Democrats alike in Montana's Legislature voted unanimously to reject REAL ID.

I cannot support legislation that requires States to implement costly new security procedures—including security clearances and employee training—without providing the funds to implement such changes. I cannot support an effort to hoist this kind of bureaucracy upon Montanans, or any American, for that matter.

However, some have argued that REAL ID is essential to protecting Americans from terrorism.

Opponents of this amendment argue that REAL ID is required to deal with the influx of people expected to cross the border as a result of this bill. In short, larger waves of immigrants call for tougher standards on ID cards.

While I am sympathetic to the concern that IDs should be secure, I believe that REAL ID does not achieve this goal. In fact, I believe REAL ID could harm our national security.

In response to the 9/11 Commission's recommendations, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004. This act provided a number of improvements to our Nation's driver's licenses.

The Intelligence Reform and Terrorism Prevention Act of 2004 established a cooperative framework between State and Federal authorities to make our State driver's licenses more secure.

The REAL ID Act ended that cooperative spirit. Instead of listening to State authorities, the REAL ID Act dictates to them.

We should have stuck with the 9/11 Commission's recommendations. REAL ID goes a step too far. It makes it impossible for State authorities to decide for themselves where their scarce funds should go to fight against terrorism. Handcuffing our States with Federal bureaucracy is not the way to protect the American people from terrorism.

I will always continue to fight for increased law enforcement funding, but I will not support a law that ties State officials' hands with more Government bureaucracy.

I am also concerned that a centralized national database makes it possible for criminals or terrorists to perform identity theft on an unprecedented scale. We need to take a closer look at how a national database would be safeguarded from malicious hackers.

We have already witnessed identity theft scares at Federal agencies like the Department of Veterans Affairs, where a simple burglary put nearly 27 million Social Security numbers in jeopardy.

Now, imagine a terrorist having access to the name, height, weight, social security number, and biometric information for every American, all by penetrating one single firewall.

REAL ID is a large unfunded mandate that impedes on American's privacy and could hurt our Nation's security.

Our amendment joins the chorus of Montanans and Americans who say no to REAL ID.

I urge my colleagues to support this amendment.

Mr. President, I yield the floor.

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

Mr. AKAKA. Mr. President, I rise today to support the amendment offered by Senator TESTER and Senator BAUCUS to remove the provisions in the immigration bill relating to REAL ID. I am pleased to cosponsor this amendment, and I applaud Senators TESTER and BAUCUS for their efforts.

I have very strong concerns with REAL ID; namely, the burdensome mandate on State and local governments and the impact REAL ID will have on Americans' privacy and civil liberties.

I have introduced legislation, S. 717, the Identification Security Enhancement Act, with Senators SUNUNU, LEAHY, TESTER, and BAUCUS, to repeal the unworkable REAL ID and replace it with a more realistic process to secure identification cards and driver's licenses.

As such, I am deeply concerned about the provisions in the immigration bill that would mandate REAL ID given the fact that 15 States have passed legislation rejecting REAL ID. Under the immigration bill, every employee in America must present a REAL ID-compliant driver's license by 2013 to begin a new job. This, of course, is problematic as it is unfair to employees and States that have rejected REAL ID. It is also impossible for States to implement REAL ID by the year 2013.

In testimony before the Senate Oversight of Government Management Subcommittee in March, the National Governors Association and the National Conference of State Legislatures, in addition to the mayor of the city and county of Honolulu, called for a 10-year reenrollment period. The 5-year period contemplated by the REAL ID proposed regulations, as well as by the immigration bill before the Senate now, is part of what is contributing to the $23 billion unfunded mandate in the States.

Moreover, given the numerous problems with REAL ID, expanding the official uses of this card to the employment context will only make the card more attractive for counterfeiting and misuse. With the vast amount of personally identifiable information to be stored on the REAL ID card, I fear such action will only ensure that the cards provide one-stop shopping for identity thieves.

Congress must act to address the fundamental flaws with REAL ID and provide realistic and workable solutions to ensure that States have the resources to secure licenses and that such efforts protect our privacy and civil liberties. I look forward to working with my colleagues to do so in the near future. However, regardless of one's position on REAL ID, it is impracticable to tie our immigration reform efforts to a flawed program that States cannot implement.

I urge my colleagues to support this amendment to remove provisions in the immigration bill relating to REAL ID.

Mr. President, I ask unanimous consent that following my remarks, the

following Senators be recognized for the times specified: Senator SESSIONS for up to 15 minutes, Senator WEBB for up to 10 minutes, and Senator MCCASKILL for up to 10 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

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

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

Mr. SESSIONS. Mr. President, the legislation before us deals with one of the most important subjects any nation should concern itself with, which is immigration. The American people care about it. Many people are watching it extremely closely. They are cynical about Congress. In 1986, Congress passed a major bill that was supposed to fix so many problems, all of those things they are aware of, and the problem has only gotten worse. They have also discovered that our leadership in Washington, the executive branch and the Congress, really is not committed to creating a lawful system. Some people think it can't be done. Some people think Congress just doesn't want to do it. Some people think it would interrupt the flow of labor. For whatever reason, the American people have concluded this Congress is not to be trusted with this bill. We have had for decades—in the full decade I have been in the Senate and before—Members asserting they are going to fix these problems at the border, and nothing gets fixed. We arrested a million persons last year—a million who were illegally entering the United States. What kind of broken system is that?

So people are not going to go for—they are not going to bite a promise in a poke. They are not going to take a pig in a poke. They are not going to buy into a bill that is not going to work. They expect us this time to do something that works. I really believe we can. This is not impossible. The more I have studied it, the more confident I am that we can make progress and create a bill that would actually end the unlawfulness and create a flow of workers to meet our real needs, without having so many workers that the wages of Americans are reduced; that we tilt, as Canada and Australia and other nations have, to a system that focuses more on high-skilled workers.

So those are the things that are important. Well, how did we get in this fix with this bill that, I suggest, is losing steam? Like that mackerel put out in the sunshine, as the days go by, it begins to have an odor. Well, it started in an unusual way. Normally, a bill is introduced—especially a big piece of legislation—and it is assigned to a committee. The committee brings in expert witnesses and hears testimony. Depending on the complexity of the bill, it could be the subject of many weeks of testimony and hearings.

For example, on the asbestos bill in Judiciary Committee, I bet we had 25 hearings. We had all kinds of meetings outside. We brought in experts and we talked to them about how to solve this very complex and important issue of asbestos in America. I think if the American people were to rate asbestos compared to immigration, they put it on a scale of 2 or 3 and immigration on a scale of 9 out of 10.

What happened? A group of Senators met, along with special interest groups and activist groups that want everybody to come to America, and business groups who want cheap labor. They all met and talked to a bunch of politicians. They didn't have a Border Patrol professional there. Mr. Chertoff, the Homeland Security Secretary, was in and out of the room. They were not involved in the kind of public fact-finding they should have been. They skipped the committee entirely. Last year's bill—the one the House refused to even consider—that passed this Senate, a bill that was fatally flawed and would never have accomplished what it promised to accomplish, should never have become law. That bill was introduced on the floor of the Senate. For about a week, that was the bill. It sort of sat there, but everybody knew there were secret meetings going on among good Senators, good people, who were trying to figure out what kind of bill they were going to write.

So Senator REID pushed them and pushed them and made it come out before they were ready. They plopped it down in the Senate the Tuesday before Memorial Day recess week. They said it was 300 pages. But it was written in small print, and not the legislative format in which legislation is supposed to be introduced. Had it been printed in the proper form, it would have been nearly a thousand pages. It is over 300 as it is. They plopped this bill down, and nobody knew what was in it except those who had been in the room. It is obvious when they announced it, they didn't even know everything that was in it.

This is a big matter. It is very important. Now we want to rush this through. We had Tuesday, Wednesday, and Thursday—Tuesday being the day the bill or the substitute hit the floor, the week before Memorial Day. We did nothing on Friday, except a few of us came down to the floor and talked. The next Monday—Monday of this week—all we did was talk. This week, we have been on the bill for a couple of days so far, and a few amendments have been heard.

Mr. President, I had 15 minutes. I see the majority leader here. I know he is busy and his time is short. I respect him. If he needs to make an announcement, I will be glad to yield to him for that purpose.

Mr. REID. I say to my friend, we have a unanimous consent request we want the Senator to look at. It lines up a number of Republican votes and Democratic votes. We need the Senator to sign off on it.

Mr. SESSIONS. Let me wrap up and then I will look at it. I am concerned that there is a desire to move this bill through quickly. That is the goal, just to pass something. I am worried if we pass something that is not right, it will not get any better, especially after going through conference committee, where the Democratic leader and the Speaker of the House will appoint the conference committee majority and they will decide what changes get made in conference. I am worried about the legislation.

Let me tell you one thing that is causing some of us to get our backs up a little bit about this. The group that met to decide how to write this bill and put it together—that group made a pact with one another. What they said is this represents the final, real agreement between us. When the bill hits the floor, if anybody offers an amendment that disagrees with anything significant you and I have agreed to, we will all get together and oppose it. You have heard them say it publicly on the floor repeatedly. This goes against the agreement. This goes against the grand bargain. This is a killer amendment because we all got to stick together. ''We'' who? We have to stick together and cannot accept any change.

Let me tell you, this is the Senate. The group that met was not the full Senate. I have had members of that grand bargain tell me: Jeff, that is a good amendment, but I cannot vote for it because it is not in our agreement. I agree with you, Jeff, but I cannot vote for that because it wasn't part of our agreement.

What kind of legislation is that? So we have that factor going here. I am getting tired of it. I wasn't in on the grand compromise; neither were the American people. They weren't in on that deal.

Mr. SPECTER. Will the Senator from Alabama yield for a question?

Mr. SESSIONS. I am pleased to.

Mr. SPECTER. I appreciate the Senator from Alabama yielding for a question. I had several in mind.

I have been asked by the majority leader to ask a substitute question; that is, would the Senator approve the agreement so we can proceed with the amendments?

Mr. SESSIONS. Well, I have been here since 1 o'clock and, all of a sudden, I start speaking and they want me to look at an agreement. How many minutes do I have left?

The PRESIDING OFFICER. The Senator has 12 minutes 40 seconds.

Mr. SESSIONS. I wish to finish my remarks and then I will look at the agreement, if that would be all right.

Mr. SPECTER. It would be all right. The Senator yielded for a question and I wish to ask a question. Did the Senator make any effort to join the Democrats and Republicans, including this

Senator, who were working on the legislation?

Mr. SESSIONS. I think most of us knew that discussions were going on of that nature. We knew the deal. The deal is what all of you have agreed to. If you reach an accord, you are committed to vote for the deal on the floor, even if you agree with the amendment that is brought up. I was not prepared to tie my hands in that fashion. I submitted ideas because some Members were concerned about it. I don't say everything was blocked totally, but the final print analysis was not available to those not participating and who didn't agree to sign on to whatever was produced between you, Senator KENNEDY, Senator KYL, Senator MENENDEZ, and the others who participated in the agreement.

Mr. SPECTER. Will the Senator yield further?

Mr. SESSIONS. I think I probably reserved my independence as a Senator to maintain my ability to make an independent evaluation of the legislation that was produced.

Mr. SPECTER. If the Senator will yield for one more question.

Mr. SESSIONS. Yes.

Mr. SPECTER. I can understand that and appreciate why he would not want to give up his independence and would not want to be bound by an agreement. But I think the important factor is the Senator from Alabama wasn't excluded, if he wanted to join under those terms.

The followup question I have for the Senator from Alabama is this: How would the Senator structure negotiations on a matter of this kind, as complex as it is, as many views as there are, to try to have a practical bill that would be presented on the floor of the Senate—recognizing that this Senator has said on a number of occasions that I would have preferred the committee process? The Senator from Alabama is on the Judiciary Committee and was an active participant in the formulation of the bill in the 109th Congress. But given our situation, how would the Senator from Alabama have proceeded differently to try to structure a bill to present to the Senate?

Mr. SESSIONS. Well, when the Senator from Pennsylvania chaired the Judiciary Committee, the immigration bill did have hearings—a few hearings—and did have a markup, as the Senator knows. But I will tell you that last year's hearings and markup were quite insufficient, in my view, considering the intensity and enormity of the subject.

I will tell you what I believe needs to be done. It is much closer to what you did, as I mentioned before the Senator came to the floor, with asbestos. When you led the effort to reform and fix the very big problem with asbestos—and I was pleased to support you—you traveled all over the country and had hearings with judges, lawyers, and interest groups. We had hearing after hearing. We had markup days, and recess, and more markup days. It went on for months. It was brought up on the floor and knocked down—and then brought up on the floor again and it went on for months. We didn't quite get it done, but I supported the Senator's view of it.

That is what we need. Even though asbestos was exceedingly complex, this is even more complex and even more significant for the average citizen. So I think that is where we messed up. I know this was a real attempt to get something done. People said we needed to do something. But do what?

Mr. SPECTER. I have one final question for the Senator from Alabama. I know the Senator from Alabama acknowledges the existence of the problem. Would the Senator from Alabama consider drafting legislation which the Senate could consider, perhaps in the nature of a substitute, as to how we should deal with this problem, which I know the Senator from Alabama acknowledges?

Mr. SESSIONS. We do have a problem, Mr. President. I say to my esteemed colleague, one of the most able Members of this Senate, I have in my mind a framework that I believe would work for immigration reform. A number of the things I thought were critical I was told might be in this new bill this year. But the fine print convinced me it was not there. I believe we have a problem with the American people. They want to make sure this is done in the open light of day. I am not prepared to say at this point in time that I could meet and reach an accord on the overall difficulties with this bill in a matter of hours, or even days.

I think we need to start over with an open process and maybe something else can be accomplished. My inclination is to say let's get it out there and let the American people be involved. They understand the difficult choices that have to be made. They are also principled people and want to be sure we do it right.

I thank Senator SPECTER for his efforts.

My time has expired.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I would sure like to be able to get this unanimous consent agreement. We keep changing things around and have decided we don't need to have an equal number of Democrats with Republicans. Let's get what we can. We have three Republicans lined up. They are all important amendments that the Republicans and Democrats have. I hope we can get this done.

We have a vote at about 3 o'clock. We changed the time to 10 minutes each, I say to my friend from Alabama, because people have had the opportunity to speak already, except for Senator WEBB.

Mr. WEBB addressed the Chair.

Mr. REID. If the Senator will withhold.

Mr. SESSIONS. I am sorry.

Mr. REID. Is it OK that we do this?

Mr. SESSIONS. Please give me a few moments to review this because I have some concerns.

AMENDMENT 1313

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I wish to take a few minutes to discuss amendment No. 1313 to this bill which is going to be scheduled for a vote later today. Before I do that, I wish to recognize the incredible effort that has gone into this bill. I want to be able to support the bill. I have enormous respect for our distinguished majority leader and the others who have put so much time into the bill and given us time today to discuss some of these other amendments.

As I said, I want to be able to support this bill. We have seen some real divisions in the Senate on different provisions. I feel confident, I feel strongly that the amendment I am offering, which is cosponsored by Senator DORGAN, will address what I believe are two crucially needed improvements in this legislation.

The first relates to what some people are calling amnesty, wherein the bill legalizes almost everyone who entered this country by the beginning of this year. And the second improvement relates to what I believe is an unworkable set of procedures applicable to those who are properly offered legal status. I believe it is very important to the health and practicality of our system that we attempt to fix these two flaws in the bill.

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

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

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

I strongly support the provisions in this bill that strengthen our Nation's borders. I also support the sections of the bill that create tough civil and criminal penalties for employers who unfairly hire illegal immigrants, creating both a second-class population and undercutting American workers.

As a point of reference, I did not support the bill's creation of a massive new temporary worker program, and I am pleased to see at least a portion of that was adjusted by the vote last night.

With those points in mind, I wish to address my amendment which concerns the other major component of this bill,

and it is an area that has not really received the kind of examination that other portions of the bill have, and that is the legalization program.

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

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

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

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

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

Among these criteria are work history, payment of Federal or State income taxes, property ownership, business ownership in the United States, a knowledge of English, accomplishment in schools in America, immediate family members in the United States, whether the applicant has a criminal record, and, importantly, whether the applicant wants to become a citizen.

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

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

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

I believe this amendment sets forth an equitable system that not only recognizes the contributions of immigrants to our society but also introduces practical measures that would help us avoid the mistakes that were made in 1986.

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

I ask my colleagues to support this amendment when it comes up for a vote in the Senate later today.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I rise to talk about the issue of illegal immigration in this country in a very simple way. As a prosecutor, it is about following the law. As an auditor, it is about following the money. I state for my colleagues today that so much of this problem is about following the money.

We have crimes we can deter in this country and we have crimes we cannot deter. Let me tell my colleagues a crime we can deter. We can stop the hiring of illegal immigrants in this country if we prosecute the people who are hiring them because other business owners will stop hiring illegal immigrants if they see businesses being held accountable. This administration has not been interested in enforcing the law against employers.

What is hard to deter is families who are trying to feed their children. And the wall, yes, I support border enforcement. Of course. As a former law enforcement official, I support enforcing the law against anyone who breaks the law. But let's be realistic about this. As an auditor, I want to be efficient and effective.

Is it going to be efficient and effective to think we are going to solve this problem at the border? It is not the border that is going to stop the people coming into our country illegally. It is what is on the other side of the border. It is the promise of that job and the hungry mouths they are trying to feed.

So when I look at the raid that occurred in Springfield, MO, a few weeks ago when over 100 illegal immigrants were arrested, I kept watching the news for some word about that employer. Silence. With all the raids that have been occurring recently, I think, because of the administration's anxiousness to try to get this bill across the line, I have yet to hear one word about an employer going to jail for hiring illegal immigrants.

I know, I know, they are going to say the employer down near Springfield at the chicken processing plant—these people had fake IDs. They had fake Social Security numbers. If anyone believes that employer did not know they had illegal immigrants working there, I have a bridge I want to sell you. Of course, they knew. You give a good prosecutor a couple of investigators, you send some people in undercover, and you will gather the evidence in short order that dozens and hundreds and thousands of employers in this country are not playing by the rules.

Is that fair? No, it is not fair, and I will tell you to whom it is not fair. Many of my colleagues have said it is not fair to the American worker. I will tell you to whom it is not fair. It is unfair to the businesses that are playing by the rules. It is fundamentally unfair that many businesses in America are requiring the kind of documentation that assures them they are they are following OSHA standards, they are withholding for taxes, they are doing all the things they must do, while other employers are paying cash under the table to pad the bottom line. Follow the money, Mr. President.

Employers right now under the current law can serve up to 6 months in prison. If we would do some of those prosecutions in this country, it would do more to shut the flow of illegal immigrants, frankly, than all the legislation we could ever pass in this Chamber because it would send the message to American employers that they are not going to be rewarded with more profits by breaking the rules.

There are so many people behind this bill who have hearts that are full of compassion, and I certainly, Mr. President, think of you and your family as I make difficult decisions on this bill. But I have to tell you, there are lots of people behind this bill for whom it is all about the money. It is all about the profit.

If we want to stop illegal immigration in this country, we have to get serious about the magnet that is drawing it to our country, and that is we look the other way when people hire illegal immigrants. Until we stop looking the other way from those businesses that are not playing by the rules, we will never effectively deal with immigration in this country.

I have an amendment that would also bar for a minimum of five years any company that is found to hire illegal immigrants from participating in Federal contracts. I hope that will become part of this legislation.

Mr. President, I know there have been enforcement measures added to

this bill that would increase the fines and jail time for employers who repeatedly, willfully hire illegal immigrants. But, frankly, 6 months is plenty if this Administration would only enforce current law. If you put an owner of a business in jail for 6 months in a Federal penitentiary for hiring illegal immigrants and let that word go out across America, you will do more to clean up this problem without spending another dime of the taxpayers' money than anything else we can do.

If this President is serious about illegal immigration in this country, I suggest he call his Attorney General and he say to his Attorney General—we know they have been given instructions; we have heard about it in the Judiciary Committee—tell this Attorney General that we want employers who are hiring illegal immigrants by the hundreds in this country to be prosecuted under the law and to spend some time in jail. That would get to the bottom of the problem.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we have been told that the Republicans are interested in more amendments. We finished the vote approximately 2 hours 15 minutes ago. We have been trying for that period of time to get up some Republican amendments. We had four and four, and they would not agree to that request. We had three and three, and they would not agree with that request. Then three Republican amendments, two Democratic amendments, and they would not agree to that request.

I repeat, it is time for the President and his folks to get involved in this matter. This is the President's bill. This isn't a bill we came up with. Democrats and Republicans working in unison with the administration came up with a bill. We want to help. No one has worked harder on the President's bill than Senators KENNEDY, FEINSTEIN, and SALAZAR. I would sure hope we get some help. We can't have Republican members vote on it if they won't let us call up amendments.

The distinguished Senator from Alabama is interested in this bill. We know that. He has spoken long and hard about his opposition to this legislation. But it is just not appropriate that the minority can have it both ways. They want these amendments but don't allow us to call them up. It is a self-fulfilling prophecy. Come the end of the day, when we have a cloture vote, they will say: You didn't give us any more amendments. They didn't get more amendments because they wouldn't let us call up more amendments. And they have control over that.

So, Mr. President, I think we need to have the record reflect that this bill isn't going anyplace, but it is not our fault. I repeat: This is a bill which was negotiated in good faith by Democrats and Republicans, and it is the President's bill. He says he wants this. Why can't we get this agreement?

Here are my friends. I see on the floor my distinguished friend from Alabama. I have told him personally, and I will tell him publicly—and I have said this before—there are times I don't agree with him, but with JEFF SESSIONS, you never have to guess where he stands on an issue, and I appreciate that. We know where he stands on this issue of immigration. But having said that, can we do this agreement?

Mr. SESSIONS. Mr. President, I was looking for whoever had it. They disappeared. And also Senator GRASSLEY has to look at it.

Mr. REID. Well, he is part of the deal here.

Mr. SESSIONS. Good. I think the only disagreement we have is perhaps time, and I can make a suggestion on that. Is there someone authorized to talk to me about it? I am looking for Mr. Schiappa.

Mr. REID. If I could say, through the Chair, to my distinguished friend, we did have this set up so we could vote at 3 o'clock. Senator DODD has already spoken; Senator WEBB has already spoken. He is part of the agreement. Senators GRASSLEY, COLEMAN, and BROWNBACK have not spoken, so we have put 15 minutes in here for those three Senators. It should be equally divided, but we can make it——

Mr. SPECTER. Mr. President, if the majority leader will yield for a question.

Mr. REID. Be happy to.

Mr. SPECTER. Mr. President, I direct a question to the Senator from Alabama.

What would you like on the timing?

Mr. SESSIONS. I think about 45 minutes per amendment. Some of these amendments are very significant. We have not heard opposition to the amendments. Maybe some have spoken in favor of them, but I don't agree with some of the amendments. The amendment of Senator DODD—I think there are some important reasons that one is not satisfactory.

Mr. SPECTER. Is the Senator from Alabama asking for 45 minutes equally divided for each of the amendments?

Mr. SESSIONS. I am saying that I am not going to be able to support a lot of amendments that are rushed up here to receive votes when Senators have very little time to review them. I think this is important. If we are going through a process just to say we have a bunch of votes, that is one thing, but I think we need an intelligent discussion about these amendments.

Mr. REID. Mr. President, it is obvious we are not going to be able to complete the President's legislation based on the request of my friend from Alabama. I took math at Searchlight, NV, Elementary School, where 1 teacher taught all 8 grades, but I can still figure out what 5 times 45 is, and it is a long time—hours. It is approximately 4 hours.

Mr. DURBIN. Will the majority leader yield for a moment?

Mr. REID. Be happy to yield for a request of my friend.

Mr. DURBIN. Mr. President, pending is the regular order of the amendment by Senator DODD, which has been pending since before the Memorial Day break. So any argument that Members haven't had a chance to take a look at this amendment—they could have taken it home over the Memorial Day recess and read it almost every day and be ready to debate it right now.

I don't want to speak for Senator DODD—no one could—but I think it might be appropriate for us to consider that amendment in a shorter time span.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. REID. Mr. President, it has been now 2½ hours. We have tried every possible way of getting an amendment up to vote on it. We have tried this. We have tried that. We have tried this. We have tried that. We have tried everything.

There are individuals who don't like this bill. The Senate being as it is, they have a right to object to what we do.

And they are objecting; that is for sure. The objections have been nonpublic to this point, but it is frustrating because the people who want to move this bill forward, Democrats and Republicans, are being thwarted in their effort to do so.

As I have said before, we need to make sure the record is clear we are not trying to impede the offering of amendments. There have been some who oppose the legislation and are concerned there hasn't been the ability to call up amendments and have them pending. But until we disposed of the 14 pending amendments yesterday, it was thought by most to be inappropriate to call up more amendments and have, instead of 14 pending amendment, 28 pending amendments. I am going to ask unanimous consent in a minute that we vote on five amendments. Originally, we started the day with four on each side. Then we had three Republican and three Democratic. There was objection to both of those. So I said: Fine, let's have three Republican and two Democratic. There was objection.

We thought we had it worked out once, and then the time for debating these was a lot of time, which is another indication there are some who, no matter what we do, we can't move forward on this legislation.

I know I am being repetitive, but this is not a Democratic bill. The Democrats have helped get this bill to where it is.

The main proponents of this legislation on the Democratic side have been Senators KENNEDY, FEINSTEIN, and SALAZAR. On the Republican side, we have had a number of people work very hard: Senator SPECTER, Senator KYL, and others. I appreciate how hard they have worked. This is a bill that is bipartisan in nature, supported by the President of the United States. I wish to help the President. I am not always in a position to do that. I think I am in a position to do that now, and I have done everything I can with this piece of legislation to do that. So I will ask consent that we have a series of votes set up. When I finish that consent, I will call up some amendments and have them set aside.

Madam President, I ask unanimous consent that the time until 4:15 p.m. today be for debate with respect to the following amendments; that the time run concurrently and there be whatever the allocated time is from now until 4:15 of debate with respect to each amendment, equally divided and controlled in the usual form, with no amendment to be in order to any of the amendments covered under this agreement prior to a vote; that at 4:15 p.m., the Senate proceed to vote in relation to each amendment in the order listed here; that once this agreement is entered, the amendments that are not pending be reported by number; and that prior to each vote there be 2 minutes of debate equally divided and controlled; and after the first vote in the sequence, the remaining votes be 10 minutes in duration.

I would also say, to show what we are trying to do in good faith, when there was a request on the other side to have a large block of time, on this side we agreed, 30 minutes, 5 minutes. We want to try to move this along. Thirty minutes for the proponents and 5 minutes for those opposed. The amendments are Dodd 1199; Brownback 1160; Webb 1313; Grassley-Baucus 1441; and Coleman 1473.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from South Carolina.

Mr. DEMINT. Madam President, I believe there is enough frustration to go around. I appreciate all the managers of the bill, those on both sides who have worked to come up with a constructive solution. I feel compelled to object to this process because our side has not been able to bring up the amendments we want. They have been carefully selected by the other side, which ones we are going to vote on. It appears this whole scene has been choreographed. We had a cloture vote a few hours ago. We are going to have a few more votes.

Then we are going to have another cloture vote, with, I imagine, the statement that now they have accommodated us on our amendments. I have colleagues on the floor who have waited a week to bring up an amendment.

They have not been able to do so. I believe what we should do is to submit the amendments we want to bring up en bloc.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, is there an objection?

Mr. DEMINT. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Madam President, I ask unanimous consent that the following amendments be called up and set aside: Sessions 1323, Thune 1174, Baucus-Tester 1236, Menendez 1317, and Sanders 1332.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I am sorry. I ask my friend, does he object to calling up these amendments?

Mr. DEMINT. I think it is important that we decide what amendments are going to be brought up on our side. I certainly know folks on our side have been working on this. I don't know about this particular group of amendments, if they have been selected on our side or yours. Perhaps there is no problem. But at this moment, I am going to object to those and then confer with our side to see what the big plan is. At this point, instead of doing this a little at a time, I think it is important we know before the next cloture vote that we are going to be able to bring up the amendments we have been waiting on. Until that time, I am going to object to additional action on the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I would only say to my friend, and those within the sound of my voice, I didn't come up with these amendments or the numbers. These were done by the Republicans and the floor staff of the Republicans, indicating the ones Senators had been waiting on for a while. We are happy to have a number of other pending amendments, and we will work with the two managers to see if we can get others. We thought this was a good place to start. But obviously, some do not believe it is a good place to start. I am sorry we are not able to move along. I say in the most positive way, there is good faith on both sides of the aisle to move this legislation. I, of course, was disappointed in the earlier cloture vote, but I was told before the cloture vote took place what was going to happen because there was a genuine need on the other side for more amendments. I understand that. I accept that. I am not the judge of what is to be enough. We have tried hard, and I will keep trying, but I do say everything we have tried doesn't work. There are people in years past who know more about Senate floor procedures than I, but I know a little bit. I don't know of anything I have missed to try to bring up other amendments in a bipartisan way. There is no one at this stage trying to take advantage of anyone else.

This is an effort by Democrats and Republicans who want to help the President get a bill he believes in, for which I have publicly said I appreciate the President doing this. For me to say this, after all the battles the President and I have had, is good for the President and for me. I wish to do something to move this along. The American public needs the cooperation of Democrats and Republicans, with the President joining in.

I apologize to everyone for whom we have not been able to figure out a different way to go forward. We are going to continue to try.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Iowa is recognized.

STEM CELL RESEARCH

Mr. HARKIN. Madam President, a few minutes ago in the Mansfield Room, which is right off the Senate floor, we had a very moving ceremony, one that brought home to so many of us just what we ought to be about as representatives of the people. It was the enrolling ceremony for the bill, S. 5, the Stem Cell Research Enhancement Act, that passed the House of Representatives a couple of hours ago. In the Senator Mansfield Room off the Senate floor were Senator REID, our majority leader, NANCY PELOSI, Speaker of the House, along with Congresswoman DEGETTE from Colorado, who has been the prime mover of this legislation in the House, Congressman MIKE CASTLE of Delaware, also a prime mover in the House. It was Representatives CASTLE and DEGETTE who worked together to get this bill through the House both last year and this year; also, Congresswoman CAPPS from California and Congressman JIM LANGEVIN from Rhode Island.

We had this enrolling ceremony to send the bill to the President. With us in the room at the time were people who in their own personage represent so many of the illnesses and diseases that stem cell research holds so much promise for curing, everything from juvenile diabetes to Parkinson's, Rett Syndrome, spinal cord injuries, multiple sclerosis, and so many others were there. You see these little kids and you see their families, and what they have left is hope. They have hope that scientists, working collaboratively, will unlock some of these mysteries, will find the interventions and the cures to so many of these illnesses and diseases.

I saw there a little girl who had Rett Syndrome, with her mother. There was another young girl with juvenile diabetes, thinking about what her life is

going to be like. We know stem cell research holds hope that scientists can unravel some of these mysteries. Those of us who have been involved in at least the legislative end of stem cell research, through all the hearings we have had going clear back to 1998 when the first embryonic stem cells were derived in Wisconsin, we know the great advances that have been made. We know how close we are to having some wonderful breakthroughs.

Yet on August 9, 2001, President Bush, in his first year in office, spoke to the Nation—I remember it very well—and limited the number of stem cell lines that could be investigated by Federal researchers or through the auspices of the National Institutes of Health. They might not be Federal employees. They could be researchers at the University of Minnesota, the University of California, or the University of Iowa, but they would be getting grants from the National Institutes of Health for biomedical research. On August 9, 2001, the President basically said we are going to limit the number of stem cell lines.

We thought at the time maybe 75 lines were enough. Then it turned out there were 20 some lines, then fewer than that. Then we found out later every single one of these stem cell lines was contaminated because they had been grown in a medium with mouse cells. So they are contaminated. None of them will ever be used for any kind of human intervention.

Since that time, we have worked to overcome this Presidential fiat, if you will, one person, the President of the United States, being able to limit the expenditures of Federal money for stem cell research. Here I give my utmost praise and thanks to Senator ARLEN SPECTER of Pennsylvania. He has been stalwart, first in his chairmanship of the Appropriations Committee that funds biomedical research. He was the first one to have congressional hearings on embryonic stem cell research. I believe we have had 20-some hearings since then. I was his ranking member and, of course, now I am Chair and he is my ranking member. But we have worked hand in glove all these years to overcome this Presidential fiat that limits, that put shackles on the scientists who want to unlock these mysteries, who want to work to help cure diseases such as juvenile diabetes, Lou Gehrig's disease, and spinal cord injuries.

I can remember once when my good friend—now he is deceased—Christopher Reeve, whom we all remember as Superman, the first Superman, had a severe spinal cord injury and he labored hard all the time for overcoming the President's order of August 9, 2001. He worked so hard to try to get a stem cell bill passed.

One time, we had seen a film of a mouse—actually a rat, sorry, a rat—whose spinal cord had been severely damaged. There were pictures of this rat that couldn't walk—only with its front feet; its back feet were totally paralyzed—treated with stem cells, and the rat then walked. That was when Christopher Reeve uttered his famous line: ''Oh, to be a rat.'' Or as I said at the time, we are actually about 99 percent rat. I don't mean politicians, I mean humans, genetically, DNA-wise. And if that could be done there, then there is so much hope that can be investigated and taken on in trying to cure severe spinal cord injuries, for example.

It was a very moving ceremony, looking at the faces of the mothers and the fathers, the children who were there, and thinking that this is what we ought to be doing. We ought to be giving them the hope that we are going to employ our best minds, our best science to heal the sick—to heal the sick. I think and I hope that is one of the primary reasons for government, for our government—to help alleviate human suffering wherever we find it. So I am hopeful that the President will change his mind about his thoughts on vetoing this bill.

As you all know, we passed this bill last year. I might add that this bill was passed with the House and Senate under Republican control, sent to the President, and he vetoed it. Well, we did not have the votes to override the veto. But we said we would be back under a new Congress, and we did come back. The Senate passed a bill a couple of months ago, in April.

I might add, if you add up all of the votes—and there were some people missing, but if you added up all the votes with those who were for the bill and those against it, basically we had 66 votes in favor of this bill. That is one vote shy of enough to override. If I am not mistaken, I believe we had 18 Republican Senators. So this is not a partisan issue. It is not partisan. The same in the House. One of the leaders in the House is MIKE CASTLE of Delaware, a Republican, and I mentioned Senator ARLEN SPECTER, one of our great Republican leaders in the Senate on biomedical research.

I guess you have to wonder why it would be that just one person, the President of the United States, has the power to deny so much hope to so many people. I am hopeful the President will reexamine his thoughts, listen to the kinder voices of his nature, and listen to those around him who understand this legislation has strong ethical guidelines. This bill has stricter ethical guidelines on stem cell research than is existing in law today.

I might also add that the President has made it clear there was one moral line he would not cross. He said Federal tax dollars should not be used to destroy embryos. Well, we expressly crafted this bill, S. 5, to ensure that it does not lift the existing Federal ban on using Federal funding to destroy embryos. We have fully addressed the President's No. 1 concern. As I said, S. 5, the bill that was just enrolled and sent to the President, imposes stricter ethical requirements than exist today.

We tried to meet the President halfway. Isn't that what this is about—the art of compromise? Maybe he is not all right all the time, maybe we are not, so we try to meet halfway. Last year, when the bill passed the Senate floor, there was a Specter-Santorum provision that was not put in the bill. The President said he was in favor of that. So we put it in the bill. That provision promotes alternative ways of deriving stem cells. The President last year said he endorsed that. Here is his chance to sign it and make it a law, along with a bill that has stricter ethical guidelines than what exist today.

I see no reason, no ethical reason, no logical reason why the President would once again veto this bill. It is not the same bill he vetoed last year. It is a different bill. We put in the Specter-Santorum language. We put in the ethical guidelines. I want to make it clear this bill we will send to the President has requirements that are very strict.

First, the only way a stem cell line can be eligible for federally funded research is, No. 1, if it were derived from an embryo that was otherwise going to be discarded.

What do I mean by that? Well, there are about 400,000 embryos right now frozen in in vitro fertilization clinics. The moms and dads have had all the children they want, they no longer need any more of the embryos, and so those embryos are going to be discarded. It happens every day at fertility clinics all over America. All we are saying is, instead of discarding them, let's allow a couple to donate those, if they wish, to create stem cell lines that can cure diseases and save lives. Throw them away or use them to ease suffering. It is the second choice—use them to ease suffering—that I believe is the truly moral pathway and truly respectful of human life.

Think about it. Think about a couple who has used in vitro fertilization to have a family. Over 50,000 children are born every year to couples who otherwise would be infertile. Let's say the couple has had the kids they want to have but there are leftover embryos. The couple's only choice now is to continue to pay the IVF clinic to keep them frozen in nitrogen for all their lives, and perhaps when they die they will be thrown away, or to throw them away. Those are the only two choices. Why not give a couple the choice of saying to the IVF clinic, you can take the leftover embryos we have and donate them to science for embryonic stem cell research.

Some people might say, maybe then people will get into the business of paying couples—paying them to donate embryos, embryo farming and all of that, which we have heard about. We have covered that in the bill. We have strict ethical guidelines. No. 1, no money or any other consideration can be given to a couple for donating embryonic stem cells. No money or any other consideration. It must be strictly voluntary. And the donors have to give

their informed written consent. The last ethical guideline is that these embryos that are donated can only be used for embryonic stem cell derivation and nothing else.

As I said, these are stricter guidelines than exist today. So why wouldn't we allow couples who have had their family, rather than saying throw them away, why not allow them to be able to donate them for the kind of research that will ease human suffering and lead to cures?

There is overwhelming support across the country for this legislation. Some 525 different groups have endorsed this bill—patient advocacy groups, religious groups, health organizations, scientific societies, and universities. They know it holds hope, hope for people with Lou Gehrig's disease, Parkinson's disease, spinal cord injuries, heart disease, people with diabetes, and people with cancer.

This is not just us saying that. Don't just take our word for it. In March of this year, in front of our committee, Dr. Elias Zerhouni, the Director of the National Institutes of Health—keep in mind he is the head person of all of the Federal biomedical research, Dr. Zerhouni, head of the NIH—appeared before our committee. I asked him whether scientists would have a better chance of finding new cures and treatments if the administration's current restrictions on embryonic stem cell research were lifted. Dr. Zerhouni said, unequivocally, yes.

Keep in mind, Dr. Zerhouni is the Federal Government's top scientist in the area of medical research. He was appointed by President Bush to his present position. So I think it took great courage on Dr. Zerhouni's part to say in public that his boss had it wrong on stem cell research. But I know Dr. Zerhouni. He is a preeminent scientist; the greatest doctor, and I know that he knows—he has so stated it—that we must move ahead on embryonic stem cell research. Here is what he said, and let me quote him:

> It is clear today that American science would be better served and the Nation would be better served if we let our scientists have access to more stem cell lines. It is in the best interest of our scientists, our science, and our country that we find ways and the Nation finds a way to allow the science to go full speed across adult and embryonic stem cells equally.

Well, Madam President, we must move forward. We must move forward. I just hope the President will sign this bill. But I can assure you, on behalf of the hundreds of millions of Americans who suffer from different kinds of diseases that have the potential—the potential—to be cured through embryonic stem cell research, if the President vetoes it, we will be back, and we will back again and again and again. This issue is not going to go away. We are going to keep hope alive for people with spinal cord injuries, with Parkinson's disease, and with so many others.

We don't require astronomers to examine the skies at night with Galileo's telescope. We don't tell our geologists to study the Earth with a tape measure. Are we really serious about unlocking the mysteries of stem cells and all of the things that we have seen happen with stem cells? We have already seen stem cells that have differentiated into motor neuron cells, nerve cells, and heart muscle cells. We have already seen this take place. Now it is just a matter of more science, getting more of our smartest scientists involved in this to take the next step and the next step and the next step so that someone suffering from Parkinson's disease will have a cure. I believe it is possible. From all the scientists I have talked to, I believe it is possible, and it could be possible in our lifetimes.

A Nobel prize winner, the discoverer of the double helix of our DNA, Dr. Jim Watson, said to me not too long ago: With all that we have done in unraveling the mystery of the human gene—we have mapped and sequenced the entire human genome—with that and with these new breakthroughs in finding that embryonic stem cells can differentiate, we can take them and differentiate them into different tissues—if our scientists are allowed to really go at this full speed, medicine 50 years from now, as it is practiced, will make it look like what we are doing today as being in the dark ages. That is the hope and the promise of embryonic stem cell research. It should not be that one person, the President of the United States, can stop this from going forward.

With this enrolling ceremony we had today and the focus of the Nation on this, all I can ask is: President Bush, listen to the better angels of your nature. Think about all those who are suffering in our society who need this hope and the scientists who can work together, collaboratively, to find the interventions and the cures for so many diseases—think about this before you put pen to paper and veto this bill. So much rides on this. But as I said, if the President does veto it, we will be back, again and again. This is not going to stop. We are going to lift this ban, and we are going to move ahead with embryonic stem cell research.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I ask unanimous consent to speak as in morning business.

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

Mrs. MURRAY. Madam President, I commend the Senator from Iowa, Senator HARKIN, for his tremendous work and advocacy that has gotten us to this place today, a very important day that he talked about, where the House of Representatives voted to pass the embryonic stem cell research bill, joining the Senate. That bill is now on its way to the President's desk.

It is because of the work of Senator HARKIN over the years and his advocacy and his not giving up that we are here today. I am very proud to join him on the floor to urge the President, now, to do the right thing.

The House of Representatives today, in voting for this bill, offered hope to millions of Americans in supporting embryonic stem cell research. There is now one person who can make this decision for millions of Americans and that is the President of the United States. He has a choice. He can stand with so many people who are looking for that desperately needed cure or he will stand against them. I hope, similar to my colleague from Iowa, the President pauses, thinks about the lives he holds in his hands and makes the right choice and signs the bill for embryonic stem cell research.

This is an issue I know personally. I grew up in a family of nine. My dad was a wonderful, physically active human being. He served our Nation in World War II; raising his children. He was a strong man. In my eyes when I was growing up, he was indestructible, but when I turned 15 years old, things changed dramatically in my life and my dad's life. My dad was diagnosed with multiple sclerosis. That is a horrific disease, for anyone who is not familiar with it. It wasn't long until he could no longer walk, he was in a wheelchair and required my mother to take care of him full time.

It was a very difficult time for my family. We had to watch my dad deteriorate physically. We had to watch as my mom returned to work. She was on welfare for a while and finally was able to get some schooling and get a job. But she had to work, take care of my dad, and raise all seven kids.

We all hoped a cure one day would be found for my dad and people like him. You never lose hope when something such as this happens to you. It is essential to dealing with what you have been handed. But we were also realistic. Scientists didn't have any promising leads, doctors said there wasn't much they could do, there was no cure on the horizon, there was nothing to hinge our hope on when I was growing up. But now we have a chance finally to offer families across this country hope, opportunity, a chance for a cure.

It is time for President Bush to stop his obstruction and to stop saying no to cures and to stop saying no to hope for families such as mine.

Unfortunately, we know since being elected, President Bush has blocked robust federally funded research on embryonic stem cells. Originally, he told us there would be 78 stem cell lines available for study. In truth, there were only 21, far fewer than scientists say are needed for this research.

Even the Director of the National Institutes of Health, as Senator HARKIN talked about, who was appointed by President Bush, said: ''It is clear today that American science would be better served, and the Nation would be better served, if we let our scientists have access to more cell lines. . . .''

The President refused to heed that advice from the scientific community

or his own Director of the National Institutes of Health. He did so—why? To pacify the ideological views of a few in his political base. What he did by blocking that was to force millions of Americans who suffer from many ailments to put their hope on hold and to stand idly by and watch as a family member's condition worsened.

Besides putting the hopes of millions of people on hold, the President's action actually pushed stem cell research overseas. Our country, which has been known as the world leader in medicine and in scientific research, is now falling behind other countries in this field.

Reuters recently reported that British scientists, with funding from an American who was upset with President Bush's actions, were using embryonic stem cell research to cure some forms of blindness.

Our country must remain at the forefront of innovation. Institutions such as the University of Washington, in my home State, have to have the ability to compete with organizations in other countries. This President has denied that.

The bill that has been sent to the President today is on its way to his desk. The Stem Cell Research Enhancement Act of 2007 allows the Department of Health and Human Services to finally begin robust research on embryonic stem cells from frozen embryos, embryos, it is important to note, that would otherwise be discarded.

That bill also promotes research into funding alternative ways to derive stem cells from embryos, and it does these things while it imposes strict ethical guidelines, as all of us have insisted upon. In fact, the standards in the legislation that is on its way to the President's desk today are more stringent than even the President's own policy.

Most important, though, the legislation we want this President to sign takes hope off hold for millions of Americans. We all know the President has threatened to once again veto this legislation, as he did last year. I am here today, and I hope he hears me, to say: Please don't do that.

There are millions of sick Americans and their families who are watching and waiting and praying and hoping he signs this bill. If he vetoes this bill, he will likely claim, as he did last year, the legislation is unnecessary since researching adult stem cells, which he supports, is as promising as studying embryonic stem cells.

Similar to last year, he would be wrong. Scientists say embryonic cells, which can be used to grow any type of human or cell tissue, show the most promise. They offer the most hope.

I have lived with someone with a serious illness. I have seen the suffering that happens, personally, to their families, and to everyone around them. I know how hard it can be. We must not block the discovery of cures for these people. We must not block their hope. Today, at least 17 million Americans suffer from diabetes. At least 500,000 Americans suffer from Parkinson's, 250,000 Americans suffer from multiple sclerosis, and 250,000 have spinal cord injuries, including, I would add, many veterans of the Iraq war. All these Americans, and many others who suffer from a variety of conditions, will stand to benefit from embryonic stem cell research.

Finally, today, in sending this bill to the President, this Congress is offering a chance to families across the country to have hope, to have an opportunity, to have a chance for a cure. I hope President Bush hears their calls, picks up that pen, stops his obstruction, stops saying no to cures, and signs his name to the legislation. We are all watching.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Madam President, before I say a word on immigration reform, I would like to add a closing word to the comments of the Senator from Washington and the Senator from Iowa.

Just as Senator MURRAY has talked about her own family experiences with her dad and mom and all, my own mom passed away about 2 years ago. She had had Alzheimer's disease for a number of years. Her mother had Alzheimer's, her grandmother had Alzheimer's, and last year my mother's younger sister, 10 years her junior, was admitted to a residential facility in Huntington, VA, where she has Alzheimer's disease as well. This is one that strikes close to the heart for us and our family as it does for you and literally for millions of families across the country. Thank you for your great leadership and that of Senator HARKIN and MIKE CASTLE, my own Congressman, who has been a stalwart in these efforts.

I would like to return to an issue we have been focused on in the Senate in the last couple weeks and that is what we do to secure our borders, what to do to make sure employers are not knowingly hiring illegal aliens, at least not without penalty if they do, and what are we going to do about the 12 million or so people here undocumented, roughly 60 percent of whom came here illegally. What are we going to do about all of that?

For a while this afternoon, it looked like we might not do anything. For a while this afternoon, it looked like we may basically finish up without taking any kind of definitive action and having debated these issues for a couple of weeks, as we did last year for several weeks, to go home without having taken definitive steps. I am told that negotiations are going on, even as I speak, which would allow us to come back into session, for our Republican friends to offer 10 more amendments, for our side to offer 10 more on top of the 45 or so that already have been offered and voted on. That would take us to 65 amendments. That is a lot of amendments on any piece of legislation. I realize this is a contentious one, but at some point in time I think it is fair to say we have had an opportunity for people to say this is what I think we should do and for people to offer their countervailing views, but I think it is time to move on.

My view is the worst thing we can do is, frankly, do nothing. I don't believe the status quo is acceptable, the status quo, which last summer found as many as 10,000 people coming across our borders illegally every week, mostly coming for work. Some could have been criminals, who knows? Maybe there was a terrorist or two in those numbers. But for us to go home not having dealt definitively with that problem, with that challenge, is a big mistake.

A country such as ours—any country but especially a country such as ours—has to be able to secure our borders. I read some information provided by some folks in Washington, a think tank in Washington, who looked back at the number of employers who were sanctioned for knowingly hiring illegal aliens in the last several years. The comment was made—I don't know if the Presiding Officer saw this—the comment was made that a person in the last several years had a greater chance of being eaten by an alligator in this country than, if you were an employer hiring illegal aliens, being caught.

That may sound like a stretch, but it is not much of a stretch. We actually saw the number of people prosecuted under the law in the last 6 years dropping by some 30 percent below what it was in the last decade.

We were not enforcing the laws against employers. We need to do that. There are sanctions in laws and they need to be applied. Those laws need to be enforced.

Sort of a question remains: How about all those people who are here without—who are not here legally? They may have come here legally and their visas expired and they stayed on. But when you add those to the folks who came across the borders illegally, it totals some 12 million people. I can understand the views of some folks in my State, and maybe in Minnesota and other places around this country—Washington, Iowa—that we ought to simply put them all on buses and send them home. I can understand how people would feel that way.

I would say I don't know how realistic that is. But the idea of providing some way for them to stay here and work, under a condition of probation, to be able to work over a number of years toward a legal status—before we countenance doing that, before we go down that path, I believe it is critical that, No. 1, we enforce and secure our borders.

Second, that we make sure those folks who are knowingly hiring illegal aliens, that we prosecute them with every ounce of energy we have under the law.

With respect to the enforcement of our borders and the securing of our borders, let me just mention a couple of things that this legislation requires us to do and to question whether that makes sense, whether that is sufficient. We have thousands of Border Patrol personnel arrayed on the Nation's borders, from the Pacific coast, west coast, San Diego, all the way across to the gulf coast, a couple-thousand-mile border.

The legislation that is before us today basically says we are going to double the number of Border Patrol personnel. They have to be better trained and better equipped. Today we are supplementing their numbers with the National Guard. And as an old Governor who once was commander in chief of our National Guard in Delaware, I am all for continuing to deploy those assets as well to secure our borders, to supplement our Border Patrol personnel.

However, those Border Patrol personnel have to be better trained. They have to be better equipped. We have technology today that, frankly, we did not have 2, 3, 4, 5 years ago to deploy along the borders. We have unmanned aircraft that can be flown, aircraft that can see for miles, aircraft that can see in good weather like today, aircraft that can see when people are moving on the ground when it is nighttime, aircraft that can see when it is foggy, aircraft that can see through the rain. We have that capability today. We did not have it then.

We have the capability with surveillance cameras to look long distances, in all kinds of weather conditions, day and night, to detect the movement of people toward our borders. We have the equipment. This legislation says we have to deploy it and we have to use it and we have to fund it. We have the ability to provide ID, identification, for people applying for jobs in this country, identification that is largely tamper proof. Ten years ago we may not have had the capability. We have the capability today. If I were an employer, I would take great solace in knowing that the identification being presented to me was genuine, was real, had not been tampered with, and to know that I could trust the technology. This legislation seeks to make sure that employers have that confidence.

I believe one of the major problems in this country in recent years that has led to a greater influx of folks coming here illegally is, when we catch them at the border, if they happen to be from Mexico, frequently our Border Patrol personnel take those people back to the border across into Mexico.

However, if the folks we catch at the border, if they are not from Mexico—Guatemala, Honduras, other countries to the south, if we capture those people, we take them to a detention center. We have been taking them to detention centers for several years. If we have ample space in the detention center, bed capacity, if you will, the folks are basically registered, charged, and have the opportunity to argue whether they are here as refugees, whether they are being politically persecuted, persecuted for their religious beliefs.

However, for too long when we have captured people not from Mexico and we take them to detention centers, they do not have enough beds. They cannot book these folks, hold them, retain them in custody because they just do not have the capacity. So what do we do? Well, we basically register them, find out who they are, as best we can, and then we essentially release them on their own recognizance and say: Come back in 2 months, 3 months for a hearing. Surprise, surprise. We never see them again. They just disappear. They melt into the fabric of the communities across this country.

For the most part they get jobs and go to work, stay out of trouble. But the idea that people can come in illegally like that, and once captured not be detained, for us not to find out if they are here as refugees, that is wrong. It is especially wrong if you happen to be somebody who is trying to come here legally, not for a couple of months but for years waiting in line patiently, abiding by the law.

Meanwhile other folks come into this country whom we capture and essentially release to become workers in this country. That is wrong. In terms of equity, that is basically unfair. It says to people trying to play by the rules: You're foolish. You're foolish. It sends absolutely the wrong message.

That is one of the reasons amnesty is not the answer either. It sends the same kind of message to people who have been waiting to come here for a long time. It says: You are foolish for playing by the rules. It is why amnesty is no good. And the idea of us simply releasing people on their own recognizance because we do not have bed capacity in these detention centers makes no sense as well.

With respect to employers knowingly hiring illegal aliens and our not prosecuting them under the law—unacceptable. When we have employers who know that the man or woman they are hiring is not here legally, that the documentation paperwork that is being presented to them is false, it is unacceptable that that employer is allowed to do that, to continue to do that, week after week, month after month, year after year. That think tank which told me recently that the chances of a person being eaten by an alligator were greater than a person being prosecuted under the law, whether that is true or not, we know this: Too few employers have been prosecuted.

One of the best ways to send a chilling message back home to folks who are thinking about coming here is, one, make sure if they get caught they go to a detention center. If they are not here as a refugee, they are going to go home. And the time they serve in the detention center is not going to be pleasant.

The best way to deter, to put a chilling effect on those who come across illegally is to make sure that employers know if they hire folks, they are going to pay a severe price. That sends a strong message to those who otherwise would take a chance and come here.

The last thing I would mention is what to do about all of those people here who are undocumented. If there are 12 million, if some 60 percent of them are folks who came across the border illegally, if the other 40 percent who are people who came here legally stayed beyond the time they were allowed to stay here, and now they are here illegally, although they came legally in the first place, what do we do with all of those people?

The legislation we have before us that we are debating and we have been amending for the last 2 weeks says: If you came here legally and stayed beyond your time, or if you came here illegally, we want you to step out of the shadows. You have to register with the Government. You have basically one chance to do that. If you do that, take advantage of this opportunity, and you are willing to meet the conditions—I think, tough conditions, a multiyear period of what I would call probation—those people can work their way toward legal status. It might take 8 years, it might take more. But for folks who have been here for a while, they have worked, they have been good workers, they have paid taxes, they have stayed out of trouble with the law, under this legislation if they are willing to continue to work, continue to pay taxes, pay any back taxes that are owed, pay a very significant fine, thousands of dollars in fines, learn English, learn about the history of our country, and so forth, if they are willing to do those things, they have a chance to work toward a legal status not in 8 weeks, not in 8 months, but in as long as 8 years.

If they are not willing to live by the conditions that are laid out in this legislation, they are out of luck. They will not have a chance to ever have the kind of legal status that they otherwise would have.

Let me close, if I can, by saying I do not know if the Presiding Officer remembers this, but during orientation for new Senators last November, when I was privileged to spend some time with our newly elected Senators, I mentioned one of the things we do in my Senate office back home is we try to do a good job on constituent service.

We actually keep track. I get reports every week on how we are doing on constituent services. We do a monthly survey for the people we serve through constituent services. They can evaluate our services: excellent, good, fair, poor. And I have a great staff. They get, for the most part, excellent and good marks. About 95 percent of them are excellent and good. We are very proud of the work they do.

In the weekly reports I have received for weeks now, actually for months

now, each weekly report from my head of constituent services starts off with an update on a person who came to this country legally, I think from Greece, who was an older woman, I think in her midseventies, who came here to see, I think, her son, maybe a daughter-in-law, who apparently has dementia, who ended up being hospitalized, essentially abandoned by her son, and ended up in a hospital for treatment.

She needed hospitalization and treatment for less than a week for her condition. Less than a week. Unfortunately, no one was there to take care of her, to look after her, to be responsible for her. She stayed in that hospital not for a couple of days, not for a week, more than a month—actually I think for more than 2 months.

How much did it cost? It cost that hospital about a quarter of a million dollars because that hospital in Dover, DE, essentially had to eat the cost of that hospitalization.

The last week or so I understand that the daughter-in-law has stepped forward. This woman who has her documentation, apparently arrangements have been made with folks back in Greece to take her back. The hospital has bought tickets, and I am told they are going to fly this elderly woman back to Greece. Her daughter-in-law is going to take her. Hopefully the paperwork is being arranged for the woman to be received by her own family back in Greece.

I would like to say that is probably the only time that has happened in this country this year or last year or the year before. Unfortunately, it is not. And it is unfortunate that a lot of times it is a failure of us at the Federal level to enforce our borders, to secure our borders, as in this case, when people stay beyond their limited period of time, has led to a situation that has cost this hospital a ton of money. There are probably other hospital facilities that it has cost a lot of money.

It is being borne by other people in my State who paid for their health care, and oftentimes State and local governments end up picking up the tab for what really is a failure at the Federal level. It is not right. It is unfair. This legislation would begin to address that.

Let me close with this thought. Last year, when we debated for a long time immigration reform, passed from here a pretty good bill for immigration reform, I remember when I talked about the legislation, I always used the words, ''tough,'' ''smart,'' ''comprehensive.'' That is what I believed and said again and again and again that that is what we needed to do in terms of our work on immigration reform—tough, smart, comprehensive.

I still think that applies. I would add to that maybe a couple of other terms. One of those is ''fair.'' The ''fair'' that I am thinking of is the ''fair'' to taxpayers in this country. What we pass here ought to be fair to taxpayers, not just Federal taxpayers but State and local folks, including hospitals, and people who are running hospitals and funding hospitals around this country; fair to American workers.

The idea that people are coming here and taking away jobs in some instances, too many instances, from people who are willing and able to do the work is not acceptable. The idea of having a large guest worker program like the President has envisioned, in my view, is not acceptable.

We obviously are going to have some kind of guest worker program, but not on the magnitude that this President has sought, but tough, smart, comprehensive, and fair—fair to taxpayers, fair to American workers.

The last point I would add is practical. As I said earlier in my comments, as much as I can understand the desire to round up 12 million people who are here undocumented, put them in planes, buses, whatever, and send them home, I can understand the rationale, the feeling to do that, but, my friends, it is just not practical. What we have to do is find a way for them to come out of the shadows. If they do not abide by the law, take them home. But if they are willing to work hard, pay taxes, stay out of trouble, learn English, learn our customs and our laws, they can have a chance over time, for a long period of time, multiple periods of years to work toward a documented legal status. I think that is the right approach. And, hopefully, sometime in the next hour or two we will reconvene on the Senate floor, and those Senators who have amendments on the Republican side and the Democratic side will have the opportunity to offer even more than the 45 that we already offered and disposed of.

Once we have done that, sometime maybe tonight we will have an opportunity to vote to begin to draw to an end the debate on this legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

STEM CELL RESEARCH

Mr. DURBIN. Mr. President, today this Congress is once again taking an important step forward toward creating a better future for America. Earlier today the House of Representatives passed the Stem Cell Research Enhancement Act, a bill the Senate passed in April. Along with the first minimum wage increase in over 10 years and a fiscally responsible budget, this is yet another accomplishment for the American people which this Congress has been able to achieve.

This bill will expand Federal funding for embryonic stem cell research, a type of stem cell research that holds great promise for millions of Americans suffering from debilitating diseases such as heart disease, diabetes, Parkinson's, and Alzheimer's. It has been over 5 years since the Senate began discussing stem cell research, 5 years of discussion, 5 years of searching for answers and, most importantly, 5 years of hope that one day our country would make a much needed change in policy for the health of all of its people.

Today we stand at the brink of an historic opportunity to reestablish our country as a global leader in biomedical science and reaffirm our dedication to curing some of the greatest sources of human suffering. We are here with the support of over 500 well-respected organizations, including the American Medical Association, the American Public Health Association, the Juvenile Diabetes Research Foundation, the March of Dimes, and Parkinson's Action Network. These organizations represent scientists, doctors, religious entities and, most importantly, American patients and their loved ones.

Unfortunately, President Bush has once again publicly stated he intends to veto this bill. This is a bill both Houses of Congress on a bipartisan basis have passed for 2 years in a row, a bill that continues to be supported by a majority of the American people. But it is also a bill President Bush has already vetoed.

For the President to reject this legislation again is to take another step backward, away from the possibility of lifesaving medical breakthroughs and dash the hopes of millions who depend on the untapped promise of medical research. Time is precious for those who suffer from debilitating disease and for their loved ones who suffer with them. The lack of Federal support for embryonic stem cell research may cost many Americans the chance for a cure, a treatment, and a better life. Our country is in a position to do the right thing. This President has done something no other President has done before him; that is, to ban Federal funding of a certain level of medical research—in this case, research involving embryonic stem cells—to close off Federal funding that could open opportunities for cures for diseases.

The argument made by the President is that these embryonic stem cells should not be used for this type of research. These stem cells are generated, of course, in the process of in vitro fertilization for couples who have difficulty conceiving a child they want to love and rear. They go to a laboratory and spend an enormous amount of money in the hopes of having that baby that is the object of their dreams. The day may finally come. But in that process, embryonic stem cells that are

generated may be lost, discarded, unused. How can it make any sense for us, how can this reflect compassion for us to say it is better to throw away these stem cells and discard them rather than to use them for research which can bring life and hope and spare people of their suffering?

Congress has shown the political will, and the passage of S. 5 is the way to do the right thing. I hope President Bush will not veto this bill. If he does, listening to a vocal minority, he will be disregarding the health of our country and the hopes of so many suffering today. It is time for America to move forward in medical research, to find the cures that will give us a brighter tomorrow.

(The remarks of Mr. DURBIN pertaining to the introduction of S. 1563 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, today a piece of legislation is being sent from this Congress to the President dealing with stem cell research called the Stem Cell Research Enhancement Act.

On the way to the White House is a piece of legislation called the Stem Cell Research Enhancement Act. Now, I know there are some who say: Well, what does this mean to our lives? Well, the research in stem cells is some of the most promising research in medicine we have seen in our lifetimes. We have a lot of people in this country today who are suffering. They suffer from dread diseases. They suffer from Alzheimer's. They suffer from Parkinson's disease, cancer, heart disease, diabetes—so many ailments and so many difficulties.

Research occurs in this country to try to address these issues and find cures, to unlock the mystery of these diseases. One of the most promising areas of research has been stem cell research.

Now, the President has indicated he does not support Federal funding for certain kinds of research in stem cells. He says he will veto this legislation. I hope he changes his mind. He has a right to veto the legislation. We then would try to override the veto. But I think it will be a significant setback if the President vetoes the legislation.

This legislation deals only with a specific area in stem cell research. It deals only with stem cells from embryos that were created for fertility purposes by the in vitro fertilization process. Those embryos that are created in the in vitro fertilization clinics—they create more of those embryos than are needed, and then they throw them away if they are not needed.

We have had about 1 million people walking on this Earth now in the last 25 years who were conceived, in many cases, in a test tube or a petri dish in the process of in vitro fertilization—nearly a million people. It was big news when the first such conception occurred, but now it is relatively routine for those couples who are unable to conceive to go through in vitro fertilization and conceive. When doing that, there are embryos created—a sperm and an egg create an embryo; a fertilized egg creates an embryo—and there are more embryos created from the in vitro fertilization process than are used. Some are then stored frozen. After a period of time, when it is clear they are not going to be used, they are simply discarded. They are thrown away.

The piece of legislation that goes to the President, saying let us proceed with additional research, deals only with those embryos that otherwise would be thrown away. These are the embryos that could be used instead for this critical area of research. Rather than throwing the in vitro fertilization embryos in the garbage, it is much more life affirming, I think, to use them to better understand and to treat some of the devastating diseases and illnesses—diabetes, heart disease, Alzheimer's, Parkinson's.

I know there is great passion about this issue. Often, the issue is cast in terms of: When does life begin? But that is not about this debate on this bill. These are embryos that are about to be discarded and could instead be used to search for the cure for these diseases and to enhance life, to extend life.

I am sure there are desks in this Chamber—perhaps every desk—occupied by someone who knows a friend, a loved one, a neighbor, an acquaintance who is suffering today from one of these awful diseases.

A former colleague of ours asked a question. I wish to put it up on a chart because it is such an interesting way to address this issue. One of our former colleagues, former Senator Jack Danforth, from Missouri, who is also an ordained Episcopal priest—he was a Senator, yes, but is an ordained Episcopal priest as well—here is what he said about this issue. He says:

> It is not evident to many of us that cells in a petri dish are equivalent to identifiable people suffering from terrible diseases. I am and have always been pro-life. But the only explanation for legislators comparing cells in a petri dish to babies in the womb is the extension of religious doctrine into statutory law.

Senator Danforth is a Republican, an ordained Episcopal priest—interesting person and legislator. I served with him in the Senate, and I think he puts it well.

Nancy Reagan says:

> Science has presented us with a hope called stem cell research, which may provide our scientists with answers that have so long been beyond our grasp. I just don't see how we can turn our backs on this—there are just so many diseases that can be cured, or at least helped. We have lost so much time already, and I just really can't bear to lose any more.

Nancy Reagan. We know, of course, her husband, the late Ronald Reagan, suffered from Alzheimer's disease. In fact, he sent a message to America in which he announced he was suffering from Alzheimer's disease. He entered into a long period of darkness from this terrible disease that is affecting more and more people in our country.

There are about 400,000 embryos frozen in in vitro fertilization clinics. It is estimated that about 8,000 to 11,000 of these embryos are going to be discarded, thrown away. This debate is about whether we should, with the consent of those who own those embryos—or from whom those embryos were created, with their consent—whether we should use these embryos that would otherwise be discarded for research that has the potential to cure diseases and save lives.

There is a young woman in North Dakota. She has recently come to Washington, DC, with her mother. She is a young woman who suffers from diabetes—a very significant form of diabetes. She has had a pretty aggressive time dealing with it. Her name is Camille—Camille Johnson. This is a picture of Camille, with her clarinet and her two friends who play in a middle school band. Camille has nearly lost her life on more than one occasion as a result of having to battle this disease. Her mother Andi and Camille have told me it is fine to use her picture because she has worked very aggressively in the juvenile diabetes area to try to address these issues and say to the Congress: Won't you please—won't you please—give us the opportunity to proceed with stem cell research to unlock the mysteries of these terrible diseases?

So there are thousands—there are millions—of Camilles and people with different names, young and old, who rely on this Congress and rely on this President to do the right thing.

This is a quote from Dr. Elias Zerhouni, who is the Director of the National Institutes of Health for this administration. He says:

> From my standpoint, it is clear today that American science will be better served, and our nation better served, if we let our scientists have access to more stem cell lines.

That is from the President's own adviser on these issues. Yet the President says he is going to veto this legislation.

I care deeply about this issue for a lot of reasons. I lost a beautiful 23-year-old daughter to heart disease, and I decided, not just for her sake but for the sake of others in my family who are gone as a result of devastating diseases, that we must do everything—everything—possible to find a way to cure these terrible diseases that take so many lives. Some say: Well, you

don't have to use these embryos. There are other things much more promising, such as adult stem cells. There are adult stem cells you can use. The fact is, we have been working on adult stem cell research for decades—for decades. Yet, while I support that, it doesn't show nearly the promise that embryonic stem cells show in the ability to respond to some of these diseases.

Let me go through just a couple of them. One day, I was on an airplane, and I was talking to a man who is called the father of the Human Genome Project, Dr. Francis Collins. He told me of some fascinating research that is going on. They induced heart attacks in mice, severe heart attacks in mice, and I believe, as I recall, there were a dozen and a half or two dozen mice in which they induced severe heart attacks. Then they extracted stem cells and invested those stem cells back into the heart muscle of those very same mice, and in a matter of weeks, a good number of those mice—in fact, I think the majority of those mice—had no evidence of a damaged heart. These were hearts which had been severely damaged, and in a matter of weeks, the investment of stem cells that could build new heart muscle, and those hearts showed no evidence of damage.

At Johns Hopkins University, paralyzed rats partially regained the use of previously immobile hind legs in studies where they injected the rodents with stem cells from mouse embryos. At the University of Wisconsin, they have turned stem cells into nerve cells carrying the messages between body and brain offering the possibilities for repairing damage caused by ALS, by spinal cord injury, and other nerve-related disorders. At UCLA, at the AIDS Institute, they were able to coax human embryonic stem cells into becoming maturity immune T cells. This discovery might suggest new ways to fight immune disorders such as HIV and AIDS.

Until now, it is impossible to study the complete progress of Alzheimer's disease, which robs both memory and life. We don't know how or even when it exactly begins. With human embryonic stem cells, we might be able to isolate the disease and observe its progress from inception to death on human tissue—excuse me, on human tissue cells—not necessarily on the human beings themselves, and find a cure for this terrible disease.

The ability for embryonic stem cells to transform into any cell type gives them the potential that adult stem cells simply do not have. We just have not had the capability with adult stem cells that we have with embryonic stem cells.

So those patients in this country who are struggling and are suffering today with these terrible diseases, looking to the Congress, looking to science, say: Don't lock in areas that prevent research from continuing, but expand opportunities for research; yes, with ethical guidelines; yes, with a sensitive understanding that there are issues you have to resolve, but proceed. Don't stop them. Proceed ahead to conduct this research and give us hope.

There are so many patient groups and scientific organizations and foundations and others that support this Federal research. I know they, too, believe what Congress has done here is a breath of fresh air. It is the right thing to do. I know they hope the President will not keep his promise to veto this legislation. That is one promise he should not keep. It is exactly the wrong thing for the President to do. By a wide majority, the American people believe that, rather than discard those embryos, rather than simply throw them away, they ought to be used for life-affirming research, with the consent of those from whom they were created. That is what this bill does. That is why this bill is so important.

As I end, let me say again, this is about giving life, affirming life, saving life. My hope is that the action today by which we move this legislation from Congress to the White House will be seen as great hope for a different approach and a more aggressive approach on this stem cell research, and my hope is the President will take another look at this and decide what we have done is the right thing for us and especially, most especially, for those in this country who have waited so long for this kind of approach taken by the United States on stem cell research.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, for those who have been interested in this legislation, as all of us are, and for those who have been wondering about what has been going on through the course of the afternoon, I think they probably have been seeing the intermediate actions which have been taken, the requests that have been made by the majority leader, and the response. Even as the time is moving along, there are efforts to try to sort of find some common ground in consideration of additional Republican amendments, as well as some of the additional Democratic amendments. We made remarkable progress, I thought, yesterday afternoon and last evening. We were very hopeful that we could move, this afternoon, in a similar way to consider both the Republican and Democratic amendments. I know and expect we are going to have a proposal that is going to be made by the majority leader in the near future to see if we can't get back on track. I am very hopeful that will be the case.

We have had good debates, good discussions over the last couple of weeks, and I think we have made good progress. We know there are still a number of outstanding issues for our colleagues. We had hoped we would be able to address a number of those during the course of the afternoon but, as we saw when the leader made the requests, there were objections to proceeding in that way. We are not giving up, and the leader is preparing now to make some additional requests. I myself find that his plan is virtually irresistible, but we will have to find out whether our colleagues on the other side feel that way as well.

I thought I would take a moment and just review some of the essential aspects.

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

Mr. KENNEDY. Sure.

Mr. GREGG. Will the Senator allow me to ask unanimous consent to be recognized at the conclusion of his remarks?

Mr. KENNEDY. Sure.

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

Mr. KENNEDY. Mr. President, I thought I would just review how we got here with this legislation and basically the highlights of it. I think it is fairly familiar to the Members, but I think it is always useful to have an understanding about the nature of the challenge we are facing, the dramatic challenge we are facing in terms of our borders, in terms of our national security, and to briefly review for our colleagues what we have tried to do with this legislation.

So often during the last days, these debates are focused like a laser on a very specific aspect, and we lost the central thrust and the purpose of this legislation and perhaps even the need for urgent action.

There is a need for urgent action, and the need is now, the need is today, the need is tonight because of the kinds of conditions that threaten our national security and result in the exploitation of human beings and even deaths out in the desert and leave many millions of undocumented in fear of their future, and the conditions which threaten to undermine agreements that have been made in the AgJOBS area and the lost opportunities that would result for many of those who might be eligible for the DREAM Act. So I thought I would try to put this into some proportion and take a few moments to review again where we are.

I think one of the most dramatic statistics we see, as reflected in this chart, is deaths due to unauthorized border crossings. If you look at the period of the last 5 years, you will see these numbers continue to go up, they continue to escalate. The fact is, there are 425 men, women, and children, including infants, who die every single year on the border. That is a dramatic figure under any set of circumstances. The numbers are going to continue if we fail to take any action. Those numbers are going to continue to escalate. They reflect the number of deaths at the border. They don't reflect the several hundred thousand individuals who are able to come across the border.

What happens when these undocumented come across the border is that more often than not we find that these individuals, as the rest of the undocumented population, undergo extraordinary exploitation.

We have a picture showing a situation that took place in my own State in New Bedford fairly recently, several weeks ago. It is fairly typical. There have been these types of raids on these types of places in other parts of the country. This is replicated in scores of places all over this country. We find these undocumented, now estimated to be 12.5 million, 13 million of them, who suffer the exploitation we saw in New Bedford, MA. This photograph illustrates what is going on in this plant. These workers' rights were trampled on. These individuals were fined for going to the bathroom, denied overtime pay, docked 15 minutes' pay for every minute they were late to work, fired for talking while on the clock, forced to ration toilet paper, which typically ran out before 9 a.m.

Then we look at another industry. You can look here at the undocumented workers in the meatpacking industry who are exploited. One in ten workers is injured each year by the sharp hooks and knives. They suffer exhausting assembly-line speeds and painful damage from repetitive motions. That is the old ergonomics issue. Workers are subjected to chlorine mists that lead to bloody noses, vomiting, and headaches. Undocumented workers don't report their injuries because they live in fear that they will lose their jobs and be deported.

The life of fear that is taking place is replicated in communities all over this country. We have these several hundred thousand individuals coming across the border. We don't know who they are. We don't know their names. They are living in different places in our country. They are subject to this kind of exploitation, and they pose a national security issue and a national security problem. We have the exploitation of these workers. We have the deaths that take place in the desert, and we also have a national security problem with hundreds of thousands of people coming across. So this issue is a national security issue. It is a national security problem.

This gives us some idea of what we have included in this legislation. We have increased the Border Patrol to 18,000 agents, and with the Gregg amendment, it is more than 20,000 now. It has the border barriers, including 200 miles of vehicle barriers and 370 miles of fencing. It includes radar and camera towers, UAVs. For detention and apprehension, it provides the resources to detain up to 27,000 noncitizens per day rather than arrest and release. This will be for detention and apprehension. We have important workplace enforcement tools and processing applications of Z status. The Department of Homeland Security will process the applications in terms of security. So we are coming to the issue of law enforcement and security—national security, protecting our borders, and law enforcement. We are going to develop a process.

This legislation is about respect for the law—law at the border, law in employment, and law for those individuals who are here and are undocumented. They are going to have to live with this law which ensures that they are going to suffer a penalty if they expect to stay here and live here.

We have a virtual lawlessness out there on the border which is a threat to our security and a lawlessness in so many areas of employment which is promoting the exploitation of the human condition.

We have this extraordinary atmosphere of fear by the 12½ million individuals who live here; they are in fear because they are illegal. We are trying to legalize the process and get respect for the law and try to ensure our national security. So we do that, as I mentioned, at the border, which is important.

As I have mentioned during the course of these discussions, the one thing we have learned following hour after hour after hour of hearings on this matter is that just doing border protection is not enough. If you were able to put 1,800 miles of fencing along the Southwest border, as has been pointed out by Governor Napolitano, who is so familiar with this, along with others who have made their views very well known, you have to not only have a border, but no matter how tall your fence is going to be, the ladder will always be a little taller. You have to have strong law enforcement, but you are going to have to have internal employment enforcement as well, work site enforcement, as well as regularizing those here at the time. So we have the work site employment; employers must verify the identity of work authorization of all employees; there are increases in civil and criminal penalties against employers who hire unauthorized aliens knowingly, or with reckless disregard; and it includes measures to prevent identity theft and fraud.

It is dramatically different from the 1986 act. We here on the floor don't want to repeat 1986. That legislation was signed into law by President Reagan and enforced by a Republican administration from 1986 to 1992. I voted against that legislation for many of the reasons I am mentioning now. You had absolutely no workforce enforcement, none at all, virtually no requirements. We see the problems we had. We had abuse of that system.

We have in this legislation, as I pointed out previously, addressed those kinds of problems that lent themselves to fraud after 1986. We have tough enforcement in the workplace. We have inspectors, close to a thousand inspectors, who are going to go in and look at these employment sites and make sure the kinds of protections that are guaranteed under this legislation are respected. We are going to insist that with any kind of employment program, they are going to get the protections of the prevailing wage and those are not going to be taken by surveys that are done by the private sector; they will be done by the Bureau of Labor Statistics.

We will have protections under OSHA, and workers compensation, and whistleblower protection is in this legislation for any individuals working in those sites. For the first time, whistleblower protections will be there for those individuals. We are going to have a thousand inspectors who will be inspecting the work sites to make sure that the rights of individuals who are going to come into this country will be preserved.

At the present time, we find out the differences. This chart shows how this process and system must work. If they are going to be in the temporary program, the employer must advertise before applying for a worker. The employer must hire any qualified American applicants before applying for a temporary worker. Temporary workers are restricted to areas with high unemployment, and employers cannot undercut American wages by paying less to temporary workers.

Now we know even for the temporary workers, they are to be treated under the labor laws, with those protections, and they are not now. The borders are broken. If we don't pass this legislation, that is going to continue. That is the alternative—the kind of exploitation that exists now in so many communities, the fear, the exploitation, the harassment, and the driving down of wages, which threatens American wages. All of that exists now.

So we are ensuring, again, respect for the law in coming into this country, the law at the border, the law at the work site, and the law in transition. This chart is a good explanation made by Secretary Chertoff:

> Enforcement alone will not do the job of securing our borders. Enforcement at the border will only be successful in the long term if it is coupled with a more sensible approach to the 10 to 12 million illegal aliens in the country today, and the many more who will attempt to migrate into the United States for economic reasons.

That is what we have heard from the Department of Homeland Security time in and time out—that there has to be a comprehensive approach to this issue. We have to bring people out of the shadows. They are going to have to pay a penalty. We insist that they pay a penalty. Then, rather than let them go to the front of the list, they have to go to the end of the list in order to begin a process—if they are able to demonstrate the payment of the penalty, if they demonstrate they can learn and are willing to learn English, if they are able to demonstrate they have long work experience, and if they can demonstrate they are not involved in criminal activity. We know 70,000 permanent resident aliens are serving in Iraq and Afghanistan since these wars started—70,000. So we know that so many of these families who are coming here—why do they come? Basically, what are their values? What are the values we consider positive in the United States? We admire people who work hard. That is an important factor. That is essential in terms of the

achievement of the American dream. We admire people who are devoted to family and their children.

We find so many of these undocumented, but why do they come here? It is because they want to have a better life for their children. How do we know that? Because there is more than $40 billion returned by these immigrants to the countries of Central and South America every single year. These are individuals who are making a total of $10,000, and $40 billion is returned to their countries. To whom? It is returned to their families and children. They work hard, they are devoted to their children and families and have an extraordinary dedication to their parents and grandparents, caring for them. Those are the positive qualities that all of us admire.

On the other hand, they have broken the law, so, therefore, they have to pay a penalty. Why did they break the law? It is because we have the magnet of the American economy drawing them here. That magnet doesn't pay any penalty. These people risk their lives to get in here. They suffer the risk of exploitation. And even through all of that, they return the resources back to their families. So it is the magnet of the American economy, but still we are making them pay—not the employer, the magnet, or the American economy, but they make an extraordinary contribution. Sure, there are some bad apples. But they make an extraordinary contribution—the immigrants—just as all of our parents and grandparents and forebears have made in terms of this country. This is what we have done. We have seen what happened at the border.

We have talked about what is happening in terms of the employment situation. We know what is going on, in terms of the kind of distinction between the past and present. Those individuals, the 12½ million people who are here—this is the explanation of what we call the Z visa eligibility: They entered the United States before January 2007. They remained employed and continuously present and not a national security threat. There has to be a review. They have to register—the 18 months—to make sure they are registered and are not any national security threat. There can be no serious criminal record in or out of the United States. We have outlined that. We have gone into detail and explanation in earlier kinds of considerations of amendments. If they have committed serious crimes, they are out; they don't come back. We have explained that and we have gone through that time and time again through the course of this debate.

They have to pay the processing fees of $1,500; State impact assistance fee, $500; and a penalty of $1,000. All of that—some $3,000—is not even getting you down the road toward a green card and citizenship. The $500 from 12 million people—$6 billion—goes to States that have the great impact to help them in terms of offsetting any of their additional burdens, in terms of health care and education. That is not an insignificant amount of resources. We went through during yesterday's discussion and debate how, by and large, these individuals are healthier, and we also went into about how they had utilized the health care system, and it shows that is effectively an incidental additional kind of expense. They must comply with the Selective Service Act, submit fingerprints and undergo a background check, and they must get in the back of the line for a green card. That means, for all of those who have been waiting in line, about 4 million people who have relatives here and have petitioned for them to come into the United States many, without this legislation, would have virtually no opportunity to do so.

They will have that opportunity to come into the United States over an 8-year period. Then, after that 8-year period, these individuals we have discussed here could begin to move, and depending on their work record and their participation and sense of community, they could get on path toward a green card. Then it takes 5 more years to become a citizen. The earliest is maybe 13 or 14 years before they would be able to have that opportunity for citizenship. It is more distant than that for the majority of the people. All the time they have to behave and follow the law and pay the kinds of penalties that will be included.

Mr. President, other colleagues wish to address the Senate, so I will be brief. I give credit to our friend and colleague from Illinois, Senator DURBIN, who reminded us about the opportunities we have in creating an educational pathway for the children of the undocumented. We know the children who come in here are coming in through the action of their parents. We understand that. It is through the actions of the parents. The DREAM Act students are eligible for Z visas and permanent residence if the student came in as a child under age 16 and has good moral character, or attends college or enlists in the military for 2 years. I know, as chairman of the Education Committee, the challenge we have in terms of having those students—Hispanic students and others from other cultures and traditions, in terms of the education experience. Having a good education opportunity for those children in this country is key to our national security, key to the success of our economy, and key to the success of the hopes and dreams of these children.

Too often, half of the children from the Hispanic tradition drop out before they are ever able to be successful. But we know that others who complete the educational system and graduate—in my home State of Massachusetts, we have seen so many in Lowell, Lawrence, New Bedford, and other places who have children from undocumented families end up being valedictorians, class presidents, and extraordinary leaders. Then the opportunity comes for continued education and it is virtually closed down because they are denied that opportunity.

Under the DREAM Act, this gives them the opportunity for in-State help and assistance. That is what this bill is about, too. It is about hope in terms of the future. It is about hope. It is relieving the kinds of anxiety those 12 million or 13 million undocumented are experiencing this afternoon and will experience tonight when they have a knock on the door and wonder if ICE is coming there to arrest and deport them, separate their families, and send them back—even after they have been here for a number of years.

We don't hear much discussion about that. Everything seems to be pretty cut and dried around here. That is a major factor. How many of us have met some of these individuals, the undocumented? I did just 3 or 4 days ago, returning here at the airport. I talked to a person who has been here 28 years, as have his two brothers. The brothers have been able to get green cards, but he had not. He talked about the fear he and his family have at this time of being arrested and deported.

In this legislation is another extremely important provision. That is what we call the AgJOBS bill. I see the Senator from California here, Senator FEINSTEIN, who has done an extraordinary job in helping to bring this part of the legislation before the Senate, with Senator CRAIG, whom I commend for his diligence. They have been the real leaders in this proposal.

For many of us, to go back to the time of the Bracero Program—I can remember being a member of our committee in the early 1960s when we had hearings in southern Texas and also in California about the Bracero Program. Few times in our history did we have the kind of exploitation of individuals—slavery certainly; slavery, yes; slavery first—but after that, the Bracero exploitation was one of the darkest sides of American history in the exploitation of individuals.

There are a number of blemishes out there. We can talk about those—American Indians and others—but this was really one of the very worst. We took time to get rid of it, and we did get rid of that. Then we went through a long period of enormous tension between the workers and the growers. We all remember the extraordinary contribution of Cesar Chavez, the dignity he gave to so many of these farm workers. That kind of tension existed for years.

Now, finally, in recent years there has been an agreement between these two very strong groups who are committed in their own ways to their own views and philosophies. They have come together and have agreed on a pathway that will ensure success and give these workers the respect and dignity they have been denied. It is called the AgJOBS bill.

A great deal of credit goes to our colleague in the House, HOWARD BERMAN, who spent years working on this legislation. That legislation has had 65, 66

cosponsors, but we have been unable to get it before the Senate for ratification of that program. It is included in this legislation.

If this legislation passes, the message it sends to about 900,000 agricultural workers, who, again, have been exploited, and to their families, is the fact that over the next 8 years, they are going to have to work and continue to work hard. They can work in agriculture. They have some opportunity to work outside agriculture too. They have to play by the rules, demonstrate they are paying their taxes, work hard and pay the fines and penalties, but they have some opportunity to move forward after all these years, get a green card, and then 5 years later move forward. So it is an enormous period of hope for all those individuals.

This legislation is about dealing in a tough way with a tough problem at the border. We do that by taking the best advice, the best recommendations, the best suggestions from the best people who know about homeland security. We have done that and worked closely together. I don't think there are any differences on that point.

We need to have tough enforcement in the workplace, and we have achieved that. It can be improved further, but it has been achieved, and we have talked about it.

We have also provided a pathway for earned legalization after these individuals pay the fines, significant fines, in many ways, fines for an average family who makes about $10,000 to $12,000 a year, that represents years of work with their kinds of salaries. They have to go to the end of the line. They have to demonstrate good work experience. They have to earn, earn, earn, earn, earn the ability to adjust their relationship with our country.

We know these families. We have seen them in our churches. We have seen them in our shops. We have seen them in the Armed Forces of the United States of America, and they serve with great pride and dignity and they want to contribute and be a part of the American dream like everyone else. And we are giving them that opportunity.

If we vote no on this legislation, we are dampening and canceling that opportunity, and we are returning to the law of the jungle because that is what it is. It is a jungle on that border.

Every day we continue without this legislation, we have these well-trained, well-disciplined, highly motivated border guards chasing people across the desert who are landscapers. They ought to be looking for the terrorists, the smugglers, the lawbreakers. That is who they should be looking after. If we don't pass this legislation, they will continue to be looking out after the landscapers instead of the terrorists, instead of the smugglers, and instead of those who threaten the security of the people of this country.

That is it. Take your choice. Anyone can flyspeck this legislation. I am not accusing those who differ with me on particular proposals being necessarily flyspeckers, but sometimes we have to make a judgment. Sometimes we have to make a decision. Sometimes there has to be finality. We have debated this issue on the floor of the Senate for 2 weeks. We debated it last year for 2 weeks. We are not just coming at this legislation for the first time. We have debated just about every feature of this program, somewhat different from last year, but the themes are the same, the arguments are the same, the amendments are almost the same.

The only question is the will of this body and the will to make a judgment, a decision that we are going to clean up our borders, get a sense of law in terms of those borders and in the employment areas, get a respect for the law from those who have been undocumented; they are going to pay their price, give a sense of hope to the young people who can benefit, and give a sense of dignity and pride to those who work in the fields across this country in AgJOBS.

This is going to be an important vote this evening. If we are talking about a vote about America's future, this is it. This is it. This is it tonight. We can all find the excuses. We all can find the reasons to say no. We can all find different aspects of this legislation with which we differ, but underneath, this is a proposal that is deeply rooted in remedy, one of the great national challenges we have—broken borders and a broken immigration system.

This legislation is a downpayment that the American people are asking and demanding of the Senate of the United States that we move forward on. Let's not disappoint them.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from New Hampshire.

Mr. CARDIN. Mr. President, will the Senator from New Hampshire yield for a unanimous consent request as to order of speakers following him?

Mr. GREGG. Of course.

Mr. CARDIN. Mr. President, I ask unanimous consent that following the Senator from New Hampshire, I be recognized for up to 6 minutes, and then the Senator from California, Mrs. FEINSTEIN, be recognized for up to 10 minutes.

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

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I had the opportunity to listen to the presentation of the Senator from Massachusetts which, as always, was extraordinary. He is one of the people I admire around here the most because he has been such an extraordinary force. Even though I disagree with him so often, I still admire him immensely. How he has maintained the energy and commitment to his causes over such a long period of time is beyond me. I certainly could not do it. One just has to respect that ability. He is clearly one of the great legislators in the history of this body. In fact, I wish he were not quite so great on many occasions.

In any event, much of what he says makes sense on this issue. His commitment to it is obviously intense and thorough, and I admire it.

The point he makes, which is that we now have a dysfunctional system and there is basically chaos within the immigration system in this country relative to illegal immigrants being in this country and the borders remaining regrettably reasonably porous—although they have tightened up over the last few years—is very legitimate. This bill is an attempt to genuinely address those issues in a number of areas.

I have made the point throughout the discussion of this bill that from my standpoint, a good piece of immigration legislation has to accomplish essentially four things.

First, it has to make the borders secure. There is no reason we cannot secure the southern border. The northern border is a bigger problem because of its length and its topography, but the southern border can be secured.

As chairman of the Homeland Security Subcommittee on Appropriations and prior to that as chairman of the Commerce-State-Justice Subcommittee, I tried to commit major new resources in this effort. There was a consensus to do that and a bipartisan effort to do that, and we have dramatically expanded the number of agents on the border, the technology on the border, and the detention bed capability. But we still have a ways to go.

Actually, the first or second amendment adopted—it seems like an ion ago, but it was only a week ago—was an amendment I offered to this bill which would bring the commitment in numbers in this bill in the area of Border Patrol agents, in the area of detention beds, in the area of electronic fencing and regular fencing along the border up to what was the consensus position as to what was needed to secure the border. So this bill now has in it the necessary language.

The question is, do we have the capacity to put that in place. But that goes back to the trigger which is in this bill, and the trigger in the bill says, until that is in place, none of the other language can go into force which deals with guest worker and illegal immigrants and how we regularize their status in this country.

So I believe that issue has been effectively addressed in this bill, and with the amendment I offered and put in the proper position—although more can be done in the area of how one defines ''trigger,'' and certainly there are proposals going around here which will be voted on which I will support that will deal with the funding—it makes sure funding cannot dry up as a result of the annual discretionary process. That has been addressed.

The second issue is we have to have an effective guest worker program, and to have an effective guest worker program, we have to address the third

issue. And the third issue is that we have enforcement at the employee-employer meeting place, so the employer is hiring people effectively in this country legally and not able to hire illegal aliens, people who come into this country illegally.

Those two issues are intertwined, and the bill does address the issue of employment through strict enforcement and the requirement of identification cards, which is going to be very difficult to accomplish, but again it is a trigger. Nothing in this bill goes forward, as I understand it, until that trigger is met.

Second is the guest worker program. There is no way we can have an effective immigration process unless we take some of the pressure off of the fact we have an economy that demands people to work in this economy above and beyond what we have as a citizenry in our country today. There simply is a demand in our Nation for people to come here and work, and it should be done under a guest worker program so that those folks who come here, work, and go back know they are coming here to participate in the worker program, not to be here permanently. That will relieve the pressure at the border significantly if we have that. It is a big part of border security and, of course, is important not only from a standpoint of controlling who comes into the country, but it is critically important from the standpoint of dealing with the threats we face as a country from terrorism. An effective guest worker program is critical.

Fortunately, as this bill was originally drafted, it did have such a program. It had a guest worker with a significant number of guest workers, 400,000 every year. It had a guest worker program that was properly structured. Unfortunately, as a result of the amendment process around here, that guest worker program has been fundamentally undermined, and in its present structure, as was pointed out last night when the amendment of the Senator from North Dakota was adopted, that was, somebody called it a killer amendment, a fatal amendment to this bill. If it stays in place, it makes the guest worker program essentially useless.

All we are going to be able to do is bring guest workers in for agricultural activity, and they will be limited in that area; and guest workers needed in other functions of the economy, whether it is the resort industry or simply in the day-to-day activities functioning as a nation, there is going to be pressure for them to come here illegally again, and that undermines the purpose of the bill. So unfortunately that was done. The Bingaman amendment prior to that purely did a lot of damage to the guest worker program. So that didn't work out as well as it should, but hopefully it can be corrected.

The fourth element I have talked about is how you deal with this pathway, how you deal with the issue of who are here illegally. We are not going to, as a practical matter, take 12 million people, or maybe even 15 million, who are here illegally, assuming we could even find them, and deport them. That is simply not going to happen in our culture. We wouldn't tolerate it. As a practical matter, we couldn't do it. So what we need to do is figure out some way to get those people out from behind the shadows so they are publicly identified as being here, not only from the standpoint of dealing with them but from the standpoint of a national need of knowing who is here for reasons of national security. So this bill attempts to do that.

The bill has some flaws in that area, but it also has some strengths in that area, and they have been previously outlined. The discussion on that has been extensive, so I will not get into the specifics. But those four items, for me, were the test of how this bill goes forward.

As a corollary to those four items, however, is the theme behind immigration, which I think is critical, and which there is specific language in this bill which needs to be dealt with. One of the themes behind immigration, besides having a secure border and a guest worker program that works and making sure we take the pressure off having people coming into this country illegally, is the need to go around the world and take the best and the brightest who want to come to America and let them in to participate in our economy and make our economy more vibrant.

We have had hearings on this issue, and there is a certain obviousness to this issue. I mean, if somebody is in India or China—and those are the examples most often used, but it could be Czechoslovakia or Poland—if somebody has an advanced degree of some nature or is highly educated and has the capacity to contribute to our economy—and who wants to come here—why would we want to leave that person in those countries as a competitor, when we can bring them here and have them actually be a job creator?

We hear a lot about outsourcing in these debates that we have had over the last election cycle, where we are sending jobs overseas. If you bring a person who has unique talents that our Nation needs and that is an adjunct to, rather than a replacement for, people who are already here, that creates jobs. That person is a job center.

In fact, it was interesting. We had Bill Gates testify before our committee, and this is exactly what he said. Here is a guy who has probably done more to make the American economy vibrant over the last 20 or 25 years than any other person alive. I mean, he is an individual who essentially transformed our economy and made us the leader in the world in what was the leading issue in the world, which is technology. He comes before the committee and he comes before the country in general and he says: Listen, we need to bring these people here because they are being developed in these other countries; and if we don't bring them here—if they want to come here—and take advantage of their abilities, then they are going to do it somewhere else.

I don't want the next Bill Gates to be in China or in India. I want the next Bill Gates to be right here in the United States creating jobs. The point is, when you bring these folks in, they create jobs here. So one of the programs where we have to do this is the H–1B program. This is a program where we say specifically, if there are companies in this country or businesses in this country or colleges in this country or educational facilities in this country that need talented people, and they can't get them here in this country—because we don't have the pool necessary—then they can bring people in from outside the country who have the talent to do those jobs.

Most of this is in computer science. Most of the H–1B visas, 45 percent of the applications, are computer science people; with the next biggest group, about 11 percent, being teachers. So industries, businesses, entrepreneurs, colleges, and schools that need these folks to make their businesses work and to give them the opportunity to create jobs, whether it is in New Hampshire or Washington State or across this country, need to be able to attract these people into the country.

But the H–1B program, for some reason, has opposition. It doesn't make any sense to me. I look across the aisle and I say: This should be a logical thing for both sides of the aisle to be supportive of. The concept of bringing in, insourcing jobs, as opposed to outsourcing jobs, should be very attractive to the other side of the aisle. The concept of bringing intelligent people here to create opportunities should be attractive to both sides of the aisle, but there seems to be some undercurrent that they are taking away American jobs. They aren't. In fact, they are adding to American jobs.

As a matter of fact, the National Science Foundation has pointed out we need these types of people; that we are woefully short of the people in the math, science, and technology areas and are not producing the kinds of numbers we need to be out of our own university systems. So why not go overseas to see if we can find these people to come here and participate?

In fact, there is such a demand for these people that, under the present law, they are allowed 65,000 of these applications every year, plus the 20,000 add-on for highly talented people. The first day the applicant process opened, on April 2, 140,000 applications came in to fill the 65,000 available slots.

My own view is we should have taken all 140,000, if they were legitimate, and brought them here. I mean that probably multiplies 10 times. Probably a million and a half jobs could have been created with bringing those folks in here. But under the present law, we are limited.

This bill represents that it increases that number from 65,000 to 115,000. But here is the problem. It knocks out the 20,000 specialists. So actually the increase is rather marginal compared to what we need in this country to take care of the concerns we have. Plus, unfortunately, this bill creates layer after layer of bureaucracy, in addition to the bureaucracy which already exists. It costs on top of the costs that already exist as a result of a number of amendments on this floor, which makes it more difficult to get these folks into the country.

In addition, the bill creates a new standard which makes absolutely no sense—absolutely no sense—which says that the skill of the individual relative to talent—let us say a physicist, an astrophysicist—has to match up exactly with the job that is available. We have an incredibly fungible economy, and the requirement that the applicant who has an advanced degree, that his degree match identically with the job, is a new requirement and a hurdle that is unnecessary and is counterproductive to getting talent into this country. I don't understand why it is in here, and it should be taken out before it goes much further.

Clearly, in our society, there is tremendous mobility within the disciplines. If you are trained as a physicist, an astrophysicist, you are going to be able to do a lot of things in our society and move within the job areas. Under the rules of the H–1B application, you have to be able to move in a way that you are not displacing Americans.

That is just a very difficult issue, if we keep that in here. In addition, there have been attacks on the H–1B program to claim that there is ''warehousing'' of these types of folks. I guess that is probably a pejorative, but that is the term which is used, involving Indian companies that basically collect together a large number of people with these degrees and then basically get all the applications for H–1B and use them in that manner. This bill corrects that, but we continue to hear that complaint from folks on the other side of the aisle, not necessarily because they are on the other side of the aisle but because they oppose the H–1B program, because really that is a red herring. This bill corrects that issue. That should not be raised against this.

We know for a fact we need these types of individuals in our country, and it is a huge advantage for us to draw them into this country. I hope before this bill goes much further that we correct the problems that are in this bill relative to the H–1B program and make it a much more expansive program and make it a much more flexible program and one that will allow us to bring these talented people here so they can create jobs and make this economy stronger along the lines of what Bill Gates suggested is necessary and which I strongly endorse.

I know the junior Senator from Washington, Ms. CANTWELL, has an amendment in this area. I have an amendment in this area. I have been going on the assumption that Senator CANTWELL's, which is a little broader amendment than mine, would be the one that will go forward. I understand it is being held up on the other side. If that continues, it will be a problem for me. We at least deserve a vote on it, at the minimum, and I certainly hope that will occur.

As a corollary to this discussion, I wish to highlight quickly a concern I have for the merit system. I think the merit system is exactly the approach we should take and the point system is exactly the approach we should take, but I still don't understand why somebody who has worked as an agricultural worker for 5 years gets the same number of points as somebody who has a physics degree—even more points, actually, than someone who has a physics degree. It seems to me, if you are going to weigh this properly in a merit system—we are not talking about a guest worker program here; we are talking about a merit system proposal. We are not talking about the AgJOBS proposals; we are talking about the merit system.

In a merit system, what we should be looking for is talent and people whose abilities are unique and those which we need in this country. That is why there should not be this strange allocation of points which makes no sense at all in the context of the purpose of the merit system. I hope that will also be changed.

On balance, of the things that concern me about this bill, two of them are moving in the right direction, which are border security and the issue of pathway. But the things that really concern me continue to be the guest worker program and how we are going to handle the H–1B issue.

So the jury is still out, to put it quite simply, on this bill. There needs to be a lot more time spent on the amendment process so we can find out how we are going to end up working this bill through the process. This is a complex bill. It deserves significant time on the floor, and it deserves to have proper discussion with amendments that are put forward by people who did not happen to be in negotiations for the grand compromise. Those guys did a good job negotiating, but they didn't necessarily touch all the bases that are of concern to many of us.

I yield the floor.

Mr. REID. First of all, Mr. President, let me tell everyone within the sound of my voice, no tricks. What I am doing is trying to protect those people who feel it would be to the advantage of the country and the Senate if we got a bill. This doesn't change any of the things I have said privately to Senators or publicly. Basically, what I am going to do is send a couple of amendments to the desk so there is some control over amendments that are offered. This will allow those of us who feel there should be a bill some control over the next amendment that is offered.

Again, no tricks. I have alerted everyone the best that I can what I was going to do, and I hope this works out well. I am confident we are doing the right thing.

AMENDMENT NO. 1492 TO AMENDMENT NO. 1235

Mr. President, I call up a second-degree amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1492 to amendment No. 1235.

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

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

The amendment is as follows:

(Purpose: To require the use of objective criteria to determine which undocumented persons have sufficient community ties to be awarded a Z visa and remain in the United States lawfully)

At the end of the amendment add the following:

Notwithstanding any other provision of this act the following shall take effect for the Z Nonimmigration Category:

(b) ESTABLISHMENT OF Z NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 401(a), is further amended by adding at the end the following:

''(Z) subject to title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, an alien who—

''(i)(I) has maintained a continuous physical presence in the United States since the date that is 4 years before the date of the enactment of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(II) is employed, and seeks to continue performing labor, services, or education; and

''(III) the Secretary of Homeland Security determines has sufficient ties to a community in the United States, based on—

''(aa) whether the applicant has immediate relatives (as defined in section 201(b)(2)(A)) residing in the United States;

''(bb) the amount of cumulative time the applicant has lived in the United States;

''(cc) whether the applicant owns property in the United States;

''(dd) whether the applicant owns a business in the United States;

''(ee) the extent to which the applicant knows the English language;

''(ff) the applicant's work history in the United States;

''(gg) whether the applicant attended school (either primary, secondary, college, post-graduate) in the United States;

''(hh) the extent to which the applicant has a history of paying Federal and State income taxes;

''(ii) whether the applicant has been convicted of criminal activity in the United States; and

''(jj) whether the applicant has certifies his or her intention to ultimately become a United States citizen;

''(ii)(I) is the spouse or parent (65 years of age or older) of an alien described in clause (i);

''(II) was, during the 2-year period ending on the date on which the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien who was subsequently classified as a Z nonimmigrant

under this section, or is eligible for such classification, if—

''(aa) the termination of the relationship with such spouse was connected to domestic violence; and

''(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent who is a Z nonimmigrant; or

''(III) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph and was born to, or legally adopted by, a parent described in clause (i).''.

(2) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations, in accordance with the procedures set forth in sections 555, 556, and 557 of title 5, United States Code, which establish the precise system that the Secretary will use to make a determination under section 101(a)(15)(Z)(ii) of the Immigration and Nationality Act, as added by paragraph (1).

AMENDMENT NO. 1199

Mr. REID. Mr. President, I ask for the regular order with respect to the Dodd amendment.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 1493 TO AMENDMENT NO. 1199

Mr. REID. Mr. President, I call up the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1493 to amendment No. 1199.

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

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

The amendment is as follows:

(Purpose: To require employers seeking to hire aliens to certify that they have not, and do not intend to, provide a notice of a mass layoff)

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—A petition by an employer for any visa authorizing employment in the United States may not be approved until the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(b) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to such Act after a visa described in subsection (a) has been approved, such visa shall expire on the date that is 60 days after the date on which such notice is provided.

(c) EXEMPTION.—An employer shall be exempt from the requirements under this section if the employer provides written certification, under penalty of perjury, that the total number of the employer's employees in the United States will not be reduced as a result of a mass layoff.

Mr. REID. Mr. President, I will be seated in a brief period of time, but I wished to let everyone know we have people working in different rooms in this building trying to come up with some way for us to move forward. We have tried on a number of occasions this afternoon to have amendments. We started at noon—6½ hours ago. We have been thwarted at every attempt. So we are arriving at a point now where I hope there can be agreement as to how we proceed. If not, we will proceed anyway in a manner I hope will be in keeping with the intent of the Democrats and the Republicans and the White House.

I do say in this interim this afternoon that I have had some interesting calls from people who care a great deal about this bill. One of the choice experiences of my life was a year ago, in my office, right back here, on a Saturday. We were debating immigration. I had the good fortune to meet for the first time Cardinal McCarrick and Cardinal Mahony, and they were very interested in doing something that would help the immigration problems they see on a daily basis.

I had the good fortune to speak to those good men during the past hour or two. The reason I mention the meeting of that Saturday is that some people know I am not a member of the Catholic faith. I have the greatest respect in the world for Catholics. The best friend I ever had in my life was a devout Catholic. He went to church every day. He was Governor of the State of Nevada and I was Lieutenant Governor. He taught me how to fight. He was my best friend. He taught me in high school. He died in church. He went to church every day, and he went to church one morning, put his head on his shoulder, and died.

For someone who set such a great example for Christianity and goodness, there couldn't be a better way for this good man, Michael Callahan, to die. But the reason I mention that is that as the meeting was breaking up, and there was some staff there, I said, I have the good fortune of being able to meet with prominent people on occasion, but this is a special meeting for me. I would like to be able to tell my children and grandchildren about this meeting. So before we go out to the press, could we say a prayer together?

We gathered there in my conference room and Cardinal Mahony said a prayer for our country. When he finished, Cardinal McCarrick said a prayer for me. That was one of the highlights of my life. When it was over, Cardinal McCarrick said: Well, I am not going to be able to tell my children and grandchildren about this, but I can tell my nieces and grand nieces about this.

So during the 6½ hours we have been away from the floor, there have been a lot of good people working on a way to finalize this legislation, and I hope that everyone understands the efforts I have made now. It is not an effort to trick anybody or deceive anyone. It is an effort to try to move this legislation forward.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

STEM CELL RESEARCH

Mr. CARDIN. Mr. President, earlier today the other body passed S. 5, the embryonic stem cell research bill, by a vote of 247 to 176. This legislation offers hope to literally 100 million people in our own country.

I think of the individual names. Mr. President, I had a friend in law school, Larry Katz, who died of ALS. If you have ever seen someone who suffered from that disease, you know how cruel it can be. So today I think of Larry Katz and I think of those individuals who are suffering from diseases in which embryonic stem cell research holds out hope of a cure, of a way of dealing with these diseases. I think of Josh Basil. Josh was a young person who was on the beaches in Delaware. A wave hit him, picked him up, turned him upside down, and fractured his spine. He is a quadriplegic today. He has hope that he will walk again. He exercises and works out every day to keep his muscles in great shape. But he wants us to meet him halfway. He wants us to give the tools to the scientists so they can look at ways in which we can regenerate the damaged parts of his body.

Embryonic stem cell research holds out tremendous hope. It allows, we hope, for the regeneration of damaged cells. This is incredible work which is being done at research institutions in this country. I am proud of the work being done at Johns Hopkins University in my own State and the University of Maryland Medical Center and NIH looking at ALS, looking at spinal cord injuries, looking at Alzheimer's, heart disease, Parkinson's, diabetes, and looking at embryonic stem cell research as perhaps finding the answer to these diseases.

Dr. John Gearhart and Dr. Douglas Kerr at Johns Hopkins have helped me to understand what embryonic stem cell research could mean. They have taken paralyzed mice and have been able to get movement by injecting embryonic stem cells into mice.

The United States has been the leader in the world on research. We have seen incredible discoveries in this country. Yet, today, we are seeing researchers leave the United States because of the restrictions on embryonic stem cell research. They are going to other countries where those restrictions do not apply, robbing this Nation and robbing the world of the collaborative research that could be taking place. The reason, frankly, dates back to August 9, 2001, when President Bush issued his Executive order.

We have a lot more information today than we did in 2001. In 2001, we thought there were 60 to 78 stem cell lines available that researchers could use. We were wrong. There were only about 22 lines available. Most are contaminated. We don't have the diversity we need in order that scientists can really look at embryonic stem cell research and get the best potential out of

that type of research. We know that today. If we knew then what we know now, we would have realized those restrictions are not workable.

S. 5 is a bipartisan bill. It deals with embryos that are currently in existence. It sets up the ethical framework to do the proper research. You cannot create an embryo for the purpose of sale for research. It has to be in existence today. It has to have the consent of the donor. You can't get financial incentives for doing it. They have to be embryos which were going to be used for in vitro fertilization which now are going to be destroyed. It allows those embryos to be used for legitimate medical research. It is the right thing to do for this country. It is the right thing to do, to give hope to 100 million people in this country. Now it has passed this body, it has passed the other body. We have a bill that provides the right balance for us to move forward as the world leader in medical research.

Dr. Elias Zerhouni, the Director of NIH, said:

> From my standpoint, it is clear today that American science will be better served and the Nation will be better served if we let our scientists have access to more stem cell lines.

Dr. Zerhouni is our leader on this issue in this country.

We are now at another crossroads where we can take a choice and move forward so America can continue to lead the world in appropriate research to try to end the misery of suffering for those who have ALS or spinal cord injuries or Alzheimer's, heart disease, Parkinson's—so many different types of diseases in which embryonic stem cell research holds out such promise.

I urge the President of the United States, don't let your veto stand in the way. Don't do it. Move forward with a bill that is bipartisan, a bill that has been vetted properly among all communities.

This is a bill which, we understand, provides the right framework for research in this country. We have that opportunity if only the President will sign this bill and allow our scientists to do the appropriate work to help the people of this Nation and literally help the people of the world. I urge the President of the United States to sign S. 5, which will shortly be presented to him.

At this point, I have been informed that the Senator from California does not intend to use her time.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota is recognized.

Mr. DORGAN. I was not intending to speak at this moment, but I listened to several of my colleagues talk about the immigration bill. We apparently will cast another cloture vote this evening and perhaps votes beyond that, depending on how that cloture vote turns out. But because of a number of statements by colleagues this evening, I wanted to make a couple of comments.

There is a suggestion by a number of our colleagues who brought a plan to the floor, what is called a grand bargain or the grand compromise. This is a group of people—self-appointed, I guess—who spent a lot of time in rooms together, with the White House accompanying them, and produced a plan they brought to the floor of the Senate and said: Here is our immigration plan. And by the way, if you try to change it, you will destroy it.

Most Members of the Senate were not part of these meetings and not part of this grand compromise. A number of us have offered amendments. A number of our colleagues have tried to offer amendments. I am thinking of Senator WEBB, who has waited for 2 weeks to offer an amendment. It is problematic whether he will be given an opportunity to offer an amendment. He wasn't part of the group, wasn't part of the grand compromise, but thinks he could improve the legislation. But, because those who have brought the bill to the floor have done so with arms locked together, believing that anyone who could try to improve on their work would be destroying their compromise, we have people who are not able to offer these amendments.

There is also some implied suggestion here that those who do not support this grand compromise are not sensitive to the issue of immigration, are not willing to look and understand that there is a real, serious problem here which needs to be addressed. Nothing could be further from the truth. In fact, while I have substantial difficulty with the plan that is brought to the floor of the Senate—I think it is a flawed plan—I happen to think immigration is a very serious problem in this country.

The first and obvious answer to our immigration problem is to try to provide some real border security. We have about 12 million—perhaps more—people who have come into this country without legal authorization. Why? Most of them wanted to come to the United States of America to work. Most of them wanted to come here because they believe there is hope and opportunity here. They want a job here.

It would be wonderful if our country, having over a century lifted the middle class up with good wages and good jobs and benefits—it would be wonderful if we could say: We have created on this planet something very special here called the United States, and we would like to share it with everyone right now. We, of course, cannot do that. We would be overrun. We have immigration quotas. We allow 1.5 million people in our country every year legally. There is a legal process by which we do that.

But we are on a planet here that circles the Sun, and we have 6.4 billion neighbors. One-half of them live on less than $2 a day, one-half of them have never made a telephone call, and one-half of them do not have access on a regular basis to clean, potable water. It is a challenging planet. We have a lot of neighbors who live in great difficulty.

In this little spot on this planet which is labeled ''the United States of America,'' we have created something pretty special. I have described it at great length, how we did it and why we did it over the last century, lifting America up, providing good jobs that pay well. It is not surprising to me that on a little planet on which we all travel, where, if you are in India, the average hourly wage is 11 cents an hour—in China, it is 33 cents an hour; if you live in Honduras, the average hourly wage is 33 cents an hour; it is not surprising to me that people who are living in poverty in other countries, making a pittance for a long day's work, would like to come to the United States and find a job and improve their life and make a better life for them and their family. That is not surprising to me.

I would like it if we could say to them: You know what. Come on, join us. Just think for a moment if we decided we have a new immigration law in this country, that new immigration says: You know what, this country is wide open. You want to come join us from anywhere, anytime, anyplace? Come on. Come and live with us. Come and work with us. Come and be part of our country right now. No restrictions. Come and stay. Come and work.

We would be overrun. Millions and millions and millions of people would try to find their way to this wonderful country of ours because we have created an economy that lifted the standard and broadened the middle class.

We cannot do that. We instead have a process of legal immigration that allows about a million and a half people a year to come into this country. They apply. They are part of the quota from their country. They wait. They wait a year, they wait 5 years, they wait 10 years. If they are lucky, they reach the top of that list and they are able to come to this country through this legal system of immigration quotas.

Now, my colleagues have brought to the floor the ''grand compromise.'' And what they have said is this: Well, we do not have much border security. We have got a lot of people coming into this country illegally now, without legal authorization. So I will tell you what. They say: We will pass a piece of legislation that says anyone who came to this country by at least December 31 of last year—that includes, we think, 12 million—anyone who came here by December 31 of last year, you are going to be legal. We are going to decide that you are here legally and you get a work permit. You are no longer illegal; you are legal.

Now, we have people overseas in their home country who thought this was all

on the level. They applied to come to the country as part of the quota. They have waited 6, 7, 8 years. They discover they made a mistake. They should have come here last December 20 or December 31 and snuck across the border someplace because then they would be described by this bill, by the folks who created this grand compromise, then they would be described as legal citizens, not citizens as having legal status, I should say. Well, is that fair? No. No, it is not fair. Is it right? No.

But more than the issue of dealing with those 12 million, this legislation also says we should have more people who do not live in this country come into this country to assume jobs with something called temporary workers or guest workers. Now, I happen to be sensitive to this issue of those who have come here without legal authorization. Some have come here decades ago. There are people, I am sure, who have been here 20 years without legal authorization to be here.

They have probably raised a family. They have worked. They have been model citizens. They have been neighbors. They have been good people. Should we round them all up at this point and deport them? Of course not. But should we, on the other hand, decide: If you snuck across the border on December 31, good for you. You are now declared legal? I don't think so.

My colleague, Senator WEBB, has an amendment that I think would move a long way toward addressing some of these issues in terms of the time that you have been here to try to be sensitive about those things which I support. But this legislation says: If you showed up last December 31, you are given legal status.

But the issue I raised last evening, and the amendment that I offered that prevailed by one vote was on the guest worker provision, temporary worker provision. My colleagues have said, the Senator from Arizona and the Senator from Massachusetts have said, you know, we need to have a temporary worker provision because if we don't have a temporary worker provision to bring in people who are not now here to assume jobs in this country, they are going to come anyway. They are coming across anyway.

They will come in as illegal immigrants. Well, I said: I don't understand that. You say that this bill would strengthen our border, provide border security, and stop illegal immigration. Now you are saying that in order to stop illegal immigration you have to have a guest worker provision because, if we do not have a guest worker provision, they are going to come anyway. Maybe you are misrepresenting this issue of border security, are you not?

So the Congressional Budget Office comes out with a report. Guess what they said. This bill, the grand compromise, means those who come across the border illegally, 75 percent will keep coming under this bill; 75 percent will keep coming under this bill. Yet the proponents of the bill are out here with big banners and trumpeting that this is a big border security bill. It is not. It is not that.

I have raised the question about American workers because there is no discussion of American workers. You know they have a role in this debate. We are told, in fact, my colleague from New Hampshire said there are not enough workers in this country, so we need to bring in workers. There are not enough workers to assume the jobs that are available.

Well, that is a line that I understand. I don't agree with it, I understand it. I understand where it is coming from. We have got a lot of businesses in this country that have decided that workers are like wrenches. They are like wrenches. You just use them up and throw them away. Don't worry too much about them. Make sure you hire them for as little as possible. By the way, keep downward pressure on that income because workers are disposable.

If you wonder about that, by the way, just go back and read the paper from a few weeks ago when a company called Circuit City decided they were going to layoff 3,400 of their workers. Why? Were they bad workers? No. It was not that at all.

This is a company with a chief executive officer who made $10 million a year, and his workers made an average of, I believe, $11 an hour. They wanted to have a workforce that was paid lower than that. So they said to 3,400 of them: We are going to get rid of you because we want to rehire people at a lower rate.

So if you wonder about this wrench analogy, just check the newspaper one of these days. But we have a lot of people in this country who work at the bottom of the economic scale, bottom of the ladder.

I told a story yesterday about a company from Georgia. The story was from the Wall Street Journal. This was a poultry company. I believe they had roughly 700 workers. Three-fourths of them were illegal immigrants working in that company. They were paying them a pittance. I don't remember the exact wage, but they were paying them a small amount of money. Then they were raided by the immigration folks. It was discovered they had all of those illegal immigrant workers, so they had to get rid of them.

So then they had to hire other workers. Well, guess what. They went to the newspaper and put a help wanted ad in the newspaper. They said: We are now paying higher wages. Immediately they got a lot of applicants because they were paying better wages. So they filled those jobs.

A few years later they began, that same company, to contract with one of those temporary worker groups that was able to bring together illegal workers and package them and sell them to companies. They started doing the same thing one more time. Why? So they could push down wages.

Now, my point today and yesterday was, I think this is an interesting discussion about a serious problem, immigration. But I think there is a party that is not at the table, and that is the American workers. Nobody wants to talk about that. We are talking about 12 million people. What about 140 million people? What about the people, especially that part of our workforce who, this morning, got up with great hope, got dressed, went to work, worked hard, got paid the minimum wage, and then finished after 8 hours of back-breaking work and went to the second job and did another 6 or 8 hours at the minimum wage, and then went home exhausted because they are trying to make do with two jobs at the minimum wage for their family.

Increasingly, by the way, those workers are women. What about those workers? Do they matter? Does it matter when you bring in people through the back door who are willing to work for lower wages, that you then begin pressing down and pushing down wages in this country? Does that matter?

I have spoken at great length on this floor about the larger economic interests who want to export American jobs to China, Sri Lanka, Bangladesh, and Singapore and various parts of the world in order to search for lower wages.

I have spoken at length on the specific companies who left our country, why they left, where the jobs are. I have spoken at great length about Huffy bikes. Huffy bikes fired their workers, moved their production to China. I know where they make Huffy bikes. Yes, I know where they make them now. They don't make them in Ohio. They used to. All of those folks got fired. They make them in Shenzhen, China. They are made by people who make 30 cents an hour. They work 12 to 14 hours a day 7 days a week.

Why do I say that? Because exactly the same economic interests that are searching the globe for low wages, to move jobs to where they can find the lowest wage, are some of the same economic interests that want to bring cheap labor through the back door for the jobs that are left to put downward pressure on American wages.

Now, the American worker has been more productive. Productivity has increased substantially in the recent period. Yet their wages have not kept pace. The reason is obvious. There are all kinds of ways to put downward pressure on the wages of American workers.

Alan Blinder is no radical economist. He is a mainstream economist. He used to be Vice Chairman of the Federal Reserve Board. They all wear gray suits all the time. Alan Blinder is a guy who I am sure supports free trade—supports what is called free trade. That is kind of the mantra these days. But he wrote a piece in Foreign Affairs. Here is what he said, the former Vice Chairman of the Federal Reserve Board. He said

that there are over forty million American jobs that are tradeable, which means subject to being moved offshore in search of lower wages. He said not all of them will go. They won't. But even those that remain here are going to have downward pressure on their wages because they are competing with others in other parts of the world who are willing to work for less.

My point is simple. This immigration issue and guest worker issue is the reverse side of the same coin; the outmigration of American jobs and the inmigration of cheap labor. This is about money. It is about profits for big economic interests. It is sold as something else on the floor of the Senate. We are hearing about compassion. Boy, I don't lack compassion for anybody who is mistreated in the workplace. I know they are.

But for a moment, instead of just talking about the immigrant worker who came here without legal authorization, let me talk about the worker who is here. Let me talk about a woman who lives in a used trailer house with no running water, with an outdoor toilet, trying to raise four kids and walking to work for the minimum wage.

Do you know how they heat that trailer house? A wood stove with a pipe sticking out the window of the living room of a used trailer house. A wood stove, mind you.

You want to talk about deplorable conditions. There are plenty of them in this country for people at the bottom of the ladder struggling, just trying to get ahead, trying to get a better way, to be lifted up providing for their family. There is no discussion of that at all. This entire discussion is about another group, a group of immigrations who have came here without legal authorization.

Let me tell you, my ancestry came here from somewhere else. I am a product of immigrant ancestors. We all have these stories. I am very sensitive to them. I want people to be able to do well and to participate in this American dream of ours.

Let me describe one side of my ancestry who was a woman named Caroline who came from Norway. She came with her husband to the new country. She ended up homesteading 160 acres of land. What happened was they landed in Minneapolis-St. Paul as immigrants, and her husband died of a heart attack.

This Norwegian woman got on a train with six children, they went out to the prairies of North Dakota with six children, pitched a tent and homesteaded 160 acres and raised a family and ran a farm.

One can only think what must be in the inner strength of someone to do that alone in a new country. All of us have those stories. They are wonderful stories about immigrants. This is not pro- or anti-immigrant. This country is refreshed as a result of immigration. It has always been. That is why we have a process of legal immigration. A million and a half people come here every year, plus more for agricultural work. That is what this process is about.

The dilemma is this: When I described this spot on the planet called the United States, this spot on the planet is different. It is different because we created something very different. Starting about 100 years ago, we began to lift up this country, expand the middle class, provide worth to the workers of this country, understanding they were part of the productive capability that could lift this country's economy and provide opportunity for more Americans.

We did that in a remarkable way, and it was not easy. I have spoken on the floor about James Fyler. James Fyler, I said, died of lead poisoning. Well, actually, you know, he was shot 54 times. That is probably lead poisoning. It is also being killed by 54 bullets.

You know why James Fyler was killed almost a century ago? He believed people who went underground in this country to mine for coal—hard work, dangerous work—he believed people who did that work—underground mining for coal—ought to be paid a decent wage, ought to be working in a safe coal mine. For that he gave his life, was shot 54 times.

Well, from James Fyler on forward, decade after decade after decade we made progress, demanded progress, safe workplaces, child labor laws, fair wages. We demanded progress—the right of workers to organize.

We lifted this country up because we expanded the middle class. More and more Americans had opportunity. From that opportunity came prosperity. That is a subject that has largely been ignored in the Senate in the last couple of weeks.

What is the impact of all of this? I asked the question yesterday about the American worker: Where is the American worker in this discussion? What is their interest? Who represents their interest? The answer is, the American worker is not a part of this discussion at all. The American worker is left behind. I described them the other day as those workers who understand seconds. They understand second mortgage, second shift, second job. They understand second place, all of them, struggling to make ends meet. Yet they are not a part of this discussion. But this discussion does impact this country in many ways, about working standards, standards of employment, wages, opportunities to continue to expand the middle class.

I think there are claims on the floor of the Senate that if you don't support this grand compromise, you just don't understand it, because it is a wonderful piece of work. It provides border security. It provides employment sanctions. It provides temporary workers to fill jobs for which there are no Americans available, we are told. Let's look at that.

Border security doesn't need new legislation. In 1986, the last reform bill passed on immigration said: We will have border security. They stood up and said: This is going to provide for border security. We are going to stop illegal immigration. The problem is, the mask is off the myth here as of yesterday, when the Congressional Budget Office says the bill they brought to the floor of the Senate is a bill that will allow 75 percent of the illegal immigration that now occurs to continue. What kind of security is that? Apparently not much.

How about employer sanctions? We have already done that as well. That is already the law. We don't need a new law for that. We have employer sanctions. In 2004, the Bush administration took action against four companies in the entire United States for hiring illegal workers. What does that tell you? That tells you they said: We surrender. We have no intention of administering this law. We have no intention of enforcing the law. We surrender.

We don't need a new law to do that. All we need is some determination that we are going to enforce employer sanctions.

With respect to temporary workers, that is the biggest ruse of all. The temporary worker provision in this legislation is simply a request for big business from the U.S. Chamber of Commerce saying: We will support this bill if you give us the opportunity to bring some cheap labor through the backdoor. That is what this is about. Don't take it from me. Go to some of the newspaper columns that describe this grand bargain and why the big economic interests have said: We will support this if you allow us to bring in some immigrant labor legally under the position of temporary workers. Apparently those who are part of the grand compromise said: We will do that. That is a fair thing.

How do they do it? In the worst possible way. Even if you were inclined to do it, you wouldn't do it this way. I am not inclined to believe we ought to do it. Most of the folks who are trumpeting this proposal are people who would talk about supply and demand. Let the marketplace govern. The marketplace; right? I used to teach a little economics. I know about the supply/demand curve. Except the marketplace doesn't work very well, does it, when in fact if you can't find a worker for a job, you might have to advertise that job at a little extra price, a little higher wage. People who are carrying the bedpans in the hospitals on the midnight shift, people making the beds in the motel early the next morning, people across the counter at the convenience store, maybe if you can't get them for the minimum wage, maybe you will have to pay an extra 50 cents an hour. That is the supply-and-demand relationship. But if you can bring someone else in who says, I am sorry, I will take that job, you don't have to pay anybody more, I will take that job for the very minimum, you can keep downward pressure on wages. And that is

the strategy here. That is what this is about. Apparently supply/demand is a good theory, but it doesn't work in a circumstance where the big economic interests want you to keep putting downward pressure on wages.

So you say: OK, let's bring in some temporary workers. Here is the way they did it. Follow this for a moment. They wanted 400,000 a year. Senator BINGAMAN reduced that to 200,000 a year. Here is the way it would work. You can bring in 200,000 the first year. They can stay for 2 years. They can bring their family, if they choose. Then they have to go home for a year and their family has to go with them. They can come back for a third year, stay for a fourth. They have to go home for a fifth. If they never brought their family at all, they can come back for a sixth and then a seventh year. And each year below that you can get another group of 200,000 coming. If you didn't understand that, you are not alone. No one understands that. That defies any kind of logic at all. Yet that is exactly what was stuck in this legislation.

I offered an amendment last evening that passed by a vote of 49 to 48. There are people here having an apoplectic seizure about that. They have spent most of their day gnashing their teeth and wiping their brow, trying to figure out how to deal with it. It was simple enough, it was a sunset after 5 years of the temporary worker program. We say after 5 years, let's take a look. It is a new a program, a new approach. Let's take a look and see what the impact is. What if we find out it has a tremendous depressing impact on wages, which it very likely will? What if we find out that 75 percent of those who were brought in under the temporary worker program refuse to go home and have stayed here illegally? Would you maybe want to make some adjustments? Why not sunset it in 5 years so you are required to evaluate that it doesn't work?

We are told: If you do that, you will be killing this legislation. This is a poison pill. We have locked arms on this grand compromise. You are going to kill this bill.

As I said yesterday, it is like the cheap sweater. Pull a thread, the arm falls off. God forbid, it is going to destroy everything we have done.

It is unbelievable. It is as if nobody else has an idea around here except those who were in a room someplace in the Capitol called the grand bargainers.

I have been here long enough to see many of these grand bargains. Sometimes there are two of them. Usually not two, because that wouldn't be called grand. But maybe six, sometimes 10, sometimes they call them a gang. It is a gang of 12 or a gang of whatever. Every time it happens, what you find as a result is terrible legislation. I guarantee you, you get a gang or a group or a gaggle or whatever it is who go into a room someplace and close the door and start developing this sense of self-importance pumped up by a little more helium or hydrogen, and all of a sudden, they get out here and they say: Here is the answer. And you may not change it. Because if you do, you destroy this carefully balanced work of ours.

So here we are—it is 7 o'clock at night—having to work 2 weeks on a piece of legislation that, A, won't secure our borders, unfortunately. I wish it would. I think we should. In fact, that is what we should be doing. What we ought to do is have a bill that deals with border security. Once we have done that, we come back, after we have border security, and say: Now the next step, which is as important but you do it next, is to provide for the status of those who are here without legal authorization. We should do that. I wouldn't do it by saying the people who came across December 31 of last year are given legal status and a work card. That is not how I would do it, but I would be sensitive to a lot of people who have contributed to this country for a long time, even without legal authorization to come here. But that is not the way this works. It is not what was brought to the floor of the Senate.

So now we will have a second cloture vote tonight. I don't know how that will work. Whatever the Senate will decide tonight on a second cloture vote, if cloture is invoked, then we have 30 hours postcloture. We will see. There are a good many amendments that have been prevented from being offered. I mentioned Senator WEBB has one. Senator WEBB has a very important amendment. He has been prevented from offering that amendment. I know Senator TESTER has one. If we are in a postcloture period, my hope is we will relent and decide there are ideas in the Senate that exist at every desk, not just a couple of desks. If we believe that, maybe we will get the best of what each has to offer rather than the worst of what most have to offer.

I wanted to make a couple comments because I heard a substantial amount of discussion that we don't have enough Americans for the jobs here, so we need to bring people in, all these interesting, in some cases very convoluted, approaches to supporting legislation that is not just imperfect but falls far short of that which is necessary to address a very serious problem.

I yield the floor.

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

DARFUR

Mr. NELSON of Florida. Mr. President, I am going to take this opportunity, while we are waiting for the next proceeding that will come somewhere around 7:30 on this immigration bill, to report to the Senate, having just returned from the recess from Africa, on the very serious situation in two respects that this Senator from Florida has tried to get his arms around. The first is, of course, the crisis in Darfur.

Since the Government of Sudan would not give this Senator a visa to go into Sudan to go into Darfur, there is another way to do it, and that is to go to the backdoor by going into the neighboring country of Chad which I did. And the Sudanese Government would not even give us overflight rights leaving from Addis Ababa going to N'djamena, the capital of Chad, and having to fly completely around the country of Sudan to get to the capital of Chad which is located to the west of the Sudan, then from the capital city of Sudan, then to take a series of flights to get close to the eastern border where all of the Sudanese refugees are, the Sudanese refugees who have fled the slaughter allowed by the Sudanese Government, the slaughter of innocent people often perpetrated by a terrorist group called the jingaweit that have been instruments aided and abetted by the Sudanese Government, even to the point of the Sudanese Government sending in Sudanese aircraft, government aircraft that they sometimes paint white so as to mask as if it is a humanitarian airplane such as the United Nations, aircraft that bombed them, helicopters that are painted the same way that come in and strafe them.

This has only been going on for 4 years. Look what the world community has done to be so slow in response to this humanitarian crisis, this genocide, this slaughter. I visited one of those refugee camps. This particular one had about 16,000 people.

Indeed, part of their life is better off because they do not have violence unless, by the way, the women go outside to collect firewood, which, interestingly, is the woman's job. As a result, the food aid relief workers there do not let the women go outside the camp to get beat up and the young ones to get raped. They are providing them firewood. And oh, by the way, they are providing them a stove for the firewood that saves 80 percent of the firewood and produces the same amount of heat. So that is progress.

It is progress in the rudimentary health care they have. That is health care they did not get back in the Sudan, in Darfur. It is progress those children whom I talked to in the school—the very rudimentary school with extraordinary teachers—do not get back in Sudan.

But what they have is a very Spartan existence. One of the mothers we were talking to said she wanted to go back. I said: Why? She said: I want my native food. I want meat. I want vegetables. Of course, what they are being provided—that the World Food Program is providing so they would not starve—is a basic diet of porridge and grains, and that is it—and an attempt to giving them some potable water, which is a huge problem all over Africa.

Well, that is one problem I tried to get my arms around because it is important those of us who care about

these things get as educated as we can so we can speak out on them.

But there is another problem—and this was an intelligence mission for me; I am a member of the Senate Intelligence Committee—and that is the rise of al-Qaida in Africa. Various terrorist organizations have morphed into an organization called al-Qaida's Committee in the Islamic—and I do not know the African word, but it starts with an ''M.'' AQIM is the acronym. This is on the rise. That is of considerable concern to the free world, to the industrialized world, and especially to the United States.

After Chad, I went to Nigeria. Now, the Niger River Delta in the country of Nigeria produces about 3 million barrels of oil a day. Mr. President, 600,000 of that production is siphoned off or destroyed. Often it is siphoned off simply through graft and corruption and all kinds of banditry that is going on.

Simultaneously, while we were there, over the course of 2 days in Nigeria, a group of 11 people—I think they were Russians—were kidnapped. No, it was some other nationality. It was women and children. That was the first group kidnapped. We do not know the result. Another group of about six Russians was kidnapped. By the time I left the country, a third group of another nationality—all there because of being oil workers—was kidnapped. That is the kind of lawlessness that is going on there.

But what is even a greater threat—and it would be nice if the country of Nigeria did not allow that 600,000 barrels, so they are only, net, producing 2.4 million barrels a day, but there is a greater problem. There is virtually no protection for the production of that oil, whether it be in the Niger Delta itself or it be offshore in the waters off the West Coast of Africa. There are huge reserves for future production virtually unprotected. It is an accident waiting to happen.

And oh, by the way, the United States gets between 12 and 14 percent of its daily consumption of oil from Nigeria. So what do you think is the target? That is the bad news.

Let me tell you the good news. The good news is that despite the graft and corruption among governments throughout, despite the optimism of new governmental leaders in various countries, including the new President of Nigeria—who had been in office 5 days when I met with him—despite the inability of their infrastructure to produce what they need, let me tell you, they understand that the one partner they can rely on is the United States.

How? Their intelligence services work with us. For that, I am profoundly grateful and not only in those countries, those four—and the fourth I visited was Algeria; I met the President of Algeria and shared the same thing with him—but in other countries throughout the region we have a good cooperation in sharing intelligence.

Ultimately, it is that intelligence that is going to prevent that attempt by a terrorist group, such as AQIM, from destroying activities—such as oil production—that are so important to the United States.

Now, it is another subject for another day, that of energy independence and start weaning ourselves from that dependence on foreign oil. From just Nigeria—there is an example—12 to 14 percent of our daily consumption of oil comes from that country. That is at threat.

Another 12 to 14 percent of our daily consumption comes from Venezuela. By the way, have you heard of a fellow named Hugo Chavez, who keeps pounding his fist and says he is threatening to cut off the oil to the United States?

It is another whole discussion for another day that one of the most important agenda items of this country is weaning ourselves from that foreign oil by going to alternative sources. But it is what it is.

That is why I was in Africa last week. To encourage that cooperation with our intelligence services, to protect our mutual interests, to encourage the reform of those governments so they can provide some protection for themselves and modernize their political systems and their economies to be of a greater benefit to their people who have so often been put down and to realize that their future, with a richness of natural resources, is going to become increasingly important to the whole world.

So it is with mixed feelings that I give this report to the Senate. I will continue to give a series of reports next week on various terrorist activities and how they affect our interest in that part of the world. But I wanted to give this first installment while we are at this late hour of the day awaiting some of the first test votes we are going to have now on this immigration bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Georgia be allowed to speak for up to 12 minutes.

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

The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise today to discuss two amendments I have filed to the pending immigration legislation.

I was at home over the Memorial Day recess and had an opportunity to talk about the pending bill with a number of constituents. For many of the folks I spoke with, their top concern was border security. There was a deep feeling of skepticism about the ability of the U.S. Government to deliver effective control of our borders. Their concerns certainly have merit, and that is why it is so important that we prove we are serious about border security by securing our borders before any proposed immigration reforms are put into place.

The issue before us is critical to the future of our country in terms of national security, economic prosperity, and the fabric of our Nation. I hope we will proceed with a thoughtful and thorough debate in the Senate, because the proposals we are going to be asked to consider are enormous in scope and have far-reaching implications.

I have filed some amendments, and I know a number of my colleagues have filed amendments, to try to improve this legislation. It is my hope we will have an opportunity to continue to work through this process in a manner that recognizes the importance of this issue, rather than adhering to an arbitrary timeline for completion. We must ensure that not only the Senators, but also the American people, have ample opportunity to fully comprehend the consequences of any action we take.

America needs secure borders. Right now, we do not have them. As a nation of immigrants which honors the rule of law, we must secure our borders to make America safe so we can fix our country's immigration system. A nation that cannot secure its borders cannot secure its destiny or administer its laws.

The current proposal contains the first border security trigger envisioned by my fellow Senator from Georgia, JOHNNY ISAKSON. It says no temporary worker program or transition to Z visa status for those currently illegally in the country can begin until the Secretary of the Department of Homeland Security certifies to the President and to the Congress that the specific key border security measures are funded, in place, and operational. These triggers include constructing 370 miles of fencing that was previously authorized, 200 miles of vehicle barriers at the border, and finishing the goal of doubling the size of the Border Patrol since this President took office.

The trigger also includes a provision that detention facilities must have a total capacity of 27,500 beds to end the practice of catch and release on our southern border. It is absolutely vital that the Senate act to put the resources and mechanisms in place to allow the Department of Homeland Security to gain operational control of our borders and to have stronger and more meaningful enforcement of our immigration laws in the interior of the United States.

With enhanced enforcement, we have already seen a positive change at the border. The number of people apprehended for illegally crossing our southern border is down by nearly 27 percent

in 2007 from this point in time in 2006. You might say, the numbers of apprehensions are down; that does not sound as though the agents are doing a very good job, and more people are getting in. The fact is the numbers are down because our Border Patrol agents are doing an outstanding job and because illegal entrants are deterred from even trying to cross as news of our increased security has made its way south. So starting with border security and ensuring we get our borders secure through certain mechanisms is my top priority, and this bill does that.

While I have been supportive of getting us to this point and supportive of the framework of this approach, there are certain issues I believe can be improved upon. Some of my colleagues have amendments to do that, and I wish to discuss briefly a couple of amendments I have filed.

My first amendment, No. 1318, deals with protecting the Social Security trust fund for the future retirees of this Nation. I ask unanimous consent that Senators INHOFE, ISAKSON, ENZI, and MURKOWSKI be made cosponsors of this amendment.

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

Mr. CHAMBLISS. In 2004, the Commissioner of Social Security signed a totalization agreement with the Director General of the Mexican Social Security Institute. While the President has not yet submitted the United States-Mexico totalization agreement to Congress, I am concerned the agreement could threaten the retirement benefits of Americans. Totalization agreements allow workers who divide their careers between two countries to combine work credits from both countries to qualify for Social Security benefits. It also prevents workers from paying Social Security taxes in both countries. While this seems like a good idea that ensures fairness, the proposed totalization agreement with Mexico leaves many questions unanswered in terms of its cost to American taxpayers. I am concerned the proposed totalization agreement with Mexico and possible future totalization agreements will impose significant costs on the already overburdened U.S. Social Security system.

The problem is current law doesn't require Congress to affirmatively review a totalization agreement and determine if it is in the best interests of American taxpayers. Under current law, a totalization agreement automatically goes into effect unless either the House of Representatives or the Senate adopts a resolution of disapproval within 60 legislative days of the President submitting it to Congress. If no action occurs during this timeframe, Congress is deemed to support the totalization agreement and it automatically goes into effect.

My first amendment will change this current practice so that Congress has its proper constitutional role in determining whether totalization agreements are in the best interests of our country by ensuring that totalization agreements only go into effect after explicit approval from both the House of Representatives and the Senate. The amendment will also require the Social Security Administration to provide regular reports to Congress that examine both the projected costs and the actual costs of all totalization agreements. In short, this amendment will ensure that proper debate and analysis take place prior to the approval of an agreement that can impact our Social Security trust fund.

The second amendment I wish to address tonight is No. 1319. This amendment deals with the fine structure for Z–A workers, which is a part of the agriculture piece of this legislation. I worked very closely with my colleagues, Senator CRAIG and Senator FEINSTEIN, to make some changes to the agriculture portion of this bill which was initially drafted, but one area that was left unresolved in our discussion was the amount of fines agricultural workers would be required to pay under the Z–A visa program. Under the substitute bill we are debating, an agricultural worker's fine to obtain a Z–A visa is $100, as compared to the $1,000 that regular Z applicants must pay. Then, for those Z–A workers who wish to depart the country and make application for a green card, the fine in the underlying substitute is $400 as compared to the $4,000 for regular Z visa holders.

This amendment is very simple. This brings into parity the fine structures for Z visa workers and Z–A visa workers. However, the amendment also recognizes that annual earnings from agricultural employment are generally lower than in other sectors of the economy due to the often seasonal nature of agricultural work.

The amendment requires agricultural workers to pay a $1,000 fine at the time they make application for a Z–A visa, just as workers in other sectors of the economy must pay a $1,000 fine when they make application for a Z visa. Further, the amendment requires Z–A visa workers to pay a $4,000 fine at the time they make application for a green card, just as Z visa workers must pay a $4,000 fine. However, Z–A workers would be allowed to discount $1,000 from the $4,000 fine for each year they worked in agriculture under the terms of the bill, with a maximum deduction of $3,000. So the total fine amount a Z–A worker will be mandated to pay is $2,000, as compared to the $5,000 the Z visa workers are mandated to pay, provided those workers stay in the field of agriculture, which is one of the ideas behind the base bill, as well as this provision. I think this fine structure is much more equitable than the current total of $500 that Z–A workers are expected to pay.

It also recognizes some of the unique aspects of agricultural work. Regardless of the sector of the economy in which the Z visa applicants work, we need to ensure that the fines, which are penalties, are meaningful and difficult to achieve.

These are two commonsense, straightforward amendments. I hope the Senate will have an opportunity to consider them soon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CHANGE OF VOTE

Mr. CHAMBLISS. Mr. President, on rollcall vote No. 194, I was present and voted no. The official record has me listed as absent; therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way change the outcome of the vote.

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

Mr. BYRD. Mr. President, I oppose the amnesty provisions included in this bill.

Nevertheless, I voted against the Coburn amendment, because it would have codified expedited procedures in the Senate for considering the Presidential certifications required by the amendment. Exempting legislation from debate and amendment in the Senate is a dangerous practice, and contrary to the constitutional purpose of this unique institution. One need only look to the legislative line-item veto or budget reconciliation process to understand how such procedures could be abused.

Had those expedited procedures not been included in the Coburn amendment, I would have supported it.

Mr. President, I oppose amnesty for illegal aliens. Waiving our immigration laws, instead of enforcing them, is amnesty—no matter what the level of fines and penalties assessed. It encourages others to flout our laws knowing that they could be similarly rewarded.

Amnesties undermine the great American principle that the law should apply equally and fairly to everyone. This bill would create a separate set of rules—one for those who obey the law and one for those who do not. It is a special set of laws for those who chose not to follow the regular process that everybody else had to go through. It is a congressional pardon for lawbreakers—both for illegal aliens and the unscrupulous employers who exploit them.

Many employers are anxious to take advantage of the cheap labor that this bill would provide, but the responsibility would fall on the Nation as a whole to make the public investments necessary to absorb these workers into the economy. It is a false promise, to immigrants and U.S. citizens alike, when the infrastructure of our Nation—our schools, our health care system, our transportation and energy

networks—are increasingly unable to absorb this untenable surge in the population.

I speak from experience when I say that this amnesty will not work. President Reagan signed his amnesty proposal into law in 1986. At the time, I supported amnesty based on the very same promises we hear today—that legalizing undocumented workers and increasing enforcement would stem the flow of illegal immigration. The 1986 amnesty did not work. After 1986, illegal immigrant population more than quadrupled from 2.7 million aliens, to an estimated 12 million illegal aliens today. In that time, the Congress continued to enact amnesty after amnesty, waiving the Immigration Act for lawbreakers.

I will not vote to make the same mistake twice.

Our immigration system is already plagued with funding and staffing problems. It is overwhelmed on the borders, and in its processing of immigration applications. It only took nineteen temporary visa holders to slip through the system to unleash the horror of September 11. The pending proposal would shove tens of millions of legal and illegal aliens—many of whom have never gone through a background check—through our border security system over the next decade, in effect swamping a bureaucracy that is already struggling to keep its head above water. Terrorists and criminal aliens have exploited these kinds of amnesties before, and they will do so again.

The United States cannot guarantee the security of its borders, and simultaneously waive the law for those who circumvent that security. The Congress must choose between law enforcement and amnesty. I choose law enforcement. The Congress must choose between border security and amnesty. I choose border security.

I will oppose this measure, in the hope that the amnesty provisions are removed, and that the Senate quickly passes a clean border security bill.

Mr. DOMENICI. Mr. President, late last night we voted on amendment No. 1151 offered by the Senator from Oklahoma, Mr. INHOFE. The disposition of this amendment can be seen in the RECORD under rollcall vote No. 198. I was allowed to speak for 1 minute prior to this rollcall vote; however, I wish to extend my remarks in order to fully explain my stance on this important issue.

Let me begin by stating emphatically that I fully support English as the official language of the United States. However, I cannot vote in favor of an amendment that would eliminate rights that currently are reserved for my constituents under the New Mexico Constitution. We must be cautious before we act and it is the devil in the details of the amendment that was placed before the Senate, which would chill and infringe on the constitutional rights of our diverse citizenship and would stand in direct contradiction to the constitution of my home State of New Mexico that makes this amendment overreaching.

Most people do not know that Congress delayed New Mexico's admission to statehood until speakers of English became the majority of the State. To underline the point, the New Mexico Enabling Act required that the public schools be conducted in English and that ''ability to read, write, speak and understand English without an interpreter . . . be a necessary qualification for all state officers and members of the state legislature.'' However, in 1911 the U.S. Supreme Court found that Congress could not place such conditions on newly admitted States and removed the English language restriction from the New Mexico Enabling Act.

Thereafter, New Mexico adopted its State Constitution which contains important guarantees of the rights of Spanish speakers, including the right to vote, hold office, and sit on juries. Specifically, the New Mexico Constitution states ''[t]he right of any citizen of the state to vote, hold office or sit upon juries, shall never be restricted, abridged or impaired on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages except as may be otherwise provided in this constitution . . .''

Moreover, the New Mexico Constitution requires public school teachers to be trained in both English and Spanish to ensure that Spanish-speaking students are properly taught the English language. Coupled with this constitutional provision is another constitutional right that ensures children of Spanish descent are entitled to a public education.

This amendment would not amend the New Mexico Constitution. I mentioned this only to point out another New Mexico constitutional provision that requires all ballots that would amend the New Mexico Constitution be printed in both English and Spanish. The Spanish influence in my home State dates so far back that for the first 20 years of New Mexico's statehood, all laws passed by the State legislature were required to be printed in both English and Spanish.

I am always interested to hear others discuss their family histories, some of which date back at least 200 years in this country. However, I think that there is a misconception that the adoption of an official language is strictly in response to illegal immigrants. That is not true. The declaration of an official language directly impacts the history, customs, and traditions of our American families. The family histories that can be heard throughout New Mexico date back over 400 years. These are not illegal immigrants; these are the first inhabitants of the land that is now called New Mexico.

Mr. President, while I fully support English as the official language of the United States, I will not support a proposal that would cast in doubt the laws and rights afforded to all of the citizens of New Mexico.

Mr. DOMENICI. Mr. President, I wish to discuss why I voted against cloture this morning on S. 1348, the border security and immigration reform bill currently being debated by the Senate.

As a border State Senator, I know first hand the need to secure our international borders because every day I hear from constituents who must deal with illegal entries into our country. We have a crisis on our borders and the status quo is not acceptable. I support many of the provisions in S. 1348 because we must address this border crisis. However, I was forced to vote no on the motion to invoke cloture on S. 1348 because Democrats are refusing to allow votes on amendments to the legislation on the Senate floor.

More than 300 amendments have been filed to this bill. Only about 10 percent of those amendments have been dealt with. Clearly the Senate, which is known for its deliberative nature, has not had an adequate opportunity to improve upon this bill on the floor. What's more, this bill did not go through the committee process and so there was no opportunity to improve the bill there.

I was here in 1977 and 1978 when the Senate debated the Natural Gas Policy Act. That debate went on for weeks and hundreds of amendments were considered. There is no reason to avoid that process in this situation. The issues of border security and immigration are some of the most important issues facing America today, and those issues deserve full and fair debate.

The Democrats' refusal to allow votes on amendments means that my amendments, which are very important to New Mexico, the southwest border, and the Nation, cannot be considered. Those amendments would have provided two more Federal judges in New Mexico to deal with immigration cases, ensured that small businesses have access to temporary workers they need, provided more personnel for Federal land agencies that must help secure Federal land on the international border, allowed New Mexico to reap the economic benefits of Mexican nationals coming legally to the United States for a short period of time for tourism and travel, called for Mexico's cooperation on border security and border crime, addressed the lack of law enforcement radio coverage on remote parts of the international border, strengthened and improved the Border Patrol Academy at Artesia, NM, and called for coordination between the Department of Homeland Security and the Department of Defense on aerial surveillance efforts along the border.

My amendments are based on needs that are imperative to border security, and many of them were suggested specifically by New Mexicans to help New Mexico. I would like to discuss a few of those amendments in more detail.

First, I have heard from many Federal judges from the District of New

Mexico and the 10th Circuit Court of Appeals about the crisis New Mexico faces from an overloaded immigration docket. Seventy-one percent of Federal criminal cases filed in New Mexico are immigration cases. This is the highest percentage of immigration cases anywhere in the United States, and New Mexico needs more judges to handle that caseload. Unfortunately, I was not allowed to address this crisis by offering an amendment to S. 1348 that would have provided New Mexico with two new Federal judges.

Second, I have heard from New Mexico small businesses about their need for temporary workers in the food processing, construction, oil and gas, and restaurant industries. These small businesses were concerned that they would not have access to the temporary workers they need under S. 1348 as it is written, so I offered an amendment to set aside a number of temporary worker visas to only be used by small businesses. Unfortunately, I was not allowed to address New Mexico small businesses' needs.

Third, some of the land on New Mexico's international border is Federal land. The Bureau of Land Management, Forest Service, and Park Service are working with the Department of Homeland Security, DHS, to secure these lands, but these Federal land agencies need more personnel to work on these issues. I offered an amendment to provide this personnel, but that amendment has not been considered.

Fourth, remote parts of the New Mexico/Mexico border do not have radio coverage, which prevents DHS and law enforcement from communicating. I have filed an amendment that would enhance radio communications capabilities in these areas, but this amendment has not been considered.

Fifth, New Mexico is at an economic disadvantage over neighboring border states because there are no border towns in New Mexico that Mexican nationals can access when they legally enter the U.S. on a laser visa. This is because such nationals can only travel 25 miles into New Mexico. I have filed an amendment to expand the limit laser visa holders can travel into New Mexico so that laser visa holders can legally visit Las Cruces and other towns near the New Mexico/Mexico border. Unfortunately, this amendment, which would bring economic benefits to southern New Mexico, has not been considered.

The refusal of Democrats to allow consideration of these and my other amendments is nothing short of irresponsible behavior towards the security of America and the needs of New Mexico, and I cannot support cloture on S. 1348 without assurances that these measures will be considered.

Additionally, many of the provisions that I have supported in S. 1348 have been amended to the point that the bill no longer has its initial impact. For example, the temporary worker program that is critical to so many industries in my State does not meet those industries' needs. Further, the bill as amended calls into question some laws and customs of my home State.

Because of Democrats' refusal to consider important amendments to this bill, we will not see any of the comprehensive border security improvements that New Mexico and other border States desperately need, and I could not be more disappointed.

I support efforts to address border security and immigration reform legislation, and I applaud Senators KYL, KENNEDY, SPECTER, SALAZAR, MARTINEZ, GRAHAM, and others who have worked long and hard on this bill. However, I cannot support cloture on the bill at this time.

Mr. WARNER. Mr. President, our country today faces serious issues with our immigration policy. I appreciate the opportunity that we have before us to engage in this important debate and to work the will of the Senate on this complex matter.

The legislation we have before us, the compromise reached by a number of our colleagues, has provided us with a starting point for reform of a broken immigration system and to strengthen our border security.

Recognizing, however, that there are ways that we can improve upon the work of the ''grand compromise,'' as it has come to be known, I have joined with Senator CORNYN as a cosponsor of an amendment that would increase the amount of funding made available to State and local governments to mitigate the costs of public education and health care created by the inadequacy of our current immigration system.

I understand from my conversations with Virginians around the State that unauthorized immigration has caused a fiscal burden on State and local governments, one which must be addressed by this Congress. The provisions of the legislation before us include a crucial State impact assistance account that would provide reimbursement for state and local entities for the vital services that they provide.

The amendment that I am pleased to cosponsor adds additional funding to this account without adding a burden to taxpayers. By increasing, for immigrants in both the Y- and Z-visa categories, the fee that these applicants must pay at the time of their application, this amendment makes a positive step toward alleviating the burdens faced by health providers, educational agencies, and others eligible for funding through the State impact assistance account.

Under this amendment, the fee on applicants for these categories would be set at $750, and an additional fee of $100 would be set for each additional dependent. For the primary applicants in both the Y- and Z-visa categories, this represents an increase of only $250 above the legislation in its current form. I note that this amount $750 is also the same fee agreed upon under legislation passed by the Senate with a majority of support last year.

In my view, any legislative approach to provide overall immigration reform must rest on the foundation that an outright amnesty is unacceptable and that securing our borders is imperative. Then, in a sound, workable, and realistic way, this Congress must address the issue of the millions of undocumented workers who are already in our country. All of these components are absolutely essential to ensuring our security as a nation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 3 Leg.]

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Durbin	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Feingold	Nelson (NE)
Bennett	Feinstein	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Harkin	Reid
Brown	Hatch	Roberts
Bunning	Hutchison	Salazar
Burr	Inhofe	Sanders
Byrd	Inouye	Schumer
Cantwell	Isakson	Sessions
Cardin	Kennedy	Shelby
Carper	Klobuchar	Smith (OR)
Casey	Kohl	Snowe
Chambliss	Kyl	Stabenow
Clinton	Landrieu	Stevens
Cochran	Lautenberg	Sununu
Coleman	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Vitter
Corker	Lott	Voinovich
Craig	Lugar	Webb
Crapo	Martinez	Whitehouse
DeMint	McCaskill	Wyden
Dodd	McConnell	
Dole	Menendez	

The PRESIDING OFFICER. A quorum is not present.

The majority leader.

Mr. REID. Mr. President, I move to instruct the Sergeant at Arms to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Texas (Mr. CORNYN), the Senator from Wyoming (Mr. ENZI), the Senator from South Carolina (Mr. GRAHAM), the Senator from Nebraska (Mr. HAGEL), the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 72, nays 13, not voting—14, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—72

Akaka	Dole	Menendez
Alexander	Domenici	Mikulski
Baucus	Dorgan	Murkowski
Bayh	Durbin	Murray
Bingaman	Ensign	Nelson (FL)
Bond	Feingold	Nelson (NE)
Boxer	Feinstein	Obama
Brown	Harkin	Pryor
Bunning	Hatch	Reed
Burr	Inouye	Reid
Byrd	Isakson	Salazar
Cantwell	Kennedy	Sanders
Cardin	Klobuchar	Schumer
Carper	Kohl	Smith
Casey	Kyl	Snowe
Chambliss	Landrieu	Stabenow
Clinton	Lautenberg	Stevens
Cochran	Leahy	Sununu
Coleman	Levin	Tester
Conrad	Lieberman	Thune
Corker	Lugar	Voinovich
Craig	Martinez	Webb
Crapo	McCaskill	Whitehouse
Dodd	McConnell	Wyden

NAYS—13

Allard	Gregg	Sessions
Bennett	Hutchison	Shelby
Collins	Inhofe	Vitter
DeMint	Lott	
Grassley	Roberts	

NOT VOTING—14

Biden	Graham	McCain
Brownback	Hagel	Rockefeller
Coburn	Johnson	Specter
Cornyn	Kerry	Warner
Enzi	Lincoln	

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. REID. Mr. President, I am going to move briefly to proceed to a motion to reconsider, but I wanted to tell all Members that this vote is not going to be a 20-minute vote. There are people coming from all over the country, both Democrats and Republicans. I don't think it matters. This is going to be the last vote of the night, anyway, but this vote will go a little longer.

I ask unanimous consent that the motion to proceed to the motion to reconsider the failed cloture vote on the substitute be agreed to, the motion to reconsider be agreed to, and the Senate proceed to vote on the motion to invoke cloture on the Kennedy-Specter substitute amendment No. 1150.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. REID. I move to reconsider the vote.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 1150 to Calendar No. 144, S. 1348, comprehensive immigration legislation.

Harry Reid, Jeff Bingaman, Dick Durbin, Charles Schumer, Daniel K. Akaka, Jack Reed, Mark Pryor, Joe Biden, Amy Klobuchar, Daniel K. Inouye, Herb Kohl, H.R. Clinton, Evan Bayh, Ken Salazar, Debbie Stabenow, Frank R. Lautenberg, Joe Lieberman.

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

The question is, Is it the sense of the Senate that debate on amendment No. 1150, an amendment in the nature of a substitute offered by Mr. REID of Nevada, to S. 1348, to provide for comprehensive immigration reform and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), and the Senator from Wyoming (Mr. ENZI).

The yeas and nays resulted—yeas 45, nays 50, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—45

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

NAYS—50

Alexander	Crapo	Murkowski
Allard	DeMint	Pryor
Baucus	Dole	Roberts
Bennett	Domenici	Rockefeller
Bingaman	Dorgan	Sanders
Bond	Ensign	Sessions
Boxer	Grassley	Shelby
Bunning	Gregg	Smith
Burr	Hatch	Snowe
Byrd	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Cochran	Isakson	Tester
Coleman	Kyl	Thune
Collins	Landrieu	Vitter
Corker	Lott	Warner
Cornyn	McCaskill	Webb
Craig	McConnell	

NOT VOTING—4

Brownback	Enzi
Coburn	Johnson

The PRESIDING OFFICER. On this vote the yeas are 45 the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader.

CREATING LONG-TERM ENERGY ALTERNATIVES FOR THE NATION ACT OF 2007—MOTION TO PROCEED

Mr. REID. I move the Senate proceed to consideration of the Energy bill, H.R. 6.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

IMMIGRATION REFORM

Mr. REID. Mr. President, this has been a very difficult time. I think there has been a lot of bending over backward to accommodate people who have wanted to offer amendments. Initially, as you will recall, the negotiators were given quite a bit of time, and then when that ''quite a bit of time left,'' they wanted another week and they got that.

After the debate started, the majority leader said, this is a 2-week bill, and it is. I extended debate past the recess. During the floor debate, we have disposed of 42 amendments, including 28 rollcall votes. Last night we asked for consent to move the cloture vote from this morning to tonight so we could have another full day of amendments. That didn't work out.

I understand why some of my colleagues on the other side of the aisle thought maybe that wasn't a good idea. But I thought we could, after cloture was not invoked this morning, move some other amendments. We tried hard to do that. We were unable to do that. I tried every possible way to get amendments up today; every possible way.

A real short recounting of this. I offered votes on eight amendments, four on each side. Then we tried six, three on each side. Again, my friends on the other side of aisle objected to that. Then I tried three Republican amendments, only two Democratic amendments. That was objected to by my colleagues on the other side.

Finally, I tried to get a significant number of additional amendments pending so they could receive votes after cloture. That was objected to. Republicans even objected to calling up their own amendments.

So having spent all day trying to diligently work out a way to vote on Republican and Democratic amendments and facing objections from my Republican colleagues, I found the only thing we can do is try to get cloture tonight.

I was hoping my friends on the other side of the aisle would understand that small groups shouldn't dictate what

happens around here, but that is what happened.

But I, even though disappointed, look forward to passing this bill.

We are going to take the bill off the Senate floor, as I just indicated and we have done. But there are ways we can do this. There could be an agreement of a number of amendments. I am saying to everyone here, I would do my very best to have more Republican amendments than Democratic amendments. I know some of my colleagues don't want me to say that, but I would be willing to do that, with a time certain for passing this bill. Hopefully, we can do that in the next several weeks. There is a lot of support for this bill on the outside. The problem was on the inside of the Senate Chamber.

People have worked very hard on this bill. One of my colleagues in my office today, who has worked on this bill so hard, shed some tears. This is a bill about which people have a lot of emotion.

I have to acknowledge that my first reaction was, look how many votes they gave us, six or seven. All the Democrats could have voted for cloture—and we did, all but 10—and we still couldn't have gotten cloture. That was my reaction, to be upset. But there is no reason to be upset. I think we have to look toward passing this bill. It is something that needs to be done. There are some really good things in this bill. The DREAM Act—I will not belabor the point, but I will just briefly say that in Smith Valley, NV, a little mining community, a number of years ago, this beautiful child came up to me, a senior in high school. I knew she wanted to talk to me, and she did. She said: I am the smartest kid in my class. I can't go to college. My parents are illegal. What am I going to do, Senator? She couldn't do anything. I don't know what she is doing now. She is a grown woman, probably working on the onion farms in Smith Valley. Maybe she got married. I don't know what happened to her. She should have been able to go to college. We had a provision in this bill to allow people like that young lady to go to college.

A young man in Reno, NV, a small-in-stature Hispanic—he would be the master of ceremonies at events. He could sing. He could talk. It took me a number of years to realize he was in the country but he had bad papers. He couldn't drive a car. I haven't seen him for a number of years, don't know what has happened to him. He couldn't go to college. Under this legislation which is now no longer on the Senate floor, he could have had a pathway to legalization. He already knew English. He spoke better English than I do. Get a job, pay taxes, stay out of trouble—I am confident he would do that—pay some penalties and some fines to go to the back of the line, to be able to come out of the shadows, get the ability to drive a car. But we are not going to be able to do that for him now.

I have every desire to complete this legislation. We all have to work—the President included—to figure out a way to get this bill passed. I am a creature of the Senate. I understand we live by the rules that govern this body. A small number of people can disturb what goes on here. My disappointment—and I have expressed this to Senator MCCONNELL—is I wish more of my colleagues on the other side of the aisle had in effect thumbed their nose at a few of these people and voted for cloture, at least giving us more votes than what we got. It didn't happen. There are personal reasons for doing that. I accept that. But in my office, about 7 o'clock tonight, a number of we Democratic Senators met there and made a commitment to each other that we are going to do everything we can to pass this bill as soon as we can. When is that? I don't know. But we are going to work hard. We are going to try to put aside the hurt feelings we have and move on with the anticipation that this bill is something the country needs, and the Senate needs to do this. I hope we can figure out a way to do so.

The PRESIDING OFFICER (Mr. PRYOR). The Republican leader.

Mr. MCCONNELL. Mr. President, my good friend the majority leader and I frequently are on opposite sides of issues and fighting to a draw occasionally. But on the matter we are dealing with tonight, both of us desire the same result, which is to get a bipartisan immigration bill that would be an improvement over the disastrous status quo we have on this important issue in America today. The utility, however, of a great many cloture votes, particularly when you don't succeed, is that it doesn't produce results.

I had indicated to my good friend the majority leader at the beginning of this debate that we needed—''we'' meaning this side of the aisle—to have roughly the same number of Republican rollcall votes on this bill this year that we had the last time we brought it up. Now I think we were very close to getting there. My advice to my good friend on the other side was to not have this vote we just had tonight. I didn't believe I could support cloture at this point, although I certainly could at some point, provided we had enough votes on the amendments for which there was a demand on our side of the aisle. But we were not there yet. We could have finished this bill in a couple of more days, in my judgment.

Frankly, we have had too many cloture votes this year to get successful results. This is the 37th cloture vote we have had this year. By this point in the 109th Congress, we had had 13. By this point in the 108th Congress, we had had nine. By this point in the 107th Congress, we had had two. So my suggestion on a bill like this which does enjoy bipartisan support is to meet the threshold of acceptability, to get enough support over here to get to final passage.

I think we are giving up on this bill too soon. I like what I think I heard the majority leader say, that he doesn't want to give up on it either. I think we are within a few days of getting to the end of what many would applaud as an important bipartisan accomplishment of this Congress. I encourage the majority leader to return to this issue in the near future. I doubt if the prospects will get better with the passage of time. There are a number of Republicans who are prepared to vote for cloture as soon as they believe their colleagues on this side of the aisle have had a reasonable opportunity to have offered and voted upon amendments they think would improve the bill. I don't think that is asking for too much.

I would be happy to commit tonight to the majority leader to continue to work with him to try to finish this bill at the earliest possible time. Obviously, it is his decision to decide when we go back to it. My advice would be to do that sometime soon. In the meantime, we will still be working with people on this side of the aisle to try to winnow down the number of amendments that really seem to need a rollcall vote and be prepared to try to work on this again at whatever point the majority leader decides to return to the measure.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, the distinguished Republican leader has laid out the problem: We are very close. At some point, we will be ready to vote for cloture. We need more votes on amendments, even though we have had more than on the bill last year. We are getting close to being prepared to vote for cloture. We have spent so much time on this bill trying to make people happy whom you couldn't make happy on this bill anyway. They had no intention of voting for the bill, voting for cloture. But we spent an inordinate amount of time——

Mr. MCCONNELL. Will the leader yield on that point?

Mr. REID. Mr. President, in a brief minute.

I want the right tone set here. I don't want this to be an adversarial process. This is not a battle between REID and MCCONNELL. The votes show what happened. It doesn't take Einstein to figure that one out. Republicans didn't vote for cloture. They hadn't had enough. What is enough? I don't know what is enough.

One of the elements that hasn't been mentioned here tonight—but only in passing, because I want to set the right tone—this is the President's bill. Last year, we passed the Democratic immigration bill. We passed it with help from some courageous Republicans. Here, part of those courageous Republicans met with some very strong Democratic Senators, working with Cabinet officers, to come up with a bill. They came up with a bill. The press has declared this to be the grand compromise. I accept that term. Where are

the President's men? Where are the President's people helping us with these votes?

We are finished with this for the time being. As we have been for days, we are going to have a list for you right away. We should have it by 5 o'clock tonight. We will have it for you in the morning. We are very close. At some point, we are going to do this. Pretty soon, we will have enough votes so we can support cloture. We are prepared to vote for cloture but not right now.

I want to finish this bill, but I can't do it alone. We can't do it alone. We did more than our share here tonight on cloture votes. We picked up seven votes during the day from the vote this morning to the vote this evening. But we need some help. I would hope the President understands that it is only going to be about 16 months until there is an election for a new President, either a Democratic or Republican President. He has a relatively short period of time to help us with this piece of legislation.

People know I am very concerned about what comes up on the floor. I am very time-conscious with what needs to be done. I am not always right, and I acknowledge that. But no one can take away from the fact that I try to get as much as we can out of this Senate. I am going to continue to do that. Part of the time I want to make sure we are able to add into the picture is time to do an immigration bill, but we over here can't do it alone. We need some help. We have an opportunity, as I said before. We want this number of amendments, and we are not going to go for 34. I heard that one yesterday. But whatever it is—10, 6, 5, 4, 3, a time for final passage—we will find time to get this bill up. If they—meaning the other side—have another idea how to get it done, we will work with them. We want to pass this bill. We are committed to immigration reform. We believe our country needs it, not only for the people who live in this country but people outside the country who recognize we have the ability to solve our own problems. Immigration is a problem. We are committed to work on it. And we will continue to do that. I hope for the good of this country we can move forward in a positive manner and pass this legislation.

I say again, let's have President Bush work with us. I want to work with him. You do not hear that from me very often. I will do whatever I can to have this part of his legacy, his immigration bill. I want no credit for it. No one else wants any credit for it. It can be his bill because if we pass this, there is credit to go around for everybody.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, this is a complicated bill, but the key to passage is not complicated. Let me say again what I have been saying for 2 weeks. There is a demand on this side of the aisle to have roughly the same number of Republican rollcall votes that we had when we took up this bill in the last Congress.

Now, my good friend, the majority leader, keeps referring to Members on our side of the aisle who are not going to vote for the bill under any circumstances, and there are a number of those on our side of the aisle. But they are not the key to getting cloture. It is the rest of us.

Let me be perfectly clear about it. What I am saying is, the rest of us who would like to be able to vote for cloture and would like to see us pass a bill are going to insist that the others of our colleagues—whether they vote for or against the bill in the end—have a chance to have roughly the same number of rollcall votes we had before.

It is not complicated. It is a very complicated bill, but the key to getting it passed is not complicated. We are not that far away from being able to get cloture on a bill. And the people like myself, who, if this procedural hurdle of getting an adequate number of rollcall votes is met, are going to vote for cloture would probably be able to bring enough of our colleagues along to get cloture on the bill.

That is why I advise my good friend to give it a couple more days. That is why I also advise him—right now, again, tonight—if he is going to turn back to this bill, I would not wait a whole long time to do it. It strikes me that it ought to be done sometime in the near future. If we can get this reasonable number of additional rollcall votes, I think there is an overwhelming likelihood of cloture on the measure and a bipartisan accomplishment.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, keep in mind the logic of this. It has been made graphically clear to me that the Republicans wanted more votes on their amendments. One problem: They objected to bringing up their own amendments. It makes it a little tough to vote on them. It is like having a basketball tournament where you have the five players on each side, and they are going to have a tournament, and the winner is the team with the most points, but—one problem—nobody will supply a basketball. That is what we had here.

The logic of the statement of my friend from Kentucky leaves me without a lot of understanding. They want more amendments. We did everything we could to have amendments today. I will go through it again. We started out with eight. They objected to it. Six, five; they objected every time. We said: Do you want more amendments pending? Here they are. We will give you six or eight. Objection.

So we know where we are. But let's realize where we are and not make up the facts. The real true facts: We wanted to give the Republicans votes on amendments. Voice votes did not count. It had to be rollcall votes. And I accepted that. But we could not get any kind of votes because we could not get amendments up—not for our fault.

So, Mr. President, I do not want to leave this floor tonight without stating how much I admire and appreciate seven courageous Republicans who did the right thing. They know what went on here in the last few days is wrong. They voted for cloture tonight. I am confident that others will join them in the future, if we have to do cloture again. But everyone—everyone—should acknowledge that what these seven Senators did was not easy. It is an act of courage that they did this.

While my compliments for them may not be very much, when the history books are written, this will be a profile in courage for their doing this tonight. I am convinced that is true. I admire them and appreciate what they did, setting an example.

I think we have all said enough, but I want to get the last word. So if people want to say more, I will—

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, then I want to express my admiration for the 12 Democrats who voted against cloture for being profiles in courage.

Look, the point is, it is quite simple. We all know how to get cloture. It is to have enough Republican rollcall votes, as I have repeatedly told my good friend from Nevada over the last 2 weeks. At whatever point we want to turn back to the bill and meet that threshold requirement, I think there is an overwhelming likelihood of getting cloture and moving forward.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, last word—I hope. You cannot have votes on amendments that people do not let you bring up to vote on. There is no basketball, remember. We have a game going but no basketball.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this vote was obviously a disappointment. I think those of us who have worked on this issue are encouraged by what both leaders have stated, that we are not giving up or forgetting this legislation, and we have every intention of ultimately finalizing and getting a bill.

Tonight we cannot look away from what is happening on the southern borders that are open to the kind of vandalism that has taken place, the exploitation which has taken place. We cannot look out at our broken immigration system and think we can let that continue. We cannot look away from so many locations across this country where people who are undocumented are being exploited—dangerously exploited—dehumanized.

We cannot look away from those who have worked in the agribusinesses of this country and had real hope we were going to take action in the Senate, where we have worked for years and years and years in order to get legislation through, which 67 Members of this Senate have cosponsored. Their dreams are dashed this evening.

We cannot look away from the 12.5 million people out across America who tonight, after finding out what has failed to happen in the Senate, know they are going home to their children, and know tonight their fear is enhanced and increased because we have failed to take action.

Sure, they broke the law, but they broke the law because they wanted to work, work, work. They wanted to provide for their families. They wanted to provide for their children. They wanted to work. And 70,000 permanent resident aliens have served in the military in Iraq, in Afghanistan. They wanted to be part of the American dream.

Well, I think as both leaders have stated, doing nothing is not an alternative. It is not an alternative. This issue is not going away. And I leave this evening actually encouraged by what both leaders have stated. Most of all, I am encouraged by the spirit which I have seen in the Senate among Republicans as well as a number of our colleagues who believe we have a real responsibility to accept the challenge of both of our leaders and find a way we can secure a fair and just immigration bill.

It is in that spirit that I hope those who have been involved in this will continue to work so we are going to have a constructive resolution. No bill at all is not a solution.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have a sense of wonderment as to what the American people are thinking about what has just transpired in the Senate, if there are any people watching on C–SPAN 2.

This is reputed to be the world's greatest deliberative body. But to listen to the debate for the last several days, and to the speeches here this evening, I think people wonder just what is going on.

We worked through the immigration issue in the last Congress, in the Judiciary Committee, and extensively produced a committee bill. We came to the floor and passed a bipartisan bill.

This year, we chose a different course. As I have said before, I think it was probably a mistake not to go through the committee process. But we crafted a bill, bipartisan. About a dozen Senators sat through tedious, laborious hours to construct a bill. As of this moment, we have not succeeded. But I believe we will yet succeed.

We have faced a very difficult issue. We know our borders are porous. We have constructed a way to do our utmost to stop people from coming in illegally. We know the United States is a great magnet, and we have structured a way that employers can find out who is legal and who is not legal. We have crafted a way, with a guest worker program, to provide for the labor needs of the United States and have structured a way to deal with the 12 million undocumented immigrants as best we could.

Accusations have been made it is amnesty. But the fact is, if we do nothing, it is silent amnesty. The 12 million undocumented immigrants will stay here. And the alternative to amnesty—if amnesty it is; and I do not think it is because we have done everything we can to construct the factor of earned right to citizenship, with fines, payment of back taxes, learning English, holding a job, contributing to our society—but the alternative to amnesty—if it is; and I repeat it is not—is anarchy, which is what we have now.

I believe the central point ought to be understood by anyone who is watching C–SPAN 2 that this matter is on life support, but it is not dead, it is not morbid, and ultimately we will produce a list of amendments. We will satisfy those on the Republican side of the aisle who want to vote for amendments. There is no obligation on the part of any Senator who offers an amendment to be committed to vote for the bill. The bill could be improved by those who are opposed to it. But whatever is the case, they have a right to offer amendments. Ultimately, we will satisfy that interest.

I voted for cloture tonight because I think the Democrats were wrong but the Republicans were ''wronger''—to use a word which does not exist. But we will return to this issue because it is too important for America not to improve the status quo.

We are still open for business on this bill. If anybody has a better idea on how to deal with the borders, let's hear it; to deal with the employers, let's hear it; to deal with the 12 million undocumented immigrants, let's hear it; to provide a workforce, let's hear it.

One thing I do take difference with my colleagues who have been opposed to the bill—on both sides—they have not come forward with an alternative. I had a discussion with one of the leaders of the opposition who is dead set against this bill today about what would he suggest. He did not have a suggestion. He is still thinking about it.

Well, there has been a lot of time to think about it. We tackled this bill more than 2 years ago in the Judiciary Committee, which I chaired, and it is time that the dissenters came up with something as an alternative, just not be naysayers.

But I am glad to hear what Senator REID has said and Senator MCCONNELL has said about the determination to produce a bill yet, and I think we will return to it. We will yet earn our title as the world's greatest deliberative body.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I want to make a few comments about the legislation we have been working on so hard. The overall comment I want to make is, failure on this issue is simply not an option. Failure is not an option. The people of America deserve the Congress to resolve this issue because of the very important values that are at stake.

I want to say, first, before I make some other comments, that we would not be here, frankly, if it had not been for the leadership of Majority Leader REID in setting aside this time for us to debate this issue of such national significance. So I appreciate him and all the leadership he has provided in this effort.

I also appreciate the leadership of both my Democratic and Republican colleagues who have worked hard on this issue for the last 4, 5 months. Indeed, it has been more than a 4- or 5-month debate and struggle. Indeed, it has been more than a 4- or 5-month debate. We were on this floor for a month last year casting some 30, 35 rollcall votes, and we have been on this issue now for the last several weeks. We had a warning it was coming up. But there has been a lot of work that has gone into this legislation. It is my hope, with the sense of optimism expressed by my good friend, Senator KENNEDY from Massachusetts, that Senator REID and Senator MCCONNELL will lead us to some resolution of this issue.

I want to say a quick word about why I don't think failure is an option. I don't think anybody here ought to be saying the immigration reform package is dead, because it isn't. It isn't. We are very close to coming up with legislation that will address the fundamental values we have been trying to address from the very beginning. In my mind, I want to say what I believe some of those fundamental values are.

First and foremost, we have to fix our borders. We have a system of broken borders in this country where people come across the border and we don't know who is coming into this country. We don't know who is coming into this country. In a post-9/11 world, that is absolutely unacceptable.

We also have a broken immigration system within the country, because when people come into the country, we don't know where they are and we do know that many of them overstay their visas. Forty percent, fifty percent of the people come into the country legally and simply overstay their visas. How can we have a system of national security when we don't know where these people are? So national security compels us to make sure that we get to a solution, and that is why failure is not an option.

Secondly, there are significant aspects to this legislation. I look at the great work Senator DIANNE FEINSTEIN and Senator LARRY CRAIG have done with respect to AgJOBS, a piece of legislation that has been almost a decade in crafting. I know about the fruit that rots in places in California. I know about the agricultural disaster problems we have in many places across our country, including my State of Colorado. AgJOBS is an important part of

the legislation. People and organizations, both Republican-leaning organizations and Democratic-leaning organizations, from the United Farm Workers to the Farm Bureau of America, and others, want us to pass this legislation because it included AgJOBS. Today, the farmers and ranchers of America ought to be saying to this Senate and to the leaders of this Senate that they want this bill and they want to get it done as soon as we possibly can.

Third, there are moral issues that frankly ought to guide us in dealing with some of these issues that are so important to our country. Sure, there are 12.5 million people who came here to America and they came here to work and to live the American dream. Tonight, many of those people live in fear not knowing what is going to happen to them, not knowing what is going to happen to their families the next day. Because they broke the law, we said in this compromise, in this piece of legislation we put together, that we were going to have them pay a fine. We were going to punish them. That is what we do in America all the time. We pass laws in this body. The Presiding Officer and I served as attorneys general for a long period of time, and what we do is when people break the law, we punish them. So we created a system here that provided punishment to people by requiring them to pay a fine.

We also in this legislation require that they pay fees, impact fees. We require them to pay other kinds of fees. So this was not what some of those people from places around the country have said is an amnesty bill. This was a bill that put people into probation and into purgatory where over a period of time, over a period of 8 years—you wait for 8 years and at the end of 8 years, if you do the time, if you pay the fine, if you stay crime free, if you learn English, you go to the back of the line, you meet all of those requirements, then—then—you become eligible for a green card. So what we crafted was a bill that was in fact a workable bill.

Having said all of that, I think the aim here still is to address those very important strategic interests of the United States of America, and I do not believe failure is an option. I believe that the Democrats, working with the Republicans, can still move forward to find legislation that will address the imperative of fixing our broken borders and our lawless immigration system which we currently have in America.

The last thing I want to say again is the best of times, frankly, for me in the Senate have been when Democrats and Republicans came together to solve the problems of our country. The issue of immigration isn't a Republican issue or a Democratic issue; it is an issue that is an American issue. If we are going to solve an issue that is as difficult as this very contentious issue for America, it is going to take Republicans coming over and working with the Democrats so we can get cloture on the bill, so we can get whatever amendments crafted that are not the poison pills some would try to offer, and we can get that done. I have confidence. I have confidence in my Democratic colleagues as well as my Republican colleagues that we can live up to the optimism—we can live up to the optimism Senator REID shared with us here tonight.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Arizona is recognized.

Mr. KYL. Madam President, I wish to share in the comments of my colleagues who have spoken in favor of this legislation in expressing concern that we were not able to proceed tonight to the final steps for its consideration, but also to express appreciation to the majority leader and others who have expressed a willingness to continue to ensure that legislation can move forward as quickly as possible.

We should not here this evening cast any blame for our failure to move it forward tonight. In a sense, all of us who were supporters didn't do a good enough job of ensuring all of the process could occur that Members properly insist on in order to vindicate their rights to debate and have amendments to get the job done. By the same token, those who oppose the bill need to appreciate that at a certain point, there is adequate consideration of their amendments.

The majority leader expressed this evening the view that we hadn't quite reached that point. And reluctantly, because of that, I joined those who decided to vote to keep the debate moving forward, which at this point means the majority leader has, at least temporarily, set it aside. But it shouldn't be too hard to get about a dozen amendments of Members considered. That is why I say we all share some responsibility, because that shouldn't have been that hard of a task. I hope our leadership will ensure that once we get that list available and ready for consideration, we can quickly take up the legislation again and finish it in this body so it can move forward to the other side.

I am not going to talk about the substance of the legislation tonight. I do want to thank those who worked so hard on its behalf on both sides of the aisle. The Senator from Colorado who has just spoken was an incredible inspiration in getting it done. The work Senator KENNEDY did throughout this effort to ensure that he drove us to a conclusion that was one that didn't satisfy anyone 100 percent, but which all of us at the end of the day found we were able to support—without his leadership, it wouldn't have been possible. My colleague from California, Senator FEINSTEIN, with whom I have worked on so many things, made some very difficult decisions and in that, as always, I respect the way she provided her leadership. On our side, colleagues such as Senator MEL MARTINEZ, who is on the floor now, my colleague JOHN MCCAIN from Arizona, LINDSEY GRAHAM, and Senator SPECTER who spoke, and all of the others who helped so much on this legislation, we are committed to seeing it through to the end. Another one of our colleagues on the Democratic side, Senator CANTWELL, who also was a help in moving part of this along, said this is a marathon, and she is right. We are not quite to the finish, but we are going to finish.

I know there are those out in America who think this is not a good bill. If you want to criticize the bill, there are a hundred ways to do it. I could point out all the flaws, and there are plenty. But you cannot solve big problems without trying. We have tried hard. We have produced an imperfect product, but a product that is the best to come along yet. In the amendment process we can make it better, and in the rest of the legislative process, hopefully, we can approve it. Hearing from the American people, we have put many of their suggestions into the mix here to help improve it. But if we don't try, this problem that has bedeviled us for years will continue.

As so many others have said, failure is not an option. We have a big problem in this country that needs solving, and I respect those who have put their shoulder to the wheel to solve it in the face of great opposition and misunderstanding in some respects from some of our constituents. But if you don't try, you don't reach these tough solutions. We came here to solve the tough problems.

I will conclude with comments that have always inspired me by Teddy Roosevelt, who was not afraid to get in a dusty arena and fight it out. He said the thing he most appreciated about his opportunities in life was the opportunity to work on work worth doing. This is work worth doing.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Madam President, I wanted to say a few words because for me, this is a very sad day. I had hoped the outcome would be very different. I too want to thank my colleagues.

Earlier this evening, I happened to listen to the gray-haired Senator from Massachusetts speak and I think he probably spoke for an hour without a note. It was a lesson in immigration and a lesson on this bill. I think he knows more and has worked harder and worked longer—not months, but decades—on these issues. So, TED KENNEDY, I want you to know I have the deepest respect and feeling for you, and I am so sorry this day ended the way it did.

But to my other colleagues: Senator KYL, Senator MARTINEZ, who is here, Senator SALAZAR, Senator MENENDEZ, Senator SPECTER, Senator GRAHAM, all of those people who came to the hot rooms and sat around a table and put forward something they hoped could be bipartisan and could pass, I think we

all know the fact is that any immigration bill has to get 60 votes. Therefore, it is not going to be a Democratic immigration bill and it is not going to be a Republican immigration bill; it is going to be a bipartisan bill.

Having said that, when you deal with one word, which is ''comprehensive,'' which means all encompassing, you have to deal with a system that is huge. A visa system by the millions, a broken border, interior enforcement, employer sanctions, all of those things you need to do to fix a system that has existed are broken.

Someone said earlier today: What we have now today in America is effectively amnesty, because people know you can't pick up and deport 12 million people. You can't hold 12 million people. Therefore, what develops is a kind of subterranean, fearful culture that never becomes healthy and part of the main culture of America, and it is so too bad, because it doesn't have to be that way. I think those of us who see that, who looked at the comprehensive picture, who struggled between a Democratic ideology and a Republican ideology and to put those things together that we could put together in virtually every area of immigration reform, found that indeed it was a difficult task. We also found another thing: that there are very strong feelings in this country; and secondly, this bill was misunderstood from the very day it was brought out on the floor. In many different ways, it was misreported. It is still being misreported to this very day.

People never have understood the complexities of the bill. For example, if you sunset the point system after 5 years, you essentially say that agricultural workers can't get green cards because they have to wait for 8 years, or Z visas can't get green cards because you have to wait for 8 years. The agreement was that in exchange for being able to bring people out of the shadows, to put them through the hoops of becoming legal—not amnesty—oh, and I must tell my colleagues, my hair goes up every time somebody calls it amnesty, because there are all kinds of hoops they must jump through, and they must show a dedication to the country, and they must work and they must pay a fine, and they must learn the language, and they have to do this over a substantial period of time. They have to work to hold their visa. There is a probationary period. They have to submit documents. Some people thought it was too strong, but the fact is, we had a workable program. The exchange for the Republicans for doing that was two things: the guest worker program, and 8 years down the pike, 8 years down, changing the family basis to a nuclear family for green cards—a nuclear family being a mother, a father, and minor children, with additional green cards to move people faster through, with hardship green cards where there was a hardship. I wish to share this with the Senator from Florida, and other Senators who are here, that with every amendment put on the floor, it drove the sides not closer together but further apart. I watched as we sat here late last night. I saw that as the discussion of amendments went on, we lost Members. It was unfortunate because much of it was not on correct information.

I hope people will take a look at this bill. There may be some decision made that comprehensive, all inclusive is too much to tackle in one bill, that perhaps we should do parts of this bill at a time. This has been a very hard time for those of us who believe we had a product that had a chance to stand the test of time. We have a failing system out there today. Even if we got 25 percent better, it would be better than it is today. We could offer hope for people. We could see they are put in a constructive venue. We could see that enforcement is what it should be. We would put the money into the guarantee of the enforcement. We would use modern electronics to improve employer sanctions. Everybody would have an identification card. We have all these people in this country and we don't know who they are. What kind of a national security risk is that? Answer: It is a big one. We have people coming across all the time. This is a way to know who everybody is in the United States.

So there were so many things in this bill that were good. Sure, there are things I don't like and that Senator DURBIN didn't like and that MEL MARTINEZ didn't like and Senator SALAZAR didn't like and a lot JEFF SESSIONS didn't like. There were even things TED KENNEDY didn't like. But the point is we have a system that is not functional and that is serving no purpose and is using taxpayer dollars without producing the kinds of efficiencies it should. This is what we tried to solve in this bill.

I thought it was a good bill. I thought we could, in conference, work out some of the problems. I guess my observation of the evening is: Is comprehensive too much? Secondly, do people not want a bill so much that they are going to put amendments on this floor that don't bring people together, only divide them further?

In terms of deal breakers—my last point—there was one on each side. We survived that. There was one for each side. Yet there was nothing that could not be remedied in a conference. The achievements, I thought, would have been so strong and our situation so much improved. I hope people will read the bill, look at it, understand how these visa programs would work, understand how the security in this country would be improved by passing it, understand how we can—I have always believed we could control our borders. If we have the will, there will be a way. This was the will and the way to do that.

So it is a dark day for me and a dark evening because a lot of work went into this. I don't think we should give up. I think we should come back to fight another day. I know we will. To everybody, beginning with TED, KEN, MEL, DICK, and for those Republicans who had the courage in particular to vote yes on cloture, I am very grateful. I think if there were a few more of you, we may have been able to do this tonight. We will come back. I thank everybody.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Madam President, I share in the disappointment of the evening with the Senator from California. I have been a part of this process, and I never thought in my first days as a Senator that immigration would be one of the signature issues I would deal with. However, it is one I will not shrink from and one I will continue to do all I can to see that we tackle this difficult problem our Nation faces and do something about it.

It would be incredibly easy to walk away from this. In fact, we have seen how easy it is to say ''amnesty'' and with that, satisfy one responsibility toward solving a problem our country faces today. It is easy to say this would not work, this is wrong, this isn't the right bill, this is the wrong bill, this is a mistake, we should not do this. What has been so ever-present to me is the lack of any constructive solutions. I know now we are going to be in a hiatus, and those who criticized this effort, I hope, will take the time and undertake the responsibility of putting forth a proposal, advancing an idea, doing something other than tearing down those who have put this together.

I don't believe we would have been hurt by one more day of debate. If the bill is going to be brought back, it would have been easier to have given it another day. I can also understand the exasperation and anxiety by one who waited all day for amendments that didn't come. In the blame game of Washington, there is plenty of blame to go around.

I remain committed to this because I believe we owe it to the American people to tackle this very important problem. As I look at what we must do and what is ahead, I am disappointed tonight not so much for me but for those Americans who believe our borders need to be safer. I am disappointed for those who have employees who may be illegal and are looking for a tamperproof ID system that will help them to know their workforce is a legal one. I am disappointed for those who see the opportunity for the economy of our country to be improved and made better by bringing in the best and the brightest under a points system that would reward opportunity for companies to bring in people we are not producing ourselves, but I hope we will produce in the future. But today it is advantageous to us in this global

economy to bring people in from another part of the world to be a part of this thriving, high-tech economy.

I am more disappointed for the families out there who are wondering what is going to happen to them, how will this affect them—the people who fix the cars, mow the lawns at a golf club, make the hotel beds in central Florida, the people who clean the parks so that the next day people can go in and enjoy a summer vacation day, the people who pump the gas for them as they are leaving the park, the people who do difficult construction and hot construction work that takes place in the hot summer in Florida, the people who harvest the citrus crops, and all those people who do all those services and jobs, who also have the anxiety of wondering what is going to happen to them. Those are the people who come to me and ask: Are you doing something about immigration? What are you doing to help? Can you do something? Is it going to happen? When? The Senate, with its long and storied history today, bipartisanly, failed the American people. That is, plain and simply, the way I see it. We have a chance to recover and recoup and come back together to try again to bring this issue to a close and to do something for the American people in a way that will bring honor to this institution. I believe we need to lead because it is time to lead.

It is easy to lead on that which is easy; it is much harder to lead on that which is difficult. I wish to say to the Senator from Massachusetts how much I appreciated working with him. He has worked hard. I also thank the diligent members of our staffs who have given night and day to this effort. So I thank Senator KENNEDY for his participation in this effort. We have all learned from one another. I certainly have been on the learning side of the curve from Senator KYL, who has now gone but who has been an inspiration to me through the way in which he has handled this. I wish to simply say there was another quote from Teddy Roosevelt about the man in the arena, but I will not go through the quote. Those of us who are trial lawyers and have tasted the verdict coming back the wrong way, we understand there are days that don't go the way you want them to go. This was one of them. But there is no statute of limitations and there is no final judgment.

We have an opportunity to come back another day and try again. I hope it will not be long because I think the chances of this matter being brought to a satisfactory conclusion are enhanced if we get back at it sooner rather than later. The American people expect us to solve problems. That is why they sent us here.

I look forward to continuing to work with my colleagues on both sides of the aisle so we can, at some point, do the work the American people expect us to do on this very difficult issue.

I yield the floor.

Mr. DURBIN. Madam President, a number of us stayed on the floor this evening long after the Senate finished its business on the immigration bill. It is bittersweet to be here after all this effort and time, with so little to show for it. I think the comments made since the decision on the motion to end the debate was voted on have been constructive and positive. I join in that spirit.

First, I acknowledge we learned an important lesson about the Senate, a lesson that bears repeating so those who follow these proceedings will understand what happened. The Senate is a different institution, different than most city councils, different than the House of Representatives, where I proudly served for 14 years. It is an institution designed to protect the minority's points of view. It is an institution that guarantees to every State, large and small, the same number of Senators, and an institution which has honored and protected the rights of the minority since its conception.

It was in 1916, if I am not mistaken, when President Woodrow Wilson asked the Congress to pass a law to arm the Merchant Marine; with the great world war about to begin, German U-boats were sinking American merchant vessels. President Wilson wanted to stay out of the war, but he wanted to protect our fleet. He asked the Congress for the authority to arm the Merchant Marine, and it passed the House. It was stopped cold in the Senate by one Senator, who in those days had the power to stand and filibuster and, by that filibuster or debate, end the possibility of enacting a bill into law. The American people responded with outrage. The Senate was forced, for the first time in its history, to create a way to stop this power of one Senator; so they invented the motion known as the cloture motion, which we had tonight. They said it would take 67, two-thirds of the Senate, to stop one Senator from ending debate and stopping progress on a bill—67 votes.

It wasn't until many years later—almost 50 years—that the Senate amended that and said it would only take 60 votes. This came up during the civil rights debate. It was considered a great reform during that era, and 60 votes became the standard for cloture. In other words, three-fifths of the Senate would have to vote so any single Senator who tried to stop a bill from progressing would be foreclosed, or closed off with the cloture motion. That is the rule that applies today, some 40 years later. It is a rule we have lived under, and it is a rule we tried to apply to this debate.

It was the belief of many that we had enough votes to pass this bill. There were some who wanted to extend debate with more amendments and more amendments, and many of us felt most of these amendments had run their course and were repetitive, and the real ambition of those offering amendments was not to improve the bill, or even challenge the bill, but to stop the bill. So we tried, under the Senate rules, with the cloture motion, to close off that debate and bring this matter to a close. We fell short of that, despite our best efforts. The rollcall this evening fell short, with a vote of 45 to 50. We needed 15 more votes.

So what those who followed the debate saw this evening was an example of what the Senate is about, why it was created, why it functions, and the frustrating role it sometimes plays. The second thing those who followed the debate saw was the continuing saga of immigration in America. Almost from the first boat that landed in America, immigration has been an issue. How many more people can this great Nation absorb? What kind of people do we want to be our neighbors and future leaders in this country? What kind of people can come here and make this a better place? What kind of people would come here and perhaps make it worse?

We have been engaged in this debate from the earliest days of this country. There have been bitter chapters in this debate—chapters of discrimination and prejudice against those who arrived, glorious chapters when immigrants came and literally gave life to a country in its infancy.

I said on the floor before, and I think at this moment it bears repeating, I am one of those fortunate few. My grandmother and grandfather immigrated to this country. They brought my mother, a 2-year-old infant, from Lithuania and settled in East St. Louis, IL. They lived an immigrant life, a spartan existence. They managed to survive. They managed to prosper and raise a family. And the son of an immigrant mother now stands as the 47th Senator in the history of the State of Illinois. I am so proud of that, not for myself but for the fact that it says a lot of good things about America and about immigration.

This debate evoked a lot of emotional responses. I say to my friend Senator SALAZAR from Colorado, who is truly one of the most extraordinary Senators—he brings his heart to this debate—when he stands before us on issues such as the official language of America and tells what it was like to be raised in a family that spoke Spanish and to be faced with discrimination because of that heritage, it touches my heart.

Of course, Senator SALAZAR and his family are not newcomers to the United States. They were here centuries before my family arrived. I think 500 years ago, if I am not mistaken, the Salazar family started coming into this country, long before any settlers.

When I listen to Senator SALAZAR speak on these issues, I listen very carefully because I know his voice is so important in this debate.

I listen to Senator BOB MENENDEZ from New Jersey, a relative newcomer to the Senate as well, but the man has made a real mark as a child of immigrants to this country.

Senator MARTINEZ, who spoke a moment ago, from the Republican side of the aisle, is an immigrant to this country from Cuba.

America is a better place because of these three people and their families. We know that. Immigration is why we are such a powerful and great Nation. Our diversity is our strength. Those who cannot understand that do not understand this country. Those who think the nature of America is ''I am up, let's pull up the ladder,'' have lost sight of why we are truly unique in this world's history, why many of the things that divide other countries do not divide America, because we have said to people: You are welcome in this country as long as you are tolerant—tolerant of people of different colored skin, different ethnic background, different accents, different religions. These are what make us different. But in that difference is our strength. Immigration is the reason America is as great as it is today, and the detractors and critics have forgotten that.

I listened to Senator REID, Senator FEINSTEIN, and so many others as they talked about this bill. There is one section in this bill that is as close to my heart as any other section. It is the DREAM Act. I decided to introduce the DREAM Act over 5 years ago. At the time I did, a few members of my staff said: This is a serious mistake, Senator DURBIN. People will not like it, they will not understand it, they are going to use it against you.

I disagreed. I believe the DREAM Act tells the story of America in its proper form. The DREAM Act says if you are a child who came to America before the age of 16, brought here by parents, and you are undocumented, if you have lived in this country for 5 years, if you graduate from high school, if you are prepared to either serve our country in the military or to finish 2 years of college, we will give you a chance to be an American citizen.

Why did I introduce this bill? Because, frankly, in my office in Chicago and Springfield and all across the State of Illinois, most of our work is on immigration. I introduced it because I met a young woman, a Korean American who came here at the age of 2, whose family did not file the papers, who learned much later in life when she thought her star was going to soar that she had no country. Her mother came to my office and said: What are we going to do about this little girl? We never filed papers, Senator. Everybody in the house with her is a citizen, but she is not. What can we do?

We went to our agencies of Government and said: What can we do for this 18-year-old girl who has such a bright future, who has been offered a music scholarship because of her skills on the piano? The immigration office said: The answer is obvious: Send her back to Korea.

Send her back to Korea after 16 years of living in this country? After 16 years of American dreams she was to be sent away? That is when I wrote the DREAM Act. I said it isn't fair. It isn't fair for us to talk about bringing any new people into America until we at least give these children who should not be faulted for any shortcomings of their parents a chance.

I salute all those involved in writing the bill we considered, S. 1348, because from the beginning, I was so honored that they came to me and said this bill will not go forward unless the DREAM Act is included. They worked hard on both sides of the aisle—Democrats and Republicans—and the White House to include in this bill the DREAM Act.

I want to make a promise to those young men and women I still see almost every time I return to my home State of Illinois: I won't quit on you. I promise you I will continue this fight. We are going to pass this law. You are going to get your chance, and you are going to make this a better country. I made you that promise, and I am going to keep it. It wasn't today, but it will be tomorrow. I want to keep that promise. The DREAM Act will become the law of the land. Tens of thousands of kids who are going to school now and are wondering what the future could possibly hold, if you are undocumented and educated in America, those kids are going to get a chance. That is what this country has always been about.

I wish to say a word of praise to a handful of Senators on both sides of the aisle.

On the Republican side of the aisle, there were some true profiles in courage, as Senator REID said. ARLEN SPECTER stepped up and became a real leader on this issue. I have disagreed with him in the past, and I have agreed with him. But I have always respected this man. I watched him day to day battling cancer, never missing a bell, coming to the Senate Judiciary Committee and to the floor of the Senate, keeping up a breakneck schedule, running his staff into the ground while he was undergoing chemotherapy on the weekends. He is truly a man dedicated to public service and brings a special talent to the job.

JON KYL of Arizona. The last time we considered immigration reform, JON KYL was the harshest critic of immigration reform. When I heard he was in on the negotiations, I thought: What is this all about? I quickly learned. It was genuine. He was committed to trying to find a bill. I didn't agree with JON KYL's approach in many areas, but I respect the fact that his commitment was genuine and he tried up until the very last minute to pass this bill.

LINDSEY GRAHAM of South Carolina. I watched the rollcall votes for LINDSEY GRAHAM and thought many times how can he possibly do this? How can he go home, maybe even face a Republican primary, and have the courage to take these votes and cast them the way he has? But he did it over and over again.

MEL MARTINEZ of Florida, I mentioned earlier, from Cuba, wears two hats, not only a Senator from the great State of Florida, but is chairman of the Republican National Committee—chairman of the National Republican Committee. He has been a true leader on this issue. I have come to know MEL and respect him so much. He has told us in private meetings with Senators the story of his life. I understand why the issue means so much to him personally.

JOHN MCCAIN. JOHN MCCAIN has been kicked around for a lot of reasons. He can take it. He is tough—a POW for over 5 years, a veteran of war. He has been through a lot in his life. He stood up for this bill when people wouldn't have had the courage to do so. I respect him for doing that.

On the Democratic side, what can I say about TED KENNEDY? I am sorry he has left. Maybe his staff or somebody watching will share my feelings about him. It was 40 years ago I sat right up there as a college student. It was 1968. I had heard Senator Bobby Kennedy, a Senator from New York, was coming to the floor and was going to speak out against the war in Vietnam. I waited for a long time until early evening, and through those doors came Bobby Kennedy with his brother TEDDY KENNEDY. He walked over and gave a speech on the Vietnam war. I sat up there in awe of these two great men, Bobby Kennedy and TEDDY KENNEDY. I looked down on them and said: I can't believe I am seeing these giants in American history. I never thought I would see the day when I would serve with TEDDY KENNEDY. He and I disagree from time to time; that is expected in the Senate. But I never had but the greatest admiration for his courage and leadership. This is a man who struggles each day with a disability that might stop others but never stops him, often in pain, often in discomfort. He comes to the floor every day. He comes to the committee every day and fights with all of his heart for what he believes in, and we saw it in this immigration battle.

Senator DIANNE FEINSTEIN, who was here a few moments ago, is a terrific ally on these issues. She is truly looking for bipartisan responses every step of the way, a practical solution, and never gives up. Down in the well as we voted on the cloture motion, she didn't give up the hope we might put together 60 votes. She walked around begging Senators to vote. She is that kind of committed person.

I said a word about Senator SALAZAR, and I won't return to that chapter other than to say he has been a major part of this debate. A newcomer to the Senate, he has made his presence felt. I know he has many years of contribution to this country and the State of Colorado he represents so well.

BOB MENENDEZ I mentioned earlier, Cuban background, another newcomer to the Senate. Both he and Senator SALAZAR on the Democratic side of the aisle are important voices in this debate from the Hispanic community.

And finally, Senator SHELDON WHITEHOUSE, brand new to the Senate,

who is gaining in stature every single day, has been an important part of this effort.

Those are the 10 who come to my mind who deserve special credit and praise.

Let me say in closing, for those who may stand and argue we didn't give them a chance to debate this bill, I think we did. I think we were more than fair. Last year before cloture was invoked on the last immigration bill, the Senate disposed of 30 amendments, 23 rollcall votes. This year the Senate disposed of 42 amendments, not 30, 42 amendments, 28 rollcall votes. In the entire consideration of the immigration bill last year, the Senate disposed of 44 amendments, only 2 more than we have already considered at this point in the debate.

I believe we did everything in our power to offer even more amendment opportunities. I was here with Senator REID today when he repeatedly offered on the floor a chance to bring forward amendments, let's debate them, let's vote on them, let's move forward. And every time he tried, a Senator from the other side of the aisle, the side of the aisle that was begging for amendments, stood up and objected. They objected to calling up the very same amendments they argued were the obstacle to bringing this bill to finality.

Let me say this: It is very difficult and rare to revive and resuscitate a bill that doesn't get cloture once we have moved beyond it. I hope this is an exception. To paraphrase what Senator MARTINEZ and Senator SALAZAR said, there are so many people counting on us when it comes to this vote, thousands and thousands of young people who are begging for this DREAM Act, praying it will pass and give them a chance, millions of people living in shadows, in fear, working hard every day, loving their families, going to the church of their choice, trying to be part of their community, and realizing they are just one knock on the door away from deportation and the destruction of their family and their life as they know it. I cannot imagine living with that shadow over one's life, and so many do. We owe it to them to do something that is honorable in response to this need. And we owe it to our country to repair our broken borders, to slow this flow of illegal immigration, to make sure there is enforcement in the workplace, and to make sure America's doors are still open for those who bring their dreams to America and make it the great Nation we love so much.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I want to say a few words. I heard colleagues who have spoken. I have listened at length to some very eloquent remarks evoking sincere feelings and emotions. I certainly respect that. We all in this body are great advocates. We disagree sometimes.

I suggest that we had a couple of problems with the bill, and that is why the bill failed. There are a lot of problems with the legislation itself, and there are a lot of problems that the American people had with it.

The bottom line is, the American people did not have confidence that we were moving legislation that would effectively accomplish what all these great remarks we heard earlier promised it would do. I don't think there is any other person in this body who has personally prosecuted an immigration case. But this Senator has. I did that years ago. I am familiar with the process. I am familiar with the system and the difficulties, including how overwhelmed it has been and why it is not working. The American people were expecting us to fix it.

In my opinion, after studying the bill at great length, analyzing it in detail, I don't believe it would have worked any better than the bill in 1986. So I made up my mind last year and I made up my mind this year that I was not going to support legislation that is not going to work. I was not going to support the 1986 bill. I was not going to vote for a bill that promises amnesty today and law enforcement in the future, and the amnesty occurs but the law enforcement does not. That is the fundamental thing.

Today, somebody handed me some polling data that sheds a little light on this weeks events. The article, posted on the Rasmussen Reports website is titled ''Support for an immigration bill falls.'' A poll conducted Monday and Tuesday night found that 23 percent of voters now support the bill, while 50 percent are opposed. Two-to-one opposed to the bill.

We have heard people say we need to do something, even if it is the wrong something or even if it will not work. We have heard the claim that the American people just want us to do something over and over again. That sounds good, I will admit. We certainly do have serious problems with our immigration system.

The Rasmussen Report says, however, that ''in the face of public opposition, some supporters of the legislation have argued that the compromise may not be perfect, but doing something is better than nothing. Voters have a different view—a solid plurality believes it would be better for the country to pass no bill at this time rather than letting the Senate compromise become law.'' And that is why people's phones have been ringing off the hook, because we are given a responsibility to deal with an important issue.

I love my colleagues. I tease them a lot. I call the group of them that wrote this bill the masters of the universe. They all met in some secret room somewhere, and they started plotting, working, and trying to do the right thing. They met and met and worked and worked, and they decided that they were going to tell America what we needed. They were going to figure it all out, and just explain to us what the real facts were and how this thing ought to be handled.

But, they are a bunch of politicians—good people but still they are politicians. They didn't invite anybody from the Border Patrol into their meetings to give them advice as to what is actually working on the borders. They didn't invite interior agents from Immigration and Customs Enforcement to tell them how to fix the interior immigration problems. They did have, of course, direct and regular contact with big business. They had direct and regular contact with special advocacy groups, who had their list of demands. They were actively seeking out ways to gain the political support of this group and that group because that is what they think legislation is sometimes. But they forgot about the American people.

I just want to say that on this bill, the American people watched this process closely. On this bill, the American people kept up with it. On this bill, the American people were expecting this Congress to pass legislation that would significantly and dramatically improve the colossally broken system we have.

They didn't expect them to pass a bill that would double illegal immigration. They didn't expect them to be offering to pass a bill that would, according to the Congressional Budget Office just a few days ago, only reduce illegal immigration by 25 percent. After all of the things they were asking us to accept in this bill, we were only going to get a 25-percent reduction in illegal immigration? The American people didn't expect that the deal makers would offer a bill up that would say that after President Bush put the National Guard on the border, somebody who came across the border and ran past the National Guard and got into our country before January 1 of this year would be given amnesty and put on a path to citizenship in this country. That is not principled.

How can we ever assert the rule of law in America if we make a statement to the world that the border is closed, we call out the National Guard, and then anybody who runs by there and gets in, we say: OK, home free, home free, now you are on a path to citizenship. That is not good.

Last year, the bill said that anybody who got in after January 7, 2004, was not eligible for amnesty. This year, they moved the qualifying date to January 1, 2007. Why? I guess it was a political deal. I guess they didn't ask the American people what they thought was moral and just and fair and responsible and compassionate. The deal makers decided that on a political basis it made sense, I suppose. I am told that this is what it was—give here and give there and before you know it you have a bill.

I suggested last year that we have a legitimate guest worker program, and I was so happy to hear that promises were made this year that we would

have one that could actually work. I was excited about that. But as I began to examine it I didn't believe it would be a practical solution the way it was written.

I emphasized last year that people in a temporary worker program should not come for 3 years, as last year's bill did, with their family, and be able to extend again and again and then be expected to leave the country sometime in the future. So this bill was better in that regard, but it still allowed families to come with the person—20 percent—and others to come and visit, creating all kinds of possibilities for overstays in that regard. That is why the Congressional Budget Office projected a very large increase in visa overstays as a result of the way this bill was written in that regard.

I was very intrigued and excited that my suggestion last year—that we model our legislation on the Canadian system—was being considered. The administration said they liked this merit-based system. They liked the point system. They thought we ought to go more in that direction. Canada admits 60 percent of its people through immigration under a competitive, skill-based system because the Canadians have learned and have proven, if you talk to them, as I have, that persons who come in with any college, with a skill, and with a good work history—and if they speak English or French, they give extra points for that—very seldom go on welfare, very seldom take benefits from the government, and become properly productive citizens who pay taxes and become good citizens for Canada.

We have, at this time, only a mere 13 percent of our people coming in on the basis of their skills. Today, the overwhelming majority come in based on chain migration and family connections. I thought we were going to make a real move toward the Canadian system with this bill. I know Senator KYL worked his heart out to try to do that, but when the final compromise was reached, he couldn't get a better deal than this, that this merit system would really not take effect for 8 years, and during the interim period, there would be a surge of chain migration numbers for 8 years, perhaps triple the current rate. To me, that was a political compromise too great. That is something I couldn't support.

Let me just speak briefly about how we came to the final vote tonight. I think the majority leader, HARRY REID, maybe wanted to get rid of this bill from the start. He has now begun to say it is President Bush's bill, but it was the Senate's bill. He called it up without a committee hearing. It is Senator REID's bill, if you want to know the truth. He brought it up under rule XIV. It didn't even go to committee. The majority leader has that power. He called it up directly to the floor.

Yes, it had bipartisan support, but he was the one who enabled that to occur. The new bill was introduced after they called up the old bill. Then REID tried to substitute a completely new bill, and then we debated that with not a great deal of time. For example, I had 20, 30 amendments filed. I got one amendment up for a vote. I tried to bring up a number of other amendments, and every time I have tried to bring one up, it was objected to. Senator CORNYN, one of the finest, most capable lawyers in the Senate, a former attorney general of Texas and justice on the Texas Supreme Court, got one amendment up for a vote. Senator ELIZABETH DOLE, from North Carolina, had an amendment dealing with drunk drivers—an important amendment. She tried to bring hers up, and it was objected to. This afternoon, there was only one amendment pending that actually had been called up and had been introduced, filed, and made pending.

So we had this discussion about having some votes this afternoon, and then we were told that we were going to revote on cloture tonight. What I want to say to my colleagues and anybody who is listening is that if cloture had been obtained tonight, after a half dozen more votes, no other amendments would have been pending.

So we simply had a little disagreement this afternoon. We said that we wanted to have other amendments pending so that if cloture were invoked, we would have amendments that could be voted on post cloture. In fact, we were working to pare down over 200 amendments that had been filed, to bring in those amendments to under 20 amendments, maybe even lower. That is when the majority leader decided to call another cloture vote, and that is the vote that failed, I would note, on a bipartisan basis. While 7 Republicans voted for cloture, 12 Democrats voted against the majority leader and against cloture.

We had not had sufficient time to debate this bill. We had not had sufficient time to have amendments. It will be almost a thousand pages when put in bill language. That is not a bill that can be passed in a couple of weeks. It needs more debate than that, and it was never taken to committee. The committee did not hear it, and no amendments were offered there. It was brought directly to the floor.

So I would just say that I think we do have a responsibility to treat people who come to our country, even those who come illegally, compassionately, fairly, justly, and according to good principles. We have a responsibility to create a legal system that works in America. I am afraid this bill didn't do it. That is my problem with the bill. I think that the American people agreed. If we come back again, the bill needs to be a vastly improved product. I would be glad to suggest some ways to make it better. In fact, I have before, and I will again.

Madam President, I thank the Chair, and I yield the floor.

REMEMBERING SENATOR CRAIG THOMAS

Mr. SCHUMER. Madam President, it is with a heavy heart that I rise today to honor the service and memory of my friend, Senator Craig Thomas of Wyoming. His exemplary service in the Congress over the past 18 years is a shining example of the good that can be accomplished for the public benefit. A 1955 graduate of the University of Wyoming, Senator Craig demonstrated considerable leadership early in his life; he entered the Marine Corps soon after graduation and rose in rank from private to captain in just 4 years. Following his service, Senator Thomas returned to Wyoming to make a difference in his native State, serving as executive vice president of the Wyoming Farm Bureau and later as general manager of the Wyoming Rural Electric Association. In 1984, Senator Thomas first entered public service as a State representative, was elected to the House of Representatives in 1989, and finally ascended to the Senate in 1995.

It was my honor to work with Senator Thomas during his Senate career. He was a firm believer in compromise and bipartisanship. This was no more evident than when he and I introduced legislation to protect taxpayer privacy. We worked together on a broad range of issues from protecting consumers to stopping the proliferation of nuclear weapons to Iran. Senator Thomas and I shared a belief in this body and what it can achieve. I am very saddened by this tremendous loss, but the memory of Senator Thomas and his good deeds remind us all of a long, rich life that should be celebrated, and I respectfully request that this statement be entered into the RECORD.

Mr. KYL. Madam President, Senator Craig Thomas was a wonderful friend to all of us. He was an accomplished Senator, and he was a true cowboy. It is that spirit that won't be replaced in the Senate, and it is that spirit that I would like to remember today. Craig's record in the Senate will reflect his significant accomplishments, and I wish to honor the quality of the man who achieved them.

I had a special affinity for Craig. Not only did he and I come to the Senate at the same time, we had also served in the House of Representatives together. Craig came to the House in 1989, 2 years after I did, when he won a special election to replace our current Vice President, DICK CHENEY, who had been made Secretary of Defense.

We, of course, were also fellow westerners, and I admired the manner in which he embodied the values of the West: the self-reliance, grit, and quiet determination of pioneers that shape Americans still today.

These values were impressed into Craig as he grew up on a ranch near Cody, WY. Those values of the American West, instilled by the rugged landscape of Wyoming, would serve him well in the Marine Corps and in the Senate.

Craig did not talk a whole lot, but he always meant what he said. He communicated in a way that didn't require a whole lot of ''jibber-jabber,'' as he would say. Everyone appreciated this quality in him. You never had any doubt about where Craig stood, something our public officials could learn from today.

Craig understood that words and rhetoric easily vanish from our memories. He recognized that honor is not won by keeping up appearances but by working hard and accomplishing what you set out to do. He understood that the best way to accomplish difficult things was to get busy doing them. To Craig, this was common sense, but oftentimes common sense is all too uncommon.

In his commonsense manner, he served the people of Wyoming who overwhelming elected him to the Senate on three occasions. Craig let the interests of the State guide his work in the Senate. He never let his ego get in the way of doing what was best for Wyoming and the country.

My wife Caryll and I grieve with Craig's wife Susan and their family. But, in our grief, we also celebrate his life. There is much to celebrate not only in Craig's accomplishments—whether on behalf of our national parks, farmers, or rural families, to name only a few of his legislative priorities—but also in his character. He was a humble servant for Wyoming who stood up for the people of his State. Even in his illness, he never wavered from his duties as a legislator.

The values of the American West are the commonsense values that make self-government possible. Craig Thomas, the cowboy and statesman, embodied these values that made this country what it is and are needed to sustain it in years to come.

Ms. SNOWE. Mr. President, I join with my fellow Senators and so many in Wyoming and throughout the country in expressing my profound sadness on the passing of my colleague and good friend, Senator Craig Thomas. I also want to offer my most sincere condolences to his wife Susan, their four children, and the entire Thomas family at this most difficult of times.

Today, we mourn the loss of a true patriot whose love of country and loyalty to its principles were always an inspiration and example to us all. A U.S. Marine captain, an advocate for rural concerns with the Wyoming Farm Bureau, American Farm Bureau, and the Wyoming Rural Electric Association, and an indefatigable public servant as a Member of the Wyoming House of Representatives, the U.S. House of Representatives, and the U.S. Senate—Senator Thomas always placed a premium on bettering the lives of the citizens of his state, ensuring that their concerns were not only heard—but were addressed vigorously, effectively, and with results.

I recall the distinct honor and privilege of serving with Craig for more than 17 years both in the U.S. House and U.S. Senate. Indeed, we entered the Senate in the same class of 1994, and I remember with tremendous regard our service together on the Senate Foreign Relations and Senate Finance Committees. Time and again, regardless of the issue, Craig exhibited a stalwart dedication to his country and his constituents—with a steadfast devotion that was ever mindful of the public trust placed in his hands.

Senator Thomas was unwavering in his allegiance to the tenets that guided his life. True to his core beliefs and unshakable in the values he drew from his beloved Wyoming, Senator Thomas held fast to his philosophy of fiscal conservatism. And yet when he advanced his arguments, he did so without rancor and with the utmost respect and cordiality. He possessed an unyielding decorum that contributed to his esteemed presence in the Senate, and he had at his disposal that indispensable tool of politics—humor, which he used to great effect and at times with incredibly disarming outcomes. Even when we disagreed, he was never disagreeable, rather choosing to give no more than an occasional good-natured ribbing—always with a smile on his face.

As my colleague MIKE ENZI stated in his tribute, Craig Thomas was not one who necessarily sought the limelight. He lived his life and comported himself in a manner that exemplified the words President Ronald Reagan displayed on his desk in the Oval Office: ''There's no limit to what a man can do or where he can go if he doesn't mind who gets the credit.'' Whether on matters of rural health, safeguarding the interest and concerns of farmers, or reducing the deficit, Craig focused on making concrete strides, not amassing accolades.

In the arena of public life, regardless of trial, tribulation, or triumph, Senator Craig Thomas remained a compassionate person of immense caliber who served the best interests of the people of Wyoming with unyielding advocacy, integrity of purpose, and uncommon civility. We will miss his benevolent nature, his good will, and his great deeds. Our thoughts and prayers are with his family and staff here in Washington and in Wyoming.

HONORING OUR ARMED FORCES

CHIEF WARRANT OFFICER CHRIS ALLGAIER

Mr. HAGEL. Madam President, I rise to express my sympathy over the loss of U.S. Army Chief Warrant Officer Chris Allgaier of Omaha, NE. Chief Warrant Officer Allgaier, an Army helicopter pilot, was killed on May 30 while conducting combat operations in Helmand Province, Afghanistan. He was 33 years old.

Chief Warrant Officer Allgaier attended Creighton Prep High School, where he graduated with highest honors in 1991. He earned a bachelor's degree in aeronautical administration from Saint Louis University in 1995 and a master's degree in aeronautical science from Embry-Riddle Aeronautic University in 2001.

After graduating from college, Chief Warrant Officer Allgaier joined the Army to pursue a longtime interest in flying. He served with the Army's 82nd Airborne Division, based out of Fort Bragg, NC. This was his second tour in Afghanistan. Chief Warrant Officer Allgaier also served a year-long tour in Iraq. We are proud of Chief Warrant Officer Allgaier's service tour our country, as well as the thousands of other brave Americans serving in Iraq and Afghanistan.

He is survived by his wife Jennie and three children, Natalie, Gina, and Joanna, of Spring Lake, NC; his father Bob Allgaier of Omaha, and siblings Rob and Sharon, also of Omaha.

I ask my colleagues to join me and all Americans in honoring Chief Warrant Officer Chris Allgaier.

SPECIALIST WILLIAM BAILEY III

Madam President, I also rise to express my sympathy over the loss of U.S. Army National Guard Specialist William Bailey III of Bellevue, NE. Specialist Bailey died on May 25 when an explosive device struck his vehicle near Taji, Iraq. He was 29 years old.

Specialist Bailey had been serving in Iraq since November with the 755th Chemical Reconnaissance/Decontamination Company. Specialist Bailey was also a volunteer with the Bellevue Volunteer Fire Department for 5 years. He was buried with full military honors and traditional fire department honors. His funeral procession included 35 firetrucks from several departments across Nebraska.

Specialist Bailey is remembered as a devoted husband, father, son, and brother, as well as a committed member of the community. He was an avid hunter and outdoorsman, and he loved motorcycles.

We are proud of Specialist Bailey's service to our country, as well as the thousands of other brave Americans serving in Iraq.

He is survived by his wife Deanna and five children.

I ask my colleagues to join me and all Americans in honoring SPC William Bailey III.

TRIBUTE TO 1ST INFANTRY DIVISION

Mr. BROWNBACK. Madam President, on June 8, 1917, the U.S. Army officially organized the First Expeditionary Division. That means tomorrow is the 90th anniversary of what is now known as the 1st Infantry Division or the ''Big Red One,'' headquartered at Fort Riley, KS. The Big Red One has an unsurpassed history of answering the call to duty, and it is vital to our Nation's fight against determined enemies. We are fortunate to have these fine soldiers defending our freedom.

As the oldest, continuously serving division in the history of the U.S. Army, the Big Red One enjoys a long

and proud tradition of defending America. It also has a tradition of being the first. During World War II, Big Red One was the first to reach England, the first to capture a German city, the first to fight in North Africa, and the first on the beaches of Normandy on D-day. It was the first division to deploy to Vietnam and spearheaded the armored attack into Iraq at the start of Desert Storm. The Big Red One has a long and proud heritage that we should honor and celebrate.

On August 1, 2006, I was proud to welcome the Big Red One's headquarters back to Fort Riley, KS. The division has a vital, new mission of training military transition teams for both Iraq and Afghanistan. This intense training is meant to prepare our finest military members to train their counterparts in the Iraqi and Afghani militaries. We honor those soldiers who have committed to this mission. I also want to recognize the 1st Division soldiers operating today in some of Baghdad's toughest neighborhoods. They too take their place in the Big Red One's proud history.

On this 90th anniversary, June 8, 2007, I salute the men and women of the U.S. Army 1st Infantry Division, the Big Red One. The enormous sacrifice and dedication of these heroic men and women should make all Americans proud. As they say in the 1st Division: ''No mission too difficult, no sacrifice too great. Duty first.''

U.S.-RUSSIA RELATIONS

Mr. NELSON of Nebraska. Madam President, I rise today to acknowledge the United States' crucial relationship with Russia. The fate of U.S.-Russia relations rests on key agreements regarding security, trade, and energy policies.

The annual G8 Summit taking place this week in Germany comes at a crucial time in our relationship with Russia, a key international trade, military, and security partner to the United States.

For decades after World War II, our military and national security policies focused mostly on the Soviet Union. At that time, both nations pursued a foreign policy dubbed ''Mutually Assured Destruction.''

In the early 1990s, with the support of the United States, new Russian leaders began instituting democratic reforms. As the political landscape in the Soviet Union improved, so did our relationship with Russia. Instead of destruction, our countries have pursued cooperation, though the Russians still have work to do on human rights. Certainly, recent actions by the Russian Government to limit freedoms, crack down on journalists, and inflict economic damage on its neighbors are cause for concern for the United States. Some of these concerns can and should be addressed through engagement and diplomacy with Russia.

Recently, relations between the United States and Russia have become strained, with the rhetoric between the nations exacerbating the problem. As the G8 meetings commence, it is imperative that the U.S. Government engage Russia on the vital security, trade, and energy policies important to both nations.

Last week, as cochairman of the U.S. Senate-Russia interparliamentary working group, I held 3 days of meetings in Moscow with legislators and top Russian officials, including Russian Foreign Minister Sergey Lavrov, to discuss our mutual economic and security interests.

The Russians were united on key matters. First, they question U.S. intent with regard to deployment of missile and radar systems in Poland and the Czech Republic. Second, they would prefer an extended timetable on independence for Kosovo. They also identified vital security matters where they and we Americans can work together, specifically, halting Iran's nuclear program and the spread of global terrorism. While we may have disagreed on the appropriate manner in which to address the emerging threat of Iran's nuclear program and the amount of time in which we have to do so, Russian officials were clear that, like me, they believe Iran's ultimate goal in developing nuclear power is to produce a nuclear weapon.

Our delegation's message to the Russians was clear as well: we can work out differences over missile defense, Kosovo and other issues, but the Russians need to step up and assist the global community with Iran and terrorism in Iraq. Cooperation is critical to the success of our relationship.

In addition, Russia has tremendous economic potential. They have registered 5 percent or better economic growth in each year since 1999 and 6.7 percent in 2006. Personal income grew 10 percent in 2006. However, this growth has impacted mostly urban areas such as Moscow or St. Petersburg, and more needs to be done to improve economic conditions in rural areas.

U.S. exports to Russia for the first 11 months of 2006 totaled $7.8 billion. U.S. foreign direct investment in Russia in 2005 was $5.5 billion, up from $3.8 billion in 2004. Russians are buying American products and services—it seemed that every fifth car in Moscow was a Ford. But we can do better by helping to raise the standard of living in Russia to advance democratic reforms.

Russia is now working to join the World Trade Organization, WTO. The United States maintains an obscure trade law, known in Washington-speak as ''Jackson-Vanik,'' that would limit U.S. business trade and investment in WTO-member Russia because the law prevents normalized trade relations between the two countries. While the original intent of this trade law was admirable, it is now widely believed to be antiquated and remains only as yet another Cold War relic, this time hindering future progress in opening permanent normal trade relations between Russia and the United States. If Jackson-Vanik remains in place, Russian businesses would not suffer alone upon Russia's accession to the WTO; U.S. businesses would also suffer while businesses from around the globe prosper in Russia's increasingly valuable markets. Congress needs to ''graduate'' Russia from this trade provision so U.S. firms can compete with foreign firms on the economically fertile ground in Russia.

Finally, as with other allies, important and controversial matters between the United States and Russia will continue to arise. Energy production and supply, for example, is an important national security matter for the United States and its allies. Russia's state-controlled energy company, Gazprom, is building an intricate pipeline system which will control natural gas flow to European countries. It currently supplies about 25 percent of Europe's natural gas, with higher percentages to some former Soviet European states. About 40 percent of crude oil exports move to Europe through a pipeline system. They plan to expand to North America. Russia has already exploited the dependence of Ukraine, Moldova, Belarus, and Georgia on its energy resources. Without cooperation and understanding between our countries, this system could leave the United States vulnerable in the future to gas supplies controlled by the Russians.

Mikhail Margelov, my Russian counterpart in the working group, said that the U.S.-Russia alliance must be strong for the future of both countries. He is right. Collaboration can bring about change for the good. Negotiation can resolve conflicts. Strong relations can solidify Russia's democracy.

The administration should use the G8 Summit as an opportunity to engage Russia on these key security, trade and energy policy matters. It is in the national security interests of the United States to have a strong relationship with a democratic Russia.

TRIBUTE TO THE UNIVERSITY OF MICHIGAN SURVIVAL FLIGHT TEAM

Ms. STABENOW. Madam President, I wish today to pay tribute to the six members of the University of Michigan Survival Flight team who perished this past Monday when their plane tragically crashed into Lake Michigan during an organ transplant mission. On behalf of the people of Michigan, I would like to extend my deepest condolences to the victims' families. These brave men put their lives on the line to save the lives of those in need of urgent medical care. They touched countless families through their work and the goodness of their hearts and stand as examples to all of us as modern-day Good Samaritans.

Richard Chenault II, 44, from Ann Arbor, was hoping to get back to Michigan on time Monday to attend

the Father Gabriel Richard High School sports banquet. He was being honored for coach of the year in both girls track and girls cross-country. He never made it but is remembered by the students and faculty at the school as a mentor, teacher, and friend.

Richard LaPensee, of Ypsilanti, fought fires for 18 years while serving as an emergency medical technician. He immediately jumped at the chance to work as a University of Michigan life flight medical technician 3 years ago. On Monday morning, Richard had just finished a 24-hour firefighter shift before embarking on the transplant flight.

Dr. David Ashburn, 35, of Dexter, was a cardiac surgery resident at the University of Michigan. He was looking to begin his pediatric cardiac surgery fellowship in July. Dr. Ashburn was a dedicated family man who enjoyed turkey hunting in the wilderness of Michigan.

Dr. Martinus Spoor, 37, of Ann Arbor, was a regular when it came to the air transplant business, making roughly 10 flights a year. Dr. Spoor was known by his friends and family as a ''gentle and kind human being'' and taught heart valve repair techniques to medical students.

Dennis Hoyes, 65, of Blackman Township, was a man who loved to fly. A retired small business owner, Dennis would often spend his days at the Jackson County Airport and worked as an adjunct flight instructor for Jackson Community College's aviation program. Dennis would always give a free lesson to anyone who asked.

Bill Serra, 59, of Macomb Township, had over 12,000 hours of flight time from small planes to 747s. During the Persian Gulf war, Bill worked as a civilian pilot delivering material and ammunition to U.S. forces. The Air Force honored Bill in 1993 for his dedicated service.

Our State of Michigan lost real heroes Monday—heroes who gave back to their communities without fanfare or personal gain, heroes who did their dangerous work out of passion, dedication, and a desire to make the world a better place.

Unfortunately, we often take these heroes for granted, forgetting that their dedication to service comes at life-threatening risk.

The stories of these six men serve as a proud reminder that all of us can give back, that all of us can contribute, and that there are heroes all around us in our communities, our families, and our States. Michigan can never express how proud we are of these individuals' service, and the Michigan family joins the Chenaults, the LaPensees, the Ashburns, the Spoors, the Hoyes, and the Serras in mourning the passing of these brave men.

ADDITIONAL STATEMENTS

2007 WE THE PEOPLE NATIONAL FINALS

● Mr. DODD. Madam President, this April, more than 1,200 students from across the country visited Washington, DC, to take part in the national finals of We the People: The Citizen and the Constitution, an educational program developed to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the We the People program is funded by the U.S. Department of Education by act of Congress.

I am proud to announce that a class from Trumbull High School of Trumbull, CT, received an Honorable Mention Award at this prestigious national event. Seven Honorable Mention Awards were presented to schools placing 4th through 10th on the final day of competition. These outstanding students, through their knowledge of the U.S. Constitution, won their statewide competition and earned the chance to come to our Nation's Capitol and compete at the national level.

While in Washington, the students participated in a 3-day academic competition that simulates a congressional hearing in which they ''testify'' before a panel of judges. Students demonstrate their knowledge and understanding of constitutional principles as they evaluate, take, and defend positions on relevant historical and contemporary issues.

I am also pleased to note that the We the People curriculum is aligned with the National Standards for Civics and Government and correlates with the social studies standards of many states.

The names of these outstanding students from Trumbull High School are: Alexa Alexander, Akanksha Bajaj, Rebecca Chadwick, Chelsea Clyde, Ashley Cohen, Shane Connolly, Victoria Costello, Mulan Cui, Megan Denstedt, Jackson Dolan, Adam Drenkard, Mike Finik, George Fitzpatrick, Casey Gardiner, Blake Ludwig, Alex Mosello, Elisa Odoardi, Alison Ornitz, Matt Pankracij, Mary Santella, Jaclyn Siegel, Matt Socha, Edward Tillistrand, and Stephen Wagner.

I also wish to commend the teacher of the class, Mike Margonis, who is responsible for preparing these young constitutional experts for the national finals. Also worthy of special recognition are Jim Schmidt and Julie Jaquish, the State coordinators, and Lorna Gallagher, the district coordinator, who are among those responsible for implementing the We the People program in my state.

I congratulate these students on their exceptional achievement at the We the People national finals.●

TRIBUTE TO PEGGY WHITWORTH

● Mr. HARKIN. Mr. President, today I would like to express my deep appreciation to Peggy Whitworth, executive director of Iowa's only national trust property, Brucemore. Brucemore, located in Cedar Rapids, IA, is celebrating its 25th anniversary, and Peggy has been Brucemore's only executive director during that quarter century. During this time, her leadership, creativity, and ''can-do'' attitude have made Brucemore a model nonprofit organization and an eastern Iowa landmark.

This past December, Peggy was awarded the National Trust President's Award for her years of dedicated service to Brucemore, as well as for her advocacy of preservation. I would like to add my voice to those honoring Peggy and her work. She is respected not just in Iowa but across the country as a champion for preservation and the promotion of cultural attractions. Her labors on behalf of historical preservation have helped inspire people in other communities to preserve and honor the important architectural, cultural and historic contributions from our past.

Twenty five years ago, when Brucemore was bequeathed to the National Trust for Historic Preservation, the idea was to use the mansion for community meetings and activities. That limited perspective did not last long. Under Peggy's leadership, Brucemore has come to offer a full schedule of events, including Bluesmore, Classics at Brucemore, Cabaret in the Courtyard, as well as tours of the mansion which draw nearly 30,000 people annually.

Peggy has also been active in promoting culture and tourism attractions as an economic development tool. In addition to her work at Brucemore, Peggy has served five terms on the Iowa State Historical Society board, including chairing the board. She serves on the Terrace Hill Foundation. And she was recently appointed to the Board of Pharmacy Examiners by Iowa Governor Chet Culver.

Peggy Whitworth is planning to retire later this year. Her leadership and vision will be greatly missed. And we are deeply grateful for her many contributions to the cultural richness of Iowa.●

TRIBUTE TO STAFF SERGEANT HAROLD GEORGE DANLEY

● Mr. NELSON of Nebraska. Madam President, today I wish to recognize a man who died in the service of his country 64 years ago but never received the proper recognition he was due.

Harold George Danley was one of four brothers from Lincoln, NE, who joined the armed services during World War II. Three of those brothers returned home to their families; Sergeant Danley, who was 22 years old, did not.

Sergeant Danley was serving in the 18th Army/Air Force Anti-Submarine Squadron aboard a B–24D Bomber, which crashed while patrolling the east coast of the United States somewhere

near the Virginia/North Carolina shoreline on April 21, 1943. Despite the efforts of search parties, his body was never recovered; therefore, no memorial service was ever performed on his behalf. It was some time later that the family was notified that Sergeant Danley was officially listed as FOD, ''Finding of Death.''

Sergeant Danley left behind his wife Thelma; his daughter Merriam, who was born several months after her father's death; his father Harrison, and stepmother Anna; three brothers, Lieutenant Colonel Earl E. Danley, Sergeant Bob E. Danley and Sergeant Lloyd K. Danley, now deceased; and three half-siblings, Marvin, Delores and Betty. His mother Ella preceded him in death.

On May 18, 2007, a memorial service was held at Arlington National Cemetery to honor Harold G. Danley as a son, brother, husband, and father, as well as a man who made the ultimate sacrifice in the service of his country. My thoughts are with the Danley family as they honor the memory of Staff Sergeant Danley, a Nebraska hero from the second World War.●

TRIBUTE TO MARK C. SMITH

● Mr. SESSIONS. Madam President, I wish to remember the life of Mark C. Smith, who was one of the most resourceful and brilliant entrepreneurs in the history of the State of Alabama. His departing this life on March 27, 2007, leaves an irreplaceable loss for his family, his home town of Huntsville, the State of Alabama, and the Nation. Few men in the history of America's free enterprise system have attained such lofty heights in business as Mark Smith. Starting with very little and coming from humble family beginnings, Smith invented, designed, and managed companies under his ownership and tutelage to heights that draw the envy of the corporate world.

Mark was raised in Birmingham, graduating in 1958 from Woodlawn High School. He was the son of parents who were both teachers. During high school, Smith became a ham radio buff and developed an interest in science. Upon winning first place in a science fair at Woodlawn, Smith's prize was a handshake from Dr. Von Braun. The young high school graduate saw this as a grand opportunity and boldly asked Dr. Von Braun for a summer job. Smith went on to attend the Georgia Institute of Technology, and over the next three summers he worked at NASA in Huntsville and Cape Canaveral.

During the summer preceding his last year of college, he was employed with SCI Systems, Inc., and upon earning an electrical engineering degree from Georgia Tech in 1962, he began full-time employment with SCI as an engineering manager. In 1969 his entrepreneurial spirit took hold, and he left SCI to cofound Universal Data Systems, UDS—out of his home garage and with $30,000 in savings. UDS, the first data communications company in Alabama, was quite successful and in 1979, with annual revenues of about $20 million, was sold to Motorola. At that time, Smith became president of the UDS-Motorola Division. In 1985, the proven visionary was ready to take on yet another challenge; he left UDS and cofounded ADTRAN, Inc. As CEO and chairman, Smith led the startup company of seven employees to become a publicly traded company in 1994, the same year ADTRAN announced a $50 million expansion of its facility. Today, with more than 1,600 employees and annual revenues approaching $500 million, the company is a worldwide leader in providing high-speed network access products to the telecommunications equipment industry.

Mark did not live to see the ultimate heights that the electronic communication industry will attain in the future. Entrepreneurs and engineers will someday produce faster and better equipment, but when they do they will use as a pattern some of Mark Smith's ideas, inventions, and procedures.●

MESSAGE FROM THE HOUSE

At 2:58 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 361. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes.

H.R. 632. An act to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy.

H.R. 964. An act to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

H.R. 1051. An act to direct the Secretary of Education to establish and maintain a public website through which individuals may find a complete database of available scholarships, fellowships, and other programs of financial assistance in the study of science, technology, engineering, and mathematics.

H.R. 1139. An act to authorize the Secretary of the Interior to plan, design and construct facilities to provide water for irrigation, municipal, domestic, and other uses from the Bunker Hill Groundwater Basin, Santa Ana River, California, and for other purposes.

H.R. 1175. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project.

H.R. 1467. An act to authorize the National Science Foundation to award grants to institutions of higher education to develop and offer education and training programs.

H.R. 1469. An act to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961.

H.R. 1716. An act to authorize higher education curriculum development and graduate training in advanced energy and green building technologies.

H.R. 1736. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to provide for conjunctive use of surface and groundwater in Juab County, Utah.

H.R. 2446. An act to reauthorize the Afghanistan Freedom Support Act of 2002, and for other purposes.

H.R. 2559. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 54. Concurrent resolution expressing the support of Congress for the creation of a National hurricane Museum and Science Center in Southwest Louisiana.

H. Con. Res. 94. Concurrent resolution encouraging the elimination of harmful fishing subsidies that contribute to overcapacity in commercial fishing fleets worldwide and that lead to the overfishing of global fish stocks.

H. Con. Res. 116. Concurrent resolution expressing the sense of Congress that the National Museum of Wildlife Art, located in Jackson, Wyoming, shall be designated as the ''National Museum of Wildlife Art of the United States''.

H. Con. Res. 152. Concurrent resolution relating to the 40th anniversary of the reunification of the City of Jerusalem.

The message further announced that the House has agreed to the following resolution:

H. Res. 454. Resolution relative to the death of the Honorable Craig Thomas, a Senator from the State of Wyoming.

The message also announced that the House has passed the following bills, without amendment:

S. 5. An act to amend the Public Health Service Act to Provide for human embryonic stem cell research.

S. 1537. An act to authorize the transfer of certain funds from the Senate Gift Shop Revolving Fund to the Senate Employee Child Care Center.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 5. An act to amend the Public Health Service Act to provide for human embryonic stem cell research.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 361. An act to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 632. An act to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy; to the Committee on Energy and Natural Resources.

H.R. 964. An act to protect users of the Internet from unknowing transmission of their personally identifiable information

through spyware programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1051. An act to direct the Secretary of Education to establish and maintain a public website through which individuals may find a complete database of available scholarships, fellowships, and other programs of financial assistance in the study of science, technology, engineering, and mathematics; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1139. An act to authorize the Secretary of the Interior to plan, design and construct facilities to provide water for irrigation, municipal, domestic, and other uses from the Bunker Hill Groundwater Basin, Santa Ana River, California, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1175. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; to the Committee on Energy and Natural Resources.

H.R. 1467. An act to authorize the National Science Foundation to award grants to institutions of higher education to develop and offer education and training programs; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1469. An act to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961; to the Committee on Foreign Relations.

H.R. 1716. An act to authorize higher education curriculum development and graduate training in advanced energy and green building technologies; to the Committee on Energy and Natural Resources.

H.R. 1736. An act to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to provide for conjunctive use of surface and groundwater in Juab County, Utah; to the Committee on Energy and Natural Resources.

H.R. 2446. An act to reauthorize the Afghanistan Freedom Support Act of 2002, and for other purposes; to the Committee on Foreign Relations.

H.R. 2559. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 54. Concurrent resolution expressing the support of Congress for the creation of a National Hurricane Museum and Science Center in Southwest Louisiana; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 94. Concurrent resolution encouraging the elimination of harmful fishing subsidies that contribute to overcapacity in commercial fishing fleets worldwide and that lead to the overfishing of global fish stocks; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 116. Concurrent resolution expressing the sense of Congress that the National Museum of Wildlife Art, located in Jackson, Wyoming, shall be designated as the ''National Museum of Wildlife Art of the United States''; to the Committee on Energy and Natural Resources.

H. Con. Res. 152. Concurrent resolution relating to the 40th anniversary of the reunification of the City of Jerusalem; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2183. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Diuron; Pesticide Tolerance'' (FRL No. 8133–2) received on June 6, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2184. A communication from the Chief, Congressional Action Division, Department of the Air Force, transmitting, pursuant to law, the report of the initiation of a multi-function standard competition of the Core Enterprise Communications Function at Peterson Air Force Base, Colorado; to the Committee on Armed Services.

EC–2185. A communication from the Chief, Congressional Action Division, Department of the Air Force, transmitting, pursuant to law, the report of the initiation of a multi-function standard competition of the Noncore Enterprise Communications Function at Peterson Air Force Base, Colorado; to the Committee on Armed Services.

EC–2186. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a review of the C–130 Avionics Modernization Program; to the Committee on Armed Services.

EC–2187. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a review of the Joint Primary Aircraft Trainer System program; to the Committee on Armed Services.

EC–2188. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a review of the Expeditionary Fighting Vehicle program; to the Committee on Armed Services.

EC–2189. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a review of the Warfighter Information Network-Tactical program; to the Committee on Armed Services.

EC–2190. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a review of the Joint Air-to-Surface Standoff Missile program; to the Committee on Armed Services.

EC–2191. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, a report on the approved retirement of Vice Admiral Rodney P. Rempt, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–2192. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, a report on the approved retirement of Vice Admiral Donald C. Arthur, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–2193. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the risk of nuclear proliferation created by the Russian Federation as declared in Executive Order 13159 of June 21, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–2194. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Oversight of Credit Rating Agencies Registered as Nationally Recognized Statistical Rating Organizations'' (RIN3235–AJ78) received on June 5, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–2195. A communication from the National ESA Listing Coordinator, Office of Protected Resources, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Listing Determination for Puget Sound Steelhead'' (RIN0648–AU43) received on June 6, 2007; to the Committee on Commerce, Science, and Transportation.

EC–2196. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: HI–STORM 100 Revision 3'' (RIN3150–AH98) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2197. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: NAC–MPC Revision 5'' (RIN3150–AI13) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2198. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of Fee Schedules; Fee Recovery for Fiscal Year 2007'' (RIN3150–AI00) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2199. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Access Authorization Fees'' (RIN3150–AH99) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2200. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Emergency Preparedness Policies Developed for Nuclear Materials Facilities'' (RIN3150–AI17) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2201. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Redesignation of Youngstown, Ohio to Attainment of the 8-Hour Ozone Standard'' (FRL No. 8324–9) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2202. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Findings of Failure to Attain; State of Arizona, Phoenix Nonattainment Area; State of California, Owens Valley Nonattainment Area; Particulate Matter of 10 Microns or Less'' (FRL No. 8322–5) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2203. A communication from the Principal Deputy Associate Administrator, Office

of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion'' (FRL No. 8322–6) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2204. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Phase 2 of the Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Notice of Reconsideration'' ((RIN2060–AO00)(FRL No. 8324–9)) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2205. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration and Nonattainment New Source Review: Removal of Vacated Elements'' ((RIN2060–AN92)(FRL No. 8324–6)) received on June 6, 2007; to the Committee on Environment and Public Works.

EC–2206. A communication from the Assistant Secretary for Water and Science, Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies; Inclusion of Hoover Dam'' (RIN1006–AA52) received on June 5, 2007; to the Committee on Energy and Natural Resources.

EC–2207. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rollovers to Roth IRAs'' (Announcement 2007–55) received on June 6, 2007; to the Committee on Finance.

EC–2208. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Covered Employees Under Section 162(m)(3)'' (Announcement 2007–49) received on June 6, 2007; to the Committee on Finance.

EC–2209. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Immunology and Microbiology Devices; Classification of Gene Expression Profiling Test System for Breast Cancer Prognosis'' (Docket No. 2007N–0136) received on June 6, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–2210. A communication from the Secretary, Federal Maritime Commission, transmitting, pursuant to law, the Semiannual Report of the Commission's Inspector General for the period of October 1, 2006, through March 31, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2211. A communication from the Chief, Trade and Commercial Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Fees for Customs Processing at Express Consignment Carrier Facilities'' (RIN1505–AB39) received on June 5, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2212. A communication from the Chief, Trade and Commercial Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''United States—Singapore Free Trade Agreement'' (RIN1505–AB48) received on June 5, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2213. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Schedules of Controlled Substances; Placement of Lisdexamfetamine into Schedule II'' (Docket No. DEA–301F) received on June 6, 2007; to the Committee on the Judiciary.

EC–2214. A communication from the Deputy General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Record Disclosure and Privacy'' (RIN3245–AF20) received on June 6, 2007; to the Committee on Small Business and Entrepreneurship.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–101. A concurrent resolution adopted by the House of Representatives of the State of Louisiana urging Congress to take such actions as are necessary to continue the current United States sugar program in the 2007 Farm Bill; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 83

Whereas, Louisiana farmers have produced sugarcane for more than two hundred years; and

Whereas, Louisiana's sugarcane industry employs approximately twenty-seven thousand people and contributes more than 1.7 billion dollars to the state's economy; and

Whereas, the state's sugar producers were severely harmed by Hurricanes Katrina and Rita; and

Whereas, a strong domestic sugar market is a critical component to the sugar industry's recovery in Louisiana; and

Whereas, the state's sugar producers depend on the sugar policy in the Farm Security and Rural Investment Act of 2002 for survival; and

Whereas, United States sugar policy has kept sugar affordable for grocery shoppers, has operated at no cost to taxpayers, and has strengthened the country's food security: Therefore be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to continue the current United States sugar program in the 2007 Farm Bill; be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–102. A concurrent resolution adopted by the House of Representatives of the State of Louisiana urging Congress to take such actions as are necessary to expedite the repair and rebuilding of the St. Bernard Parish levee system by all appropriate federal agencies and to close the Mississippi River Gulf Outlet; to the Committee on Environment and Public Works.

HOUSE CONCURRENT RESOLUTION NO. 67

Whereas, the Southeast Louisiana Flood Protection Authority-East (SLFPA–E) is charged with flood protection of a large portion of south Louisiana; and

Whereas, this geographical area includes the Lake Borgne Levee District, which encompasses St. Bernard Parish; and

Whereas, the Lake Borgne Levee District has suffered catastrophic damage to its flood protection systems, including pumps, pump stations, drainage canals, and levees from the effects of Hurricanes Katrina and Rita; and

Whereas, it has been twenty months since the hurricanes passed through the area; and

Whereas, much-needed repairs to the flood protection systems include the need for temporary pumping capacity, sediment removal from all canals, storm-proofing pump stations, raising the Caernarvon to Verret levee to its authorized height, raising the Bayou Bienvenue to the Inner Harbor Navigation Canal levee and floodwall, and completion of the design and construction of permanent pump stations to replace those ruined by the hurricanes; and

Whereas, the Lake Borgne Levee District cannot provide adequate flood protection to the citizens of St. Bernard Parish until repairs to the levee system are complete; and

Whereas, delays have been caused by a lack of cooperation between several key federal agencies, including the United States Army Corps of Engineers, National Resources Conservation Service, Federal Emergency Management Agency, and the Department of Homeland Security; and

Whereas, congress must intervene on behalf of the citizens of Louisiana to finish these key hurricane flood protection projects; and

Whereas, the Mississippi River Gulf Outlet (MRGO) is a seventy-six-mile-long, manmade navigational channel which connects the Gulf of Mexico to the Port of New Orleans; and

Whereas, since MRGO was completed, the United States Army Corps of Engineers estimates that the area has lost nearly three thousand two hundred acres of fresh and intermediate marsh, more than ten thousand three hundred acres of brackish marsh, four thousand two hundred acres of saline marsh, and one thousand five hundred acres of cypress swamp and levee forest in addition to major habitat alterations due to saltwater intrusion; and

Whereas, the dramatic loss of coastal wetlands and marshes caused by MRGO exposed St. Bernard Parish to much more severe impacts from the hurricanes and tropical storms that regularly occur in the Gulf of Mexico; and

Whereas, those concerns proved true in an extremely dramatic fashion on August 29, 2005, when Hurricane Katrina struck Louisiana's coast with a tidal surge well in excess of twenty feet; and

Whereas, there is a growing consensus that the flooding that occurred in St. Bernard Parish, New Orleans East, and the Lower Ninth Ward of New Orleans was a result of storm surge that flowed up MRGO to the point where it converges with the Intracoastal Waterway and that the confluence created a funnel that directed the storm surge into the New Orleans Industrial Canal, where it overtopped the levees along MRGO and the Industrial Canal and eventually breached the levees and flooded into the neighborhoods that lie close to those three waterways, resulting in more than eleven hundred deaths in the Greater New Orleans area, including one hundred twenty-eight deaths in St. Bernard Parish, destroying over twenty-four thousand homes, and rendering more than sixty-seven thousand residents of St. Bernard Parish and uncounted numbers in New Orleans East and the Lower Ninth Ward of New Orleans homeless, without possessions, and unemployed; and

Whereas, in addition to destroying homes, the floodwaters washed away churches and other places of worship, schools, businesses, community centers, recreational facilities,

and utility and transportation infrastructure; and

Whereas, as the only entity which can authorize the waterway to be closed and which can enable the reestablishment of our essential coastal wetlands, the United States Congress must come to the aid of the citizens of Louisiana, particularly those of St. Bernard Parish by authorizing the immediate closure of MRGO: Therefore, be it,

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to expedite the repair and rebuilding of the St. Bernard Parish levee system by all appropriate federal agencies and to immediately close the Mississippi River Gulf Outlet; and Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–103. A joint resolution adopted by the Legislature of the State of Montana opposing, among other things, any effort to implement a trinational political, governmental entity among the United States, Canada, and Mexico; to the Committee on Foreign Relations.

HOUSE JOINT RESOLUTION NO. 25

Whereas, the Security and Prosperity Partnership of North America was launched in March of 2005 as a trilateral effort among the United States, Canada, and Mexico to share information and streamline traffic across shared borders; and

Whereas, in meeting Security and Prosperity Partnership initiatives, the security and prosperity ministers are examining opportunities to open the borders between the United States, Canada, and Mexico; and

Whereas, the gradual creation of such a North American Union from a merger of the United States, Mexico, and Canada would be a direct threat to the Constitution and national independence of the United States and imply an eventual end to national borders within North America; and

Whereas, according to the Department of Commerce, United States trade deficits with Mexico and, Canada have significantly widened since the implementation of the North American Free Trade Agreement (NAFTA); and

Whereas, the economic and physical security of the United States is impaired by the potential loss of control of its borders attendant to the full operation of NAFTA; and

Whereas, a NAFTA Superhighway System from the west coast of Mexico through the United States and into Canada has been suggested as part of a North American Union and the broader plan to advance the Security and Prosperity Partnership; and

Whereas, it would be particularly difficult for Americans to collect insurance from Mexican companies that employ Mexican drivers involved in accidents in the United States, which would increase the insurance rates for American drivers; and

Whereas, future unrestricted foreign trucking into the United States can pose a safety hazard due to inadequate maintenance and inspection and can act collaterally as a conduit for the entry into the United States of illegal drugs, illegal human smuggling, and terrorist activities; and

Whereas, a NAFTA Superhighway System would be funded by foreign consortiums and controlled by foreign management, which threatens the sovereignty of the United States; and

Whereas, the Security and Prosperity Partnership aims to integrate United States laws with Mexico and Canada on a broad range of issues such as e-commerce, transportation, environment, health, agriculture, financial services, and national security, which may lead to negative changes in United States administrative laws; and

Whereas, state and local governments throughout the United States would be negatively impacted by the Security and Prosperity Partnership or a North American Union process, such as an open borders vision, eminent domain takings of private property along potential superhighways, and increased law enforcement problems along such superhighways; and

Whereas, this trilateral partnership to develop a North American Union has never been presented to Congress as an agreement or treaty and has had virtually no congressional oversight; and

Whereas, initiatives advancing the Security and Prosperity Partnership will lead to the erosion of United States sovereignty and could lead to integrated continental court systems and currency; and

Whereas, United States policy, not foreign consortiums, should be used to control our national borders and to ensure that national security is not compromised; Now, Therefore, be it

Resolved, by the Senate and the House of Representatives of the State of Montana:

That the Montana Legislature urge the President and the Congress of the United States to withdraw the United States from any further participation in the Security and Prosperity Partnership, any efforts to implement a trinational political, governmental entity among the United States, Canada, and Mexico, or any other efforts used to accomplish any form of a North American Union System; and be it further

Resolved, that copies of this resolution be sent by the Secretary of State to the Honorable George W. Bush, President of the United States, the Vice President of the United States, the United States Secretary of Commerce, and each member of the United States Congress.

POM–104. A concurrent resolution adopted by the Legislature of the State of Hawaii urging Congress to support legislation authorizing the Secretary of Health and Human Services to negotiate lower drug prices on behalf of Medicare beneficiaries; to the Committee on Health, Education, Labor, and Pensions.

Whereas, data provided by AARP Hawaii shows that half of all people in Hawaii, particularly those ages 50 and older and those with lower incomes, are concerned about being able to afford prescription drugs; and

Whereas, slightly over half of Hawaii's residents who are taking prescription medication on a regular basis say that paying for their drugs presents a financial burden; and

Whereas, nearly one-third of our residents who regularly take prescription drugs report taking at least one significant cost-reducing measure to pay for their medication; and

Whereas, the United States Congress has the opportunity to help reduce the cost of prescription drugs for Hawaii's 155,000 enrolled Medicare Part D beneficiaries by strengthening the Medicare Modernization Act of 2003 (MMA) through supporting legislation to give the Secretary of Health and Human Services the authority to use the bargaining power of 43 million Medicare beneficiaries to help make prescription drugs more affordable; and

Whereas, Hawaii families are counting on Congress to do everything possible to help make prescription drugs more affordable and accessible to beneficiaries under the MMA; now, therefore, be it

Resolved, by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007, the Senate concurring, that the Legislature urges the United States Congress to support legislation authorizing the Secretary of Health and Human Services to negotiate lower drug prices on behalf of Medicare beneficiaries; and be it further

Resolved, that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional Delegation.

POM–105. A concurrent resolution adopted by the Legislature of the State of Hawaii urging Congress to propose amendments to the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 57

Whereas, the United States Congress must decide in 2007 whether to reauthorize the No Child Left Behind Act of 2001 or let it die and replace it with a new law; and

Whereas, the No Child Left Behind Act, unprecedented in the history of federal and state roles in public education by the mandated imposition of a federally prescribed, single accountability model for all public schools, undermines the established constitutional role of state and local public education governance; and

Whereas, the No Child Left Behind Act, while purporting to create an accountability system for public schools, has in reality, been an enormous financial and programmatic burden on schools and taxpayers; and

Whereas, even if states and schools are satisfied with their educational programs and outcomes, they are forced to participate in this top-down system in order to continue to receive federal funds for education, such as Title I funds; and

Whereas, the No Child Left Behind Act mandates consequences to schools if just one of thirty-seven possible adequate yearly progress calculation outcomes are not met, and makes no distinction in the consequences imposed on schools that did not meet one or did not meet all thirty-seven, resulting in dilution of energy, time, and money by mandating the treatment of all such schools to include identical sanctions; and

Whereas, the No Child Left Behind Act employs a view of motivation that is misguided and objectionable, using threats, punishments, and pernicious comparisons to ''motivate'' teachers, students, and schools; and

Whereas, private K–12 schools have chosen not to spend their time or money adopting key elements of the, No Child Left Behind Act's intensive testing and accountability regimen; and

Whereas, the No Child Left Behind Act's narrow focus on the ''basics'' has discouraged the implementation of best practices cutting edge educational research in order to achieve higher test scores; and

Whereas, the No Child Left Behind Act has driven many schools and school systems into a narrowing of curriculum, often focused on only tested subjects, to the detriment of subjects and rich educational experiences, such as the arts; and

Whereas, the goal of achieving percent proficiency, including special education students, is unrealistic, and the pursuit of which channels millions of dollars into tactically targeted programs that divert limited resources from other critical school programs, professional, training, as well as the educational and physical environment of schools; and

Whereas, the requirements of the No Child Left Behind Act penalize schools who enroll

students who have inherent educational deficiencies and, who as a group, will continue to remain below ever increasing No Child Left Behind ''annual measurable objectives''; and

Whereas, while there has recently been some interest in the development of so-called ''growth models'' to recognize the contributions of a school to individual students over time, the lack of adequate funding and the prohibition against states developing their own growth models has rendered this initiative almost meaningless; and

Whereas, the No Child Left Behind Act does not provide additional funds for teacher education or training, if school is in ''status'' or under, restructuring, which creates a punitive environment with little commitment on the part of the federal government for improving teaching and learning, or for supporting increased school success; and

Whereas, Adequate Yearly Progress does not take into account a school's adoption of meaningful educational innovation or judicious use of research; and

Whereas, the No Child Left Behind Act has channeled countless dollars into high-stake testing, which has largely benefited national private testing companies, but at the expense of ignoring genuine student accomplishments; and

Whereas, the No Child Left Behind Act appears biased towards a one-size fits all multiple choice testing system, and tends to ignore other means of engaging and assessing students such as project-based, hands-on, or problem-solving demonstrations of competency: and

Whereas, the United States Department of Education has shown little or no interest in creating incentives among colleges and universities to incorporate innovative portfolios or project-based competencies into their admissions decisions, thus reinforcing the use of high-stake, multiple-choice private contractors; now, therefore, be it

Resolved by the Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2007, the House of Representatives concurring, that the United States Congress is strongly urged to proposed specific amendments to, or recommend the repeal of, the federal No Child Left Behind Act of 2001; and be it further

Resolved, that among the issues and amendments the United States Congress should address are the following:

(1) Improving teacher quality, preparation, and training by:

(A) Building support for a comprehensive incentive program to recruit, place, and retain experienced, well-qualified teachers in high-need schools (e.g., high poverty, or geographically-isolated communities);

(B) Providing significant support for teacher education, professional development, inservice training, and career opportunities;

(C) Improving the occupational status and compensation of teaching as a career;

(D) Improving qualifications of teacher candidates at colleges of education;

(E) Providing financial incentives for institutions of higher learning to incorporate portfolios and demonstrations of competency into their admissions decisions;

(F) Strengthening teacher education preparation programs in areas such as science, mathematics, technology, measurement, data analysis, and evaluation;

(G) Recognizing teachers having achieved certification by the National Board for Professional Teaching Standards as ''highly qualified'' in their respective fields; and

(H) Providing flexibility in recognizing certified secondary level special education teachers as qualified teachers in their own right, and removing the unrealistic expectation that such teachers be additionally certified in every single core subject area;

(2) Improving assessment measures and systems by:

(A) Refining student assessment instruments designed specifically for use in improving instruction as well as school accountability;

(B) Encouraging states and school districts to utilize a wider range of useful assessments, including project-based competency and portfolios;

(C) Developing more appropriate means of assessing the academic progress of English Language Learners, special education students; and those with behavioral health issues; and

(D) Supporting the development and implementation of comprehensive statewide data collection and exchange systems that allow for more efficient support for student record keeping and informed educational policy decision making (e.g., electronic student transcript systems, and longitudinal analyses of growth in academic achievement);

(3) Improving accountability models, indicators of performance, and consequences by:

(A) Supporting states and the educational research community in research and development efforts to further the pioneering work required in refining the technology underlying growth (toward standards) analysis models;

(B) Permitting each state to adopt and pilot its own growth model to calculate adequate yearly progress under the No Child Left Behind Act to take advantage of inherent benefits that motivate students at all levels of proficiency;

(C) Supporting wholesale changes to the ''adequate yearly progress'' model for educational accountability that would provide for a fairer and more balanced appraisal of school performance and quality;

(D) Replacing punitive, conjunctive ''miss one miss all'' criteria;

(E) Expanding accountability indicators to reflect performance on standards in other important disciplines and countering unintended consequences such as a narrowing of curriculum;

(F) Allowing for current limitations in reliable and valid assessments of students within a wide range of disability classifications; and

(G) Allowing for deferrals to test new immigrant students with limited English proficiency for up to three years of entering the country;

(4) Augmenting resources to assist states in efforts to accomplish challenging educational initiatives by:

(A) Requiring schools to maintain a broad and comprehensive curriculum to support adopted content and performance standards, including the arts and physical education;

(B) Fully funding special education programs, as once promised;

(C) Providing adequate funding to research and develop multiple and more valid means of assessing student competence, skills and knowledge for use in both improvement and educational accountability; and

(D) Providing funding and training support for data and technology infrastructure requirements;

(5) Supporting innovation, capacity building, and flexibility to address state and local education needs by:

(A) Recognizing schools that demonstrate successful strategies using innovative curriculum and methodologies;

(B) Developing new initiatives for school facilities that do not push educational funding toward ever larger schools and economy-of-scale construction mentality;

(C) Avoiding simplistic ''one size fits all'' solutions for assessment, accountability, and intervention;

(D) Addressing unique needs of ''high-need'' schools (e.g:, high poverty, high immigration, extreme geographic isolation); and

(E) Allowing states to determine which and how many grade levels are best to test; and

(6) Returning to the original intent and purpose of the Elementary and Secondary Education Act (ESEA) by:

(A) Restoring the foundational precepts of ESEA and its focus on equity in educational attainment despite disadvantages stemming from socio-economic background;

(B) Allowing states to ''opt out'' of requirements that impact schools that do not receive ESEA entitlements, without loss of Federal funds;

(C) Promoting strategies that directly reduce achievement gaps through better instruction, such as incentives for experienced, well-qualified teachers to accept positions in high-need schools and for reducing class size;

(D) Resolving to build the best public education system and teacher work force in the world, rather than promoting lofty rhetoric and ploys that undermine and divert public funds to private schools; and

(E) Returning policy setting and curriculum and teaching decision making control back to states, school districts and local communities; and be it further

Resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Vice President of the United States, the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives and the members of Hawaii's Congressional delegation.

POM–106. A resolution adopted by the Senate of the State of Pennsylvania urging Congress to enact legislation to provide additional funding for amyotrophic lateral sclerosis research; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 115

Whereas, Amyotrophic lateral sclerosis (ALS) is better known as Lou Gehrig's disease; and

Whereas, ALS is a fatal neurodegenerative disease characterized by degeneration of cell bodies of the lower motor neurons in the gray matter of the anterior horns of the spinal cord; and

Whereas, The initial symptom of ALS is weakness of the skeletal muscles, especially those of the extremities; and

Whereas, As ALS progresses, the patient experiences difficulty in swallowing, talking and breathing; and

Whereas, ALS eventually causes muscles to atrophy, and the patient becomes a functional quadriplegic; and

Whereas, Because ALS does not affect mental capacity, persons with ALS remain alert and aware of the loss of motor function and the inevitable outcome of continued deterioration and death; and

Whereas, ALS occurs in adulthood, most commonly between the ages of 40 and 70, with the peak age about 55; and

Whereas, ALS affects men two to three times more often than women; and

Whereas, More than 5,000 new ALS patients are diagnosed annually; and

Whereas, On average, patients diagnosed with ALS survive only two to five years from the time of diagnosis; and

Whereas, Research indicates that military veterans are at a 50% or greater risk of developing ALS than other persons; and

Whereas, ALS has no known cause, means of prevention or cure; and

Whereas, ''Amyotrophic Lateral Sclerosis Awareness Month'' increases public awareness of ALS patients' circumstances, acknowledges the terrible impact of ALS on patients and their families and recognizes ongoing research to eradicate ALS; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania recognize the month of May 2007 as ''Amyotrophic Lateral Sclerosis (ALS) Awareness Month'' in the Commonwealth of Pennsylvania; and be it further

Resolved, That the Senate urge the President and Congress of the United States to enact legislation to provide additional funding for ALS research; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the Vice President of the United States, to the Speaker of the House of Representatives, to the members of Congress from Pennsylvania and to the United States Secretary of Health and Human Services.

POM–107. A resolution adopted by the Senate of the State of Pennsylvania urging Congress to fulfill the commitment of the Individuals with Disabilities Education Act to provide resources equal to 40 percent of the national average per pupil expenditure for special education students for each Pennsylvania student with special needs; to the Committee on Health, Education, Labor, and Pensions.

SENATE RESOLUTION NO. 91

Whereas, In the interest of ensuring that children with disabilities in the United States receive a free appropriate public education, the Individuals with Disabilities Education Act (Public Law 91–230, 20 U.S.C. §1400 et seq.) encroached upon the states' traditional domain over education and established certain mandates that all state and local governments must observe in the education of children with special needs; and

Whereas, In recognition of the high cost of these Federal mandates, the Individuals with Disabilities Education Act allows the Congress to provide each state with a maximum Federal grant equal to the number of children with disabilities in the state multiplied by 40% of the average per pupil expenditure for all special education students in the United States; and

Whereas, Although the Commonwealth of Pennsylvania has endeavored to serve its students with special needs by implementing the costly mandates imposed by the Individuals with Disabilities Education Act, the Federal Government has not provided sufficient funding to pay for these mandates; and

Whereas, The Federal funding the Commonwealth receives for each student with special needs is only the equivalent of 14.8% of the national average per pupil expenditure; and

Whereas, By this measure, the Federal Government contributes only 37% of the total cost of special education in this Commonwealth even though the Commonwealth and its school districts must comply with 100% of the costly mandates imposed by the Individuals with Disabilities Education Act; and

Whereas, These costs have been increasing rapidly in recent years; and

Whereas, In this Commonwealth, the population of students with special needs has increased by less than 1% since 2000; and

Whereas, In the same period, the Commonwealth's appropriations for special education have increased by 25% in order to keep pace; and

Whereas, Because the Federal Government has failed to provide the level of funding that the Individuals with Disabilities Education Act allows, it has placed a disproportionate financial burden on the Commonwealth and its school districts; and

Whereas, If the Individuals with Disabilities Education Act is to fully accomplish its mission to provide a free appropriate public education to children with disabilities, the Federal Government must provide State and local governments with the funding they need to successfully implement the act's mandates; therefore be it

Resolved, That the Senate of Pennsylvania urge Congress and the President of the United States to fulfill the commitment of the Individuals with Disabilities Education act to provide resources equal to 40% of the national average per pupil expenditure for special education students for each Pennsylvania student with special needs; and be it further

Resolved, That copies of this resolution be sent to the President and Vice President of the United States, to the presiding officers of each house of Congress from Pennsylvania, to the National Conference of State Legislatures, to the State Board of Education and to the Secretary of Education.

POM–108. A resolution adopted by the Legislature of the State of Arizona urging Congress to continue the funding and completion of the Secure Border Initiative Network program by the target date of December 31, 2008; to the Committee on Homeland Security and Governmental Affairs.

SENATE MEMORIAL 1004

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, the safety and security of Arizona's southern border are critical to the economy and the health and welfare of all Arizona citizens; and

Whereas, the Federal government, through the United States Customs and Border Protection's Secure Border Initiative Network program (SBInet), is allocating millions of dollars and significant resources to developing and deploying personnel, infrastructure, technologies and rapid response platforms to prohibit the illegal entry of people and contraband across the entire southern border of Arizona; and

Whereas, SBinet is a program of intense national interest with a challenge to accomplish something that has never before been done and is committed to delivering a system to the United States government that will support the United States Customs and Border Protection in detecting, apprehending and processing people who cross Arizona's border illegally; facilitate legitimate cross-border travel and commerce; and most importantly, provide taxpayers with the best value solution over the life of the program; and

Whereas, SBInet will deliver the ability to detect entries into the United States when they occur, to identify what the entry is and to classify its level of threat, thereby allowing the border patrol to effectively and efficiently respond to the entry, and to resolve the situation with appropriate law enforcement; and

Whereas, Arizona, takes pride in being the first state to receive the benefits of SBInet: and

Whereas, by the end of calendar year 2008, the SBInet program will deploy fencing, vehicle barriers and proven current and next-generation technology, including radars, sensors, communications enhancements and the requisite number of United States Customs and Border Protection Border Patrol agents to secure Arizona's southern border.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the United States Congress continue the funding and completion of SBInet by the target date of December 31, 2008.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–109. A resolution adopted by the Legislature of the State of Arizona urging Congress to use its powers as delegated by the Indian Commerce Clause to acknowledge and protect the public interest of Indian country from competing public interests and regulatory jurisdictions; to the Committee on Indian Affairs.

HOUSE CONCURRENT MEMORIAL 2007

To the Congress of the United States of America:

Your memorialist respectfully represents:

Whereas, it is crucial for Native Americans to establish equitable, affordable and universal access to telecommunications services, allowing placement of infrastructure and information technology equipment to deliver broadband services and other evolving and emerging technologies on tribal lands to American Indian communities by the year 2010; and

Whereas, it is vital to ensure that the universal service concepts of the 1996 Telecommunications Act allow for telecommunications infrastructure and information technology to be developed and used in a manner that meets the social, civic, economic, educational and cultural needs of American Indian tribes and communities; and

Whereas, it is essential to protect, strengthen and assert tribal government sovereignty and regulatory jurisdiction, in the areas of telecommunications and information technology; and

Whereas, it is vital to create a framework and guidelines for tribal governments and communities, intertribal organizations and American Indian organizations to prepare, plan and make recommendations for telecommunications and information technology policy, legislation, appropriations, program development and self-determination.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the United States Congress recognize the rights of tribal governments and communities to exercise and assert regulatory jurisdiction over telecommunications activities in the boundaries of reservations and communities.

2. That the United States Congress encourage states, counties and municipalities to provide partnership opportunities that promote telecommunication services and that are mutually beneficial for the economic, social and general welfare for all state citizens.

3. That the United States Congress provide a sufficient set-aside of Homeland Security monies to ensure equitable and sufficient distribution of monies among tribal governments and American Indian communities for the development of telecommunications build-out necessary to mitigate emergencies and crisis brought about by acts of terrorism, drug trafficking, human smuggling and other deplorable acts that threaten national and local security.

4. That the United States Congress promote and support tribal government and community efforts to establish telecommunications regulatory authorities and codes.

5. That the United States Congress support and advance public safety implementation among tribes and communities through the provision of grants for the development of telecommunications and information technology capacities among law enforcement agencies, emergency medical service providers, fire departments, courts and justice departments and other emergency responder agencies.

6. That the United States Congress support and advance tribal government and ownership of spectrum above tribal lands and communities by granting, rather than auctioning, partitioned spectrum licenses to tribal entities.

7. That the United States Congress encourage and support tribal government and community efforts to establish and operate telephone companies and other telecommunication businesses, such as internet service providers, especially in unserved and underserved areas.

8. That the United States Congress support and advance the efforts of tribal governments and American Indian communities to bridge their respective digital divides through the provision of grants, loans and contracts, tax incentives and infrastructure build-out services.

9. That the United States Congress use its powers as delegated by the Indian Commerce Clause to acknowledge, and protect the public interest of Indian country from competing public interests and regulatory jurisdictions and perform the following:

(a) Amend section 214(e) of the Telecommunications Act to include the following definition of unserved areas:

An unserved area is defined as service penetration 15% below the nationwide penetration rate for any communications service; or 5% below national rural penetration rate for any communications service, whichever rate is higher.

(b) Amend section 214(e) 6 of the Telecommunications Act to include tribes and acknowledge tribal regulatory authority.

(c) Provide mechanisms, with enforcement powers, for ensuring equitable, affordable and sustainable access to communications services, including broadband, broadcast and emerging technologies, in Indian country.

(d) Support tribal access and options for ownership and management of spectrum on tribal lands for both wireless and broadcast applications.

(e) Provide mechanisms to promote cooperation among tribes, state public utility commissions and the federal communications commission and remedies for resolving unforeseen conflicts.

(f) Provide public financing to tribal communities that fall under the definition of an unserved area to close any service gap.

(g) Permit the bureau of Indian affairs to allow for telecommunication entities to colocate on existing linear rights of way, such as power and water routes, so that rapid expansion of telecom services, including categorical exclusion of clearance requirements, can proceed.

10. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–110. A resolution adopted by the California State Lands Commission expressing its support for H.R. 1187; to the Committee on Energy and Natural Resources.

POM–111. A resolution adopted by the Council of the District of Columbia expressing the Council's support of amending the Home Rule Charter to increase the pay of the Chief Financial Officer, Dr. Natwar M. Gandhi; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 692. A bill to amend title 4, United States Code, to authorize the Governor of a State, territory, or possession of the United States to order that the National flag be flown at half-staff in that State, territory, or possession in the event of the death of a member of the Armed Forces from that State, territory, or possession who dies while serving on active duty.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 82. A resolution designating August 16, 2007 as ''National Airborne Day''.

S. Res. 171. A resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighter Memorial Service in Emmitsburg, Maryland.

S. Res. 173. A resolution designating August 11, 2007, as ''National Marina Day''.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 720. A bill to amend title 4, United States Code, to authorize the Governor of a State, territory, or possession of the United States to order that the National flag be flown at half-staff in that State, territory, or possession in the event of the death of a member of the Armed Forces from that State, territory, or possession who dies while serving on active duty.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Robert James Jonker, of Michigan, to be United States District Judge for the Western District of Michigan.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN:

S. 1561. A bill to amend title 11, United States Code, with respect to exceptions to discharge in bankruptcy for certain qualified educational loans; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 1562. A bill to direct the Secretary of Energy to provide grants to States for the distribution of compact fluorescent lights; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. DODD, Mr. OBAMA, Mr. LIEBERMAN, Ms. KLOBUCHAR, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. WYDEN, and Mrs. CLINTON):

S. 1563. A bill to require the disclosure of certain activities relating to the petroleum industry of Sudan, to increase the penalties for violations of sanctions provisions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SANDERS:

S. 1564. A bill to amend the Social Security Act to provide health insurance converge for children and pregnant and post-partum women throughout the United States by combining the children and pregnant women health coverage under Medicaid and SCHIP into a new All Healthy Children Program, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 1565. A bill to provide for the transfer of naval vessels to certain foreign recipients; to the Committee on Foreign Relations.

By Mr. INHOFE (for himself, Mr. CRAIG, and Mr. THUNE):

S. 1566. A bill to amend the Oil Pollution Act of 1990 to improve that Act, and for other purposes; to the Committee on Environment and Public Works.

By Ms. KLOBUCHAR:

S. 1567. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide a renewable portfolio standard, and other purposes; to the Committee on Energy and Natural Resources.

By Mr. ISAKSON (for himself and Mr. CHAMBLISS):

S. 1568. A bill to amend the Internal Revenue Code of 1986 to encourage private philanthropy; to the Committee on Finance.

By Mr. FEINGOLD:

S. 1569. A bill to establish a pilot program on the provision of legal services to assist veterans and members of the Armed Forced receive health care, benefits and services, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DeMINT (for himself and Mr. VITTER):

S. 1570. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. HAGEL, and Mr. NELSON of Nebraska):

S. 1571. A bill to reform the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. LEAHY, Mr. DURBIN, Mr. REED, Mr. HARKIN, Ms. STABENOW, Mr. DODD, and Mr. SANDERS):

S. 1572. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 1573. A bill to promote public-private partnerships to strengthen investment in early childhood development for children from birth to entry into kindergarten in order to ensure healthy development and school readiness for all children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA:

S. 1574. A bill to establish Teaching Residency Programs for preparation and induction of teachers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Mrs. DOLE, Mrs. LINCOLN, Mr. SMITH, Mr. LEVIN, Mr. DURBIN, and Mr. MENENDEZ):

S. 1575. A bill to encourage the effective use of community resources to combat hunger and the root causes of hunger by creating opportunity through food recovery and job training; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. OBAMA, Mr. BINGAMAN, Mrs. CLINTON, Mr. BROWN, and Mr. DURBIN):

S. 1576. A bill to amend the Public Health Service Act to improve the health and healthcare of racial and ethnic minority

groups; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself, Mr. DOMENICI, Mrs. MCCASKILL, Ms. STABENOW, Mrs. LINCOLN, Mr. LEVIN, and Mrs. CLINTON):

S. 1577. A bill to amend titles XVIII and XIX of the Social Security Act to require screening, including national criminal history background checks, of direct patient access employees of skilled nursing facilities, nursing facilities, and other long-term care facilities and providers, and to provide for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 1578. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Ms. CANTWELL, and Mr. LEVIN):

S. 1579. A bill to amend the Coastal Zone Management Act; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. STEVENS, and Ms. CANTWELL):

S. 1580. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself and Ms. CANTWELL):

S. 1581. A bill to establish an interagency committee to develop an ocean acidification research and monitoring plan and to establish an ocean acidification program within the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. STEVENS, Ms. CANTWELL, and Ms. SNOWE):

S. 1582. A bill to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. STEVENS) (by request):

S. 1583. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other coral conservation purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. STEVENS) (by request):

S. 1584. A bill to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. DODD, Mr. HAGEL, Mr. BAUCUS, Mr. BYRD, Mr. SUNUNU, Mr. WHITEHOUSE, and Mr. VOINOVICH):

S. Res. 224. A resolution expressing the sense of the Senate regarding the Israeli-Palestinian peace process; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself and Mr. GRASSLEY):

S. Res. 225. A resolution designating the month of August 2007 as ''National Medicine Abuse Awareness Month''; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. MARTINEZ, Mr. MENENDEZ, Mrs. MURRAY, Mr. BROWN, Mr. INOUYE, Mr. OBAMA, Mr. LIEBERMAN, Mr. SALAZAR, Mr. BAYH, Mr. FEINGOLD, Mr. CASEY, Mr. NELSON of Florida, and Mr. KENNEDY):

S. Res. 226. A resolution recognizing the month of November as ''National Homeless Youth Awareness Month''; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CARDIN (for himself and Ms. MIKULSKI):

S. Res. 227. A resolution congratulating the Johns Hopkins University Blue Jays for winning the 2007 NCAA Division I Men's Lacrosse Championship; considered and agreed to.

By Mr. REED (for himself and Mr. WHITEHOUSE):

S. Res. 228. A resolution congratulating the Brown University women's crew team for winning the 2007 National Collegiate Athletic Association Division I Women's Rowing Championship; considered and agreed to.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. Res. 229. A resolution honoring William Clifton France; considered and agreed to.

By Mr. BIDEN (for himself, Mr. BROWNBACK, Mrs. BOXER, Mr. SMITH, Mr. NELSON of Florida, and Mrs. HUTCHISON):

S. Con. Res. 37. A concurrent resolution expressing the sense of Congress on federalism in Iraq; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 35

At the request of Mr. COLEMAN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 35, a bill to amend section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 and for other purposes.

S. 329

At the request of Mr. CRAPO, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 329, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 508

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 508, a bill to amend the Congressional Accountability Act of 1995 to apply whistleblower protections available to certain executive branch employees to legislative branch employees, and for other purposes.

S. 535

At the request of Mr. DODD, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Utah (Mr. HATCH), the Senator from Maryland (Mr. CARDIN), the Senator from Illinois (Mr. DURBIN), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 535, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 543

At the request of Mr. NELSON of Nebraska, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 543, a bill to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.

S. 590

At the request of Mr. SMITH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 590, a bill to amend the Internal Revenue Code of 1986 to extend the investment tax credit with respect to solar energy property and qualified fuel cell property, and for other purposes.

S. 626

At the request of Mr. KENNEDY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 667

At the request of Mrs. CLINTON, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 667, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 674

At the request of Mr. OBAMA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 674, a bill to require accountability and enhanced congressional oversight for personnel performing private security functions under Federal contracts, and for other purposes.

S. 691

At the request of Mr. CONRAD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 691, a bill to amend title XVIII of the Social Security Act to improve the benefits under the Medicare program for beneficiaries with kidney disease, and for other purposes.

S. 746

At the request of Mr. ALLARD, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 746, a bill to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 773

At the request of Mr. WARNER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to

pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 807

At the request of Mr. DOMENICI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 807, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

S. 838

At the request of Mr. SMITH, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 838, a bill to authorize funding for eligible joint ventures between United States and Israeli businesses and academic persons, to establish the International Energy Advisory Board, and for other purposes.

S. 968

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 968, a bill to amend the Foreign Assistance Act of 1961 to provide increased assistance for the prevention, treatment, and control of tuberculosis, and for other purposes.

S. 1070

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1070, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 1113

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1113, a bill to facilitate the provision of care and services for members of the Armed Forces for traumatic brain injury, and for other purposes.

S. 1154

At the request of Mr. NELSON of Nebraska, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1154, a bill to promote biogas production, and for other purposes.

S. 1172

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1172, a bill to reduce hunger in the United States.

S. 1226

At the request of Mr. BAYH, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1226, a bill to amend title XIX of the Social Security Act to establish programs to improve the quality, performance, and delivery of pediatric care.

S. 1239

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1239, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2013, and for other purposes.

S. 1252

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1252, a bill to amend title 10, United States Code, to provide for uniformity in the awarding of disability ratings for wounds or injuries incurred by members of the Armed Forces, and for other purposes.

S. 1295

At the request of Mr. FEINGOLD, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1295, a bill to amend the African Development Foundation Act to change the name of the Foundation, modify the administrative authorities of the Foundation, and for other purposes.

S. 1356

At the request of Mr. BROWN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1356, a bill to amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

S. 1428

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1428, a bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare program.

S. 1457

At the request of Mr. HARKIN, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1457, a bill to provide for the protection of mail delivery on certain postal routes, and for other purposes.

S. 1459

At the request of Mr. MENENDEZ, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1459, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 1500

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1500, a bill to support democracy and human rights in Zimbabwe, and for other purposes.

S. 1514

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1514, a bill to revise and extend provisions under the Garrett Lee Smith Memorial Act.

S. 1518

At the request of Mr. REED, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1518, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 1543

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1543, a bill to establish a national geothermal initiative to encourage increased production of energy from geothermal resources, and for other purposes.

S. RES. 30

At the request of Mr. BIDEN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 30, a resolution expressing the sense of the Senate regarding the need for the United States to address global climate change through the negotiation of fair and effective international commitments.

S. RES. 105

At the request of Mr. BIDEN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. Res. 105, a resolution designating September 2007 as ''Campus Fire Safety Month''.

S. RES. 171

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 171, a resolution memorializing fallen firefighters by lowering the United States flag to half-staff on the day of the National Fallen Firefighter Memorial Service in Emmitsburg, Maryland.

S. RES. 215

At the request of Mr. ALLARD, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. Res. 215, a resolution designating September 25, 2007, as ''National First Responder Appreciation Day''.

AMENDMENT NO. 1159

At the request of Mr. COLEMAN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 1159 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1179

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 1179 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1236

At the request of Mr. TESTER, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Vermont (Mr. LEAHY) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 1236 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1259

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 1259 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1260

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 1260 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1279

At the request of Mr. SCHUMER, his name was added as a cosponsor of amendment No. 1279 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1311

At the request of Mr. COBURN, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Alabama (Mr. SESSIONS), the Senator from Louisiana (Mr. VITTER), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 1311 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1318

At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Georgia (Mr. ISAKSON), the Senator from Wyoming (Mr. ENZI) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of amendment No. 1318 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1335

At the request of Mr. DOMENICI, the names of the Senator from Arizona (Mr. KYL) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 1335 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1392

At the request of Mr. MENENDEZ, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of amendment No. 1392 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1455

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1455 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 1561. A bill to amend title 11, United States Code, with respect to exceptions to discharge in bankruptcy for certain qualified educational loans; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I would like to tell you about Connie Martin from Sycamore, IL. Connie's son decided to go to culinary school in Chicago 5 years ago at the age of 25. To pay for tuition, he borrowed $58,000 in private loans from Sallie Mae at 18 percent interest. His first payment was $1,100 a month—his entire monthly salary at a downtown eatery where he worked after graduation. His loan balance, including government-backed loans, is now $100,000. Connie's son has been working hard, and she and her husband have been trying to help him make the payments. I worry for borrowers like Connie's son who can't start over and will have debt that will likely haunt him for the rest of his life.

The Chicago Sun-Times recently ran a story that described the devastating effect large student loan debt has on the lives of borrowers. Mr. President, I ask unanimous consent that the following article from the Chicago Sun-Times be inserted for the RECORD.

Private student loans are the fastest growing and most profitable sector of the student loan industry. As college tuition continues to rise, the private loan market flourishes. According to the College Board, tuition, fees, room and board at public 4-year schools have risen by 42 percent over the past 5 years from $9,032 to $12,796. Add books, supplies, transportation and other living expenses, and the total increases to $16,357 for those paying instate tuition and $26,304 for those paying out-of-state tuition. Students rely on private loans to pay for any unmet need that Federal loans and grants fail to cover. According to the College Board, since 2001 the market for private student loans has grown at an annual rate of 27 percent to $17.3 billion in 2006—roughly 20 percent of total student borrowing. Ten years ago, only 5 percent of total education loan volume was in private loans.

Private student loans are more profitable than Federal student loans because lenders can charge whatever interest rate students will pay, barring State usury laws. The interest rates and fees on private loans can be as onerous as credit cards. There are reports of private loans with interest rates of at least 15 percent and often much higher. Unlike Federal student loans, there is no government-imposed loan limit on private loans and no regulation over the terms and cost of these loans.

Today, I am pleased to introduce a bill that will give students, who find themselves in dire financial straits, a chance at a new beginning. My bill takes the bankruptcy law, as it pertains to private student loans, back to where it was before the law was amended in 2005. Under this legislation, privately issued student loans will once again be dischargeable in bankruptcy. My bill also clarifies that existing protections are specific to loans that were issued by or are guaranteed by State and Federal Government.

Federally issued or guaranteed student loans have been protected during personal bankruptcy since 1978. This provision protects Federal investments in higher education. In 2005, a provision was added to law to protect the investments of private lenders participating in the student loan industry. This change in the law creates a couple of problems. First, extending protections to private lenders of student loans but not to other potential creditors who are at risk in a bankruptcy disposition is inherently unfair. Second, such protections are unfair to the debtor. Repayment schedules—with accumulating interest—can extend for decades.

With the 2005 protections in place, there is essentially no risk to lenders making high-cost private loans to people who may not be able to afford them. There is no risk to private lenders extending credit to students at schools with low graduation rates and even lower job placement rates.

Giving private loans such high status in bankruptcy also puts other creditors at a significant disadvantage. No one seems to know how or why private student loans gained this status in 2005. There is nothing in the CONGRESSIONAL RECORD explaining the reasons behind the change. Why should a private student loan lender be able to jump to the front of the creditor line—in front of the local furniture store or the neighborhood plumber? This bill seeks to restore treatment of privately issued student loans in bankruptcy to the same treatment as any other debt.

There is justification for making Federal loans hard to discharge: they are backed by taxpayer dollars, and they come with some borrower protections in cases of economic hardship, unemployment, death and disability. However, private loans involve only private profit and do not have the protections that government borrowers enjoy, including caps on interest rates, flexible repayment options, and limited

cancellation rights. Why should student borrowers, who are trying to better themselves and our country, be treated in the same manner as people trying to escape child support payments, alimony, overdue taxes, and criminal fines?

The 1950s and 1960s saw the democratization of higher education. The GI Bill provided money for returning WWII veterans to attend college. The National Defense Education Act made college a possibility by making low-interest education loans available for countless students all across the country. Talented kids from working families began realizing the possibility of college, and enrollment at colleges swelled. But since then, college costs have gone through the roof. And students—heeding the call to obtain a good education—are also earning themselves years of debt. The average student is graduating with nearly $20,000 in debt and in many cases—much, much more—just look at Connie Martin's son. Our country has made great strides in making college a reality for countless students. Let's not reverse the positive trend we started over 50 years ago. That is why I am introducing this bill—to give students a chance at a fresh start.

Mr. President, I ask unanimous consent that the text of the bill and an article of support be printed in the RECORD.

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

S. 1561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCHARGE IN BANKRUPTCY FOR CERTAIN EDUCATIONAL LOANS.

Section 523(a)(8) of title 11, United States Code, is amended by striking ''dependents, for'' and all that follows through subparagraph (B) and inserting ''dependents, for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or an obligation to repay funds received from a governmental unit as an educational benefit, scholarship, or stipend.''.

[From the Sun Times, May 6, 2007]

STUDENTS AND LOANS: 'TIL DEATH DO US PART

(By Dave Newbart)

They liken it to a financial death sentence.

They can't get a car loan, a home mortgage or any other type of loan. They've lost jobs and even spouses over it.

They are so humiliated they don't want any of their friends or family to know.

And for most, there is no way out.

They are former students trapped under the weight of student loans. The same vehicle that allowed them to get a college education has left many graduates buried in debt with no reasonable way to climb out.

Some students who never graduate are stuck paying off loans without the earning power of a degree—an estimated additional $1 million in lifetime earnings.

And some students who finish can't afford the monthly payments. Others lose jobs and can't catch back up. Then they get turned down by employers who increasingly check credit records before hiring.

Some say they would make small monthly payments to show good faith—only to see their balances continue to grow and to receive harassing phone calls from collectors.

To be sure, most borrowers pay on time; default rates are at an all-time low.

But for those who run into trouble, changes in federal laws—including many in the last decade—have made student loans among the hardest debts to discharge. They've also made the loans among the most lucrative for private lenders, who face little risk—because the government backs the loans—but reap the benefits when balances balloon.

Some borrowers say they accept reasonable interest, but they believe the fees and penalties—which over time can double or triple the loan balances—are unfair.

INTEREST RATE OVER 18 PERCENT

Many of the students awash in debt say that they were blinded by the promise a college degree holds and unprepared to take on high levels of debt at such a young age.

Connie Martin's son signed up for cooking school in Chicago in 2002 at age 25. To pay for it, he borrowed $73,000, mostly in private loans from Sallie Mae, the largest student lender, at 18 percent interest.

''He didn't know what the interest rate was. . . . He just wanted to go to school,'' said Martin, of Sycamore.

His first payment was $1,100 a month, his entire monthly salary at a downtown eatery where he went to work after graduation.

''I don't understand how they can lend a kid that kind of money with no credit history, who never owned anything, with no cosigners,'' said his mother, who only learned of the situation after the bills started to pile up.

Sallie Mae officials said they no longer offer such high-interest loans, and have offered students a chance to refinance at a lower rate if certain conditions are met. ''We recognize it's high,'' spokeswoman Martha Holler said.

Martin's son declined to comment. His balance has since grown to $98,000.

IT'S LIKE INDENTURED SERVITUDE

Greg Treece, of Downstate Mattoon, now wishes he never enrolled in Washington University's Occupational Therapy program. ''Choosing an expensive private school and borrowing the money to go there is the single greatest mistake I have ever made,'' he said.

Treece took out $84,000 in loans. Six months after he got out of the St. Louis school, his monthly payment was more than half his take-home pay for his first job in Chicago. He later lost his job. With compounding interest, his loan quickly skyrocketed. At times he seriously wished he could go to jail in exchange for wiping out the debt.

With a new job, he's managed to pay $60,000, but his balance remains at $111,000 because of fees, penalties and interest. ''It's like indentured servitude,'' he said.

For those who default, lenders can truly play hardball, often employing no-scruples private collection firms that call borrowers as often as 10 times a day.

Shirley, an Ivy League-educated lawyer, lost her job in Chicago in the late 1980s. She pleaded for reduced payments from a collector working for the Illinois Student Assistance Commission—but was denied.

''I said you are driving me to bankruptcy,'' she recalled. ''They wouldn't budge.''

In bankruptcy court ISAC claimed she owed $78,000, which included $13,000 for collection costs, 20 percent of the total debt. Nearly all of the debt was eventually erased, according to court records.

Because that was before the recent law changes, she should have been clear.

LOAN CHIEF ADMITS ''MISTAKES''

But several years later, the collectors began calling again—first from ISAC and then from the U.S. Education Department. They claimed the bill was now over $100,000.

''It was as though they were above the law,'' she said. She eventually went to court again and proved she no longer owed the money, but her husband left her in the process. She asked that her real name not be used out of fear of retaliation.

ISAC and the Education Department say they have several programs that allow students to delay payments in hard times or make lower ones based on income. Officials say they try to help borrowers in default get back into good standing, a process known as rehabilitation. Last year, ISAC rehabbed $30 million in defaulted loans, up from $4.4 million in 2002.

Agency director Andy Davis says the agency has to strike a balance between helping borrowers repay and making sure taxpayers aren't left in the lurch.

But he acknowledges his workers ''make mistakes'' and said he is looking to make changes in some of the outsourcing of collections.

Then there are those with hard luck, who make bad decisions or just simply can't get a break.

Richard and Sheila Friese both have degrees from Southern Illinois University, financed in part on student loans. They were also both discharged from the Navy after suffering injuries while serving stateside. Richard is learning disabled.

They have never been able to find high-paying jobs; now they both use wheelchairs to get around and suffer from ailments including arthritis, constant abdominal pain and chronic fatigue. They're currently fighting with the Veterans Administration over benefits; they also are wrangling with the Social Security Administration.

COLLECTOR: ''WE WILL NEVER GO AWAY''

They currently have no income to pay off their combined $141,000 loan balance. ISAC has seized $3,200 in tax refunds from Sheila, 37. Richard, 49, avoids the phone after constantly being called by collectors for Sallie Mae—one of whom he claims called him a ''low-life, S.O.B.'' Holler said Sallie Mae's collectors are trained in fair debt collection practices. ''That should not happen,'' she said.

If this were virtually any other debt, experts say, the couple would be able to discharge some or all of it through bankruptcy. But the Frieses, of Mundelein, are stuck. ''Our life has hit a brick wall,'' Richard said.

Davis said it might make sense for the federal government to ''write off'' debt if borrowers—particularly vets—have no hope of paying.

Pam, 58, of Dolton, graduated from Downstate SIU-Edwardsville in 1984, but spent time on welfare. She eventually defaulted on her loan after a dispute over the amount of the balance and monthly payments. Her $12,500 in loans has grown to $28,000. Experts say borrowers should continue to make payments during a dispute so the loan doesn't get out of control.

She has gone underground, blocking collectors' calls and running her own business so her wages can't be garnisheed. But when collectors do get through, they have a harsh message. ''When they call they say, 'We will never go away until you are dead.'''

UP, UP AND AWAY

Percent of students with loans
1993: less than 50 percent
2004: 66 percent
Average debt for graduating seniors
1993: $9,250
2004: $19,200
Number of graduating seniors with debt over $40,000
1993: 7,000

2004: 78,000

By Mr. BIDEN:

S. 1562. A bill to direct the Secretary of Energy to provide grants to States for the distribution of compact fluorescent lights; to the Committee on Energy and Natural Resources.

Mr. BIDEN. Mr. President, I rise today to introduce the Fluorescent Light Implementation Program to Save Americans Value and Energy, or FLIP-to-SAVE. This bill does something very simple to save Americans money and make us more energy efficient. It distributes compact fluorescent light-bulbs. We can save green two ways by changing our light-bulbs.

Compact fluorescent light-bulbs, or CFLs, are highly efficient light-bulbs that use less than a quarter of the energy of traditional incandescent bulbs. The FLIP-to-SAVE program will spend $50 million to increase public awareness of how CFLs save money and the environment and to distribute them to households across the Nation. It is modeled after a successful program in my home State of Delaware, which distributed 140,000 CFLs through public libraries. The FLIP-to-SAVE program will give States grants, to allow each State to develop a program that suits it best, though I expect many will be modeled after Delaware's system.

Through this program, we can expect to replace 16 million inefficient incandescent bulbs with CFLs, reducing total residential energy bills by over $60 million each year. That means the program ought to pay for itself in terms of savings to families in just one year. And that's without considering the environmental benefits.

By reducing our energy consumption in the equivalent of 127,000 homes, about the size of Buffalo, NY, we can help alleviate our energy dependence and reduce our greenhouse gas emissions. In fact, one equivalent CFL replacing a 60 watt incandescent will prevent 1000 pounds of carbon dioxide through reductions in coal-powered electricity. That is 1.1 million tons of carbon dioxide each year.

Energy efficiency is a key to our efforts to address climate change. There are many simple steps we can take to use less energy, and this is one. The FLIP-to-SAVE program will not just reduce carbon emissions, but also reduce electric bills for American families by more than its price tag. I ask that the text of the bill be printed in the RECORD.

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

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fluorescent Lightbulb Implementation Program to Save Americans Value and Energy''.

SEC. 2. DEFINITIONS.

In this Act:

(1) LOW-INCOME HOUSEHOLD.—The term ''low-income household'' means a household with a total annual household income that does not exceed the greater of—

(A) an amount equal to 150 percent of the poverty level of a State; or

(B) an amount equal to 60 percent of the State median income.

(2) MEDIUM BASE COMPACT FLUORESCENT LAMP.—The term ''medium base compact fluorescent lamp'' has the meaning given the term in section 321(30)(S) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(S)).

(3) POVERTY LEVEL.—The term ''poverty level'' has the meaning given the term in section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) STATE.—The term ''State'' means—

(A) a State; and

(B) the District of Columbia.

(6) STATE MEDIAN INCOME.—The term ''State median income'' has the meaning given the term in section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622).

SEC. 3. COMPACT FLUORESCENT LIGHTING GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program under which the Secretary shall provide grants to States for the distribution of medium base compact fluorescent lamps to households in the State.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section a State shall—

(1) submit to the Secretary an application, in such form and by such date as the Secretary may specify, that contains—

(A) a plan describing the means by which the State will use the grant funds; and

(B) such other information as the Secretary may require; and

(2) agree—

(A) to conduct public education activities to provide information on—

(i) the efficiency of using medium base compact fluorescent lamps; and

(ii) the cost savings associated with using medium base compact fluorescent lamps;

(B) to conduct outreach activities to ensure, to the maximum extent practicable, that households in the State are informed of the distribution of the medium base compact fluorescent lamps in the State;

(C) to coordinate activities under this section with similar and related Federal and State programs; and

(D) to comply with such other requirements as the Secretary may establish.

(c) PRIORITY.—A State that receives a grant under this section shall give priority to distributing medium base compact fluorescent lamps to low-income households in the State.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $50,000,000 to carry out this Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the amounts made available under this section shall supplement, not supplant, amounts provided under sections 361 through 364 of the Energy Policy and Conservation Act (42 U.S.C. 6321 through 6324).

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. DODD, Mr. OBAMA, Mr. LIEBERMAN, Ms. KLOBUCHAR, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. WYDEN, and Mrs. CLINTON):

S. 1563. A bill to require the disclosure of certain activities relating to the petroleum industry of Sudan, to increase the penalties for violations of sanctions provisions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, the suffering in Darfur and Sudan on the continent of Africa continues today as it has every day for too many years. I rise again to urge my colleagues that we must do more to end this crisis in Sudan. Two weeks ago, before the Memorial Day recess, I came to the floor to highlight some of the positive steps taken thus far by Congress, the Bush administration, the business community, and nonprofits to pressure the Sudanese regime to end this genocide. I said then and I will repeat today: We must do more.

In that speech I urged the President to follow through on what he promised to do in April at the Holocaust museum just down the street in Washington. To the President's credit, last week he took steps forward. He tightened United States economic sanctions on Sudan. He targeted sanctions against more individuals responsible for the violence, and he vowed to push for a strong new United Nations Security Council resolution that would further pressure the Sudanese regime. I applaud the President for his leadership. But I repeat, we must do more.

On March 28, as Treasury Secretary Paulson testified in front of the Appropriations subcommittee I chair, I asked the Secretary: What resources does the Treasury Department need to put more pressure on the Sudanese Government to end the genocide? His answer:

. . . We'd like the flexibility to charge a larger fine, because $50,000 may not be enough.

He was talking about civil and criminal penalties that violators of American sanctions on Sudan should face and the fact that the current penalties are not much of a deterrent. It was a concrete suggestion from the administration, and I agreed to accept his challenge. Based on that testimony, more discussions with the Treasury Department, the Securities and Exchange Commission, the State Department, and other agencies, we created the Sudan Disclosure and Enforcement Act which I introduce today. This act provides the administration and all Americans with more resources and tools and information so we can each do our part to end the genocide and bring peace to Darfur. It creates real consequences for those who support the Sudanese regime and, perhaps most importantly, it requires the administration and Congress to meet in 90 days to reassess the steps that need to be taken to help to end the crisis.

For my colleagues who are considering supporting this legislation, here is what the bill will do in specifics: first, express the sense of Congress that the international community should continue to bring pressure against the Government of Sudan to convince that regime that the world would not allow this crisis to continue; second, authorize greater resources for the Office of

Foreign Assets Control within the Department of the Treasury to strengthen its capabilities in tracking Sudanese economic activity and pursuing sanctions violators; third, require more detailed SEC disclosures by United States listed companies that operate in the Sudanese petroleum sector so investors can make informed decisions regarding divestment from these companies; fourth, dramatically increase civil and criminal penalties for violating American economic sanctions to create a true deterrent against transacting with barred Sudanese companies; fifth, require the administration to report on the effectiveness of the current sanctions regime and recommend other steps Congress could take to help end the crisis.

I am proud to introduce this legislation with bipartisan support. I particularly thank the ranking member of the Financial Services and General Government Appropriations Subcommittee, my friend and colleague Senator SAM BROWNBACK of Kansas, for all of his great work on this issue. I am pleased to be joined by all of the other original cosponsors as well: Senators DODD, who also chairs the Banking Committee and is a great ally; Senators KLOBUCHAR, MIKULSKI, BILL NELSON, OBAMA, and WYDEN.

I urge all my colleagues on both sides of the aisle to join this effort. As we move around our States and visit parts of the country, occasionally a person will come up after a meeting and say to me: Senator, what are you doing about Darfur? Didn't your country, America, declare a genocide? What are you doing?

Frankly, aside from speeches on the floor and an occasional resolution, bills of very little consequence, there hasn't been much to point to. I hope my colleagues who face that same question and worry that the response is so inadequate will take a good look at this legislation. I hope they will join me in cosponsoring this effort. We should pass this measure, work with our House colleagues and do the same, send this bill to the President. The President said in April:

> You who have survived evil know that the only way to defeat it is to look it in the face and not back down. It is evil that we are now seeing in Sudan, and we're not going to back down.

The President went on to say:

> No one who sees these pictures can doubt that genocide is the only word for what is happening in Darfur and that we have a moral obligation to stop it.

I completely agree with the President. It has been more than 2½ years since the President called what is taking place in Darfur, Sudan by its rightful name—genocide. Yet even as an estimated 200,000 to 400,000 people have been killed, even as over 2 million men, women, and tiny children have been forced from their homes by violence and killing, even as the violence continues as we meet in the safety and comfort of this great Nation, America and the entire international community have not done enough to help. We must do more. This bill moves in the right direction. It gives our Government the tools and the encouragement to act and act quickly.

I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sudan Disclosure and Enforcement Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) On July 22, 2004, the Senate passed Senate Concurrent Resolution 133, 108th Congress, and the House of Representatives passed House Concurrent Resolution 467, 108th Congress, both resolutions declaring that ''the atrocities unfolding in Darfur, Sudan, are genocide''.

(2) On September 9, 2004, President Bush declared that ''we have concluded that genocide has taken place in Darfur''.

(3) On June 30, 2005, President Bush affirmed that ''the violence in Darfur region is clearly genocide [and t]he human cost is beyond calculation''.

(4) On May 8, 2006, President Bush reaffirmed, ''We will call genocide by its rightful name, and we will stand up for the innocent until the peace of Darfur is secured.''.

(5) On November 20, 2006, the Presidential Special Envoy to Sudan, Andrew S. Natsios, stated in a briefing to members of the press, ''And there's a point—January 1st is either we see a change or we go to Plan B.''.

(6) On February 20, 2007, Special Envoy Natsios stated in an interview with the Council on Foreign Relations, ''We needed to send a message to the Sudanese government that we were no longer simply going to continue with the situation the way it's been the last four years, that there was a change. We are considering more aggressive measures should we make no progress in the humanitarian area, in the political negotiations, and in the implementation of Kofi Annan and Ban Ki-moon's plan to introduce . . . additional forces.''.

(7) On April 18, 2007, President Bush stated, ''It is evil we are now seeing in Sudan—and we're not going to back down.''.

(8) The Government of Sudan, as of the date of the introduction of this Act, has announced its willingness to accept 3,000 United Nations peacekeepers and their equipment, but has continued to obstruct the full-scale joint United Nations–African Union peacekeeping mission authorized under United Nations Security Council Resolution 1706 (2006) and to prevent sufficient humanitarian access to meet the urgent needs of the people of Darfur.

(9) Congress supports the objectives of a ''Plan B'' as outlined in the press and elsewhere to increase pressure on the Government of Sudan to accept a greatly expanded peacekeeping mission with a mandate to protect the people of Darfur.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that the President should—

(1) continue to work with other members of the international community, including the Permanent Members of the United Nations Security Council, the African Union, the European Union, the Arab League, and the Government of Sudan to facilitate the urgent deployment of a peacekeeping force as called for by United Nations Security Council Resolution 1706 (2006); and

(2) bring before the United Nations Security Council, and call for a vote on, a resolution requiring meaningful multilateral sanctions against the Government of Sudan in response to its acts of genocide against the people of Darfur and its continued refusal to allow the implementation of a peacekeeping force as called for by Resolution 1706.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Appropriations, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Financial Services of the House of Representatives.

(2) PERSON.—The term ''person'' means an individual, partnership, corporation, or other entity, including a government or an agency of a government.

(3) SUDAN.—

(A) SUDAN.—The term ''Sudan'' means the Republic of Sudan and any territory under the administration or control of the Government of Sudan.

(B) SOUTHERN SUDAN AND DESIGNATED AREAS.—The term ''Southern Sudan and designated areas'' means Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, or Darfur.

SEC. 5. DISCLOSURE TO THE SEC OF ACTIVITIES RELATING TO THE PETROLEUM INDUSTRY IN SUDAN.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

''(m) DISCLOSURE OF ACTIVITIES RELATING TO THE PETROLEUM INDUSTRY IN SUDAN.—

''(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this subsection, the Securities and Exchange Commission shall promulgate rules requiring any person described in paragraph (2) to disclose to the Securities and Exchange Commission—

''(A) activities described in paragraph (3) if such activities result in gross receipts to or total investments from such person of $1,000,000 or more a year; and

''(B) the geographic area within Sudan where such activities occurred, and specifically if such activities took place solely within Southern Sudan and designated areas.

''(2) PERSON DESCRIBED.—A person, as defined in paragraph (6)(C), is described in this paragraph if the person—

''(A) is an issuer of securities registered under section 12; and

''(B) either—

''(i) engages in or facilitates activities described in paragraph (3); or

''(ii) controls or is controlled by a person that engages in or facilitates activities described in paragraph (3).

''(3) ACTIVITIES DESCRIBED.—An activity described in this paragraph is the exploration, development, extraction, processing, exportation, or sale of petroleum products produced in Sudan.

''(4) WAIVER.—The President may waive the disclosure requirements described in paragraph (1) for periods not to exceed 1 year if the President—

''(A) determines that such a waiver is in the national interest of the United States; and

''(B) not later than 7 days before granting the waiver, reports to the appropriate congressional committees regarding the intention of the President to waive the disclosure requirements described in paragraph (1) and the reasons the waiver is in the national interest of the United States.

''(5) TERMINATION OF DISCLOSURE REQUIREMENTS.—The disclosure requirements described in paragraph (1) shall terminate if the Secretary of State—

''(A) determines that the Government of Sudan no longer provides support for acts of international terrorism for purposes of—

''(i) section 40 of the Arms Export Control Act (22 U.S.C. 2780);

''(ii) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); and

''(iii) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); and

''(B) certifies to the appropriate congressional committees that the Government of Sudan has demonstrated significant improvement in protecting the civilian population of Darfur, such as by allowing a substantial United Nations–African Union peacekeeping mission with the mandate and means to protect civilians and allow for the safe return of persons displaced by the violence in Darfur.

''(6) DEFINITIONS.—In this subsection:

''(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(i) the Committee on Appropriations, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(ii) the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Financial Services of the House of Representatives.

''(B) CONTROL.—The term 'control' means—

''(i) in the case of a corporation, to hold at least 50 percent (by vote or value) of the capital structure of the corporation; and

''(ii) in the case of any other entity, to hold interests representing at least 50 percent of the capital structure of the entity.

''(C) IS CONTROLLED BY.—The term 'is controlled by' means—

''(i) in the case of a corporation, to have at least 50 percent (by vote or value) of the capital structure of the corporation held by another person; and

''(ii) in the case of any other entity, to have interests representing at least 50 percent of the capital structure of the entity held by another person.

''(D) FOREIGN PERSON.—The term 'foreign person' means a person—

''(i) in the case of an individual, who is an alien; or

''(ii) in the case of a partnership, corporation, or other entity, that is organized under the laws of a foreign country or that has its principal place of business in a foreign country.

''(E) PERSON.—

''(i) IN GENERAL.—The term 'person' means an individual, partnership, corporation, or other entity, including a government or an agency of a government.

''(ii) EXCEPTION.—The term 'person' does not include—

''(I) any person engaging solely in transactions or activities in Sudan that are authorized or exempted pursuant to the Sudanese Sanctions Regulations (part 538 of title 31, Code of Federal Regulations);

''(II) foreign nongovernmental organizations (except agencies of the Government of Sudan) that—

''(aa) have consultative status with the United Nations Economic and Social Council; or

''(bb) have been accredited by a department or specialized agency of the United Nations; or

''(III) a foreign person whose business activities in Sudan are strictly limited to providing goods and services that are—

''(aa) intended to relieve human suffering;

''(bb) intended to promote welfare, health, religious, or spiritual activities;

''(cc) used for educational or humanitarian purposes;

''(dd) used for journalistic activities; or

''(ee) used for such other purposes as the Secretary of State may determine serve the foreign policy interests of the United States.

''(F) SUDAN.—

''(i) SUDAN.—The term 'Sudan' means the Republic of Sudan and any territory under the administration or control of the Government of Sudan.

''(ii) SOUTHERN SUDAN AND DESIGNATED AREAS.—The term 'Southern Sudan and designated areas' means Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, or Darfur.''.

SEC. 6. INCREASED PENALTIES FOR VIOLATIONS OF IEEPA.

(a) IN GENERAL.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

''SEC. 206. PENALTIES.

''(a) UNLAWFUL ACTS.—It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this title.

''(b) CIVIL PENALTY.—A civil penalty may be imposed on any person who commits an unlawful act described in subsection (a) in an amount not to exceed the greater of—

''(1) $250,000; or

''(2) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

''(c) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to violations described in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) with respect to which enforcement action is pending or commenced on or after the date of the enactment of this Act.

SEC. 7. REPORT ON AND PUBLIC DISCLOSURE OF ACTIVITIES IN THE PETROLEUM INDUSTRY OF SUDAN.

(a) REPORT ON ACTIVITIES RELATING TO THE PETROLEUM INDUSTRY OF SUDAN.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Energy, and the Director of National Intelligence, shall prepare and submit to the appropriate congressional committees a written report on the overall impact of economic sanctions on the Government of Sudan and the crisis in Darfur.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall include—

(A) the name of persons identified by the Office of Foreign Assets Control as specially designated nationals; and

(B) the economic and political impact of sanctions on the Government of Sudan.

(3) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified annex relating to the assessment under paragraph (2)(B).

(b) BRIEFING ON REPORT.—Not later than 14 days after submitting the report required by subsection (a), the Secretary of the Treasury, the Secretary of State, the Secretary of Energy, the Director of National Intelligence, and representatives of the Securities and Exchange Commission shall brief the appropriate congressional committees on the contents of the report.

(c) DISCLOSURE ON SEC WEBSITE.—

(1) IN GENERAL.—Not later than 14 days after promulgating the rules required by section 13(m) of the Securities Exchange Act of 1934, as added by section 5, the Securities and Exchange Commission shall make available on its website, in an easily accessible and searchable format, the information collected pursuant to the disclosure requirements of such section 13(m), including—

(A) the names of persons that made disclosures under such section 13(m);

(B) the specific activities related to the petroleum industry of Sudan in which such persons engaged; and

(C) the geographic area within Sudan where such activities occurred, and specifically if such activities took place solely within Southern Sudan and designated areas.

(2) MAINTENANCE.—The Securities and Exchange Commission shall maintain and update regularly the information on the website of the Commission under paragraph (1).

(d) GOVERNMENT PROCUREMENT CONTRACTS.—

(1) IN GENERAL.—Not later than 45 days after the submission of the report required by subsection (a), the Administrator of General Services shall determine whether the United States Government has in effect a contract for the procurement of goods or services with any person identified in the report required by subsection (a).

(2) REPORT.—If the Administrator determines that the United States Government has in effect a contract for the procurement of goods or services with a person identified in the report required by subsection (a), the Administrator shall submit to the appropriate congressional committees a report—

(A) naming each person identified in the report required by subsection (a);

(B) the nature of the contract; and

(C) the dollar amount of the contract.

SEC. 8. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OFAC.

(a) IN GENERAL.—There are authorized to be appropriated $2,000,000 to the Office of Foreign Assets Control for fiscal year 2008, to support intelligence gathering, licensing, compliance, and administrative activities associated with the enforcement of sanctions against Sudan and persons operating in Sudan.

(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to the authority of subsection (a) shall be used to supplement and not supplant other amounts authorized to be appropriated for the Office of Foreign Assets Control.

SEC. 9. NOTIFICATION OF TERMINATION OF SANCTIONS.

(a) IN GENERAL.—Not later than 15 days after the date on which any sanction described in subsection (b) is terminated, the President shall publish in the Federal Register notice that such sanction has been terminated.

(b) SANCTIONS DESCRIBED.—A sanction described in this subsection is a sanction imposed pursuant to—

(1) the Darfur Peace and Accountability Act of 2006 (Public Law 109–344; 50 U.S.C. 1701 note);

(2) the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note);

(3) the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note);

(4) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(5) chapter 5 of title 31, Code of Federal Regulations; or

(6) any other provision of law, regulation, or executive order relating to Sudan.

SEC. 10. REPEAL.

Section 6305 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is repealed.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 1565. A bill to provide for the transfer of naval vessels to certain foreign recipients; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today, Senator LUGAR and I are introducing the Naval Vessel Transfer Act of 2007, a bill to permit the transfer of certain U.S. Navy vessels to particular foreign countries. All of the proposed ship transfer authorizations have been requested by the U.S. Navy, with the approval of the Office of Management and Budget.

Pursuant to section 824(b) of the National Defense Authorization Act for Fiscal Year 1994, as amended, 10 U.S.C. 7307(a), a naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation unless the disposition of that vessel is approved by law enacted after August 5, 1974. The bill we are introducing today would provide that required approval for eight transfers: two guided missile frigates and two minehunter coastal ships for Turkey; two minehunter coastal ships for Lithuania; and two minehunter coastal ships for Taiwan.

The bill also contains provisions that are traditionally included in ship transfer bills, relating to transfer costs and repair and refurbishment of the ships, and exempting the value of a vessel transferred on a grant basis from the aggregate value of excess defense articles in a given fiscal year.

The authority provided by this bill would expire 2 years after the date of enactment of the bill.

Similar legislation was passed by the Senate last year, but was objected to in the House of Representatives because of concern regarding the proposal to transfer minehunter coastal ships. That issue was also raised by Members of the Senate Armed Services Committee, but members of that committee were persuaded by the Executive branch that the transfers would not degrade U.S. Navy capabilities. We invite interested colleagues to let us know if there is any residual concern among Members of the Senate, so that we can arrange for the Executive branch to brief members and determine if there is any objection to expeditious passage of this bill.

Finally, the Department of Defense has provided the following information on this bill:

This bill would authorize the President to grant transfer five excess naval vessels to Turkey and Lithuania and to sell three excess naval vessels to Taiwan and Turkey.

These proposed transfers would improve the United States' political and military relationships with close allies. They would support strategic engagement goals and regional security cooperation objectives. Active use of former naval vessels by coalition forces in support of regional priorities is more advantageous than retaining vessels in the Navy's inactive fleet and disposing of them by scrapping or another method.

The United States would incur no costs in transferring these naval vessels. The recipients would be responsible for all costs associated with the transfers, including maintenance, repairs, training, and fleet turnover costs.

This bill does not alter the effect of the Toxic Substances Control Act, or any other law, with regard to their applicability to the transfer of ships by the United States to foreign countries for military or humanitarian use. The laws and regulations that apply today would apply in the same manner if this bill were enacted.

The Department of Defense estimates that the sale of these vessels may net the United States $52.7 million in fiscal year 2008.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no ojection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Naval Vessel Transfer Act of 2007''.

SEC. 2. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) TURKEY.—To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates GEORGE PHILIP (FFG–12) and SIDES (FFG–14); and

(B) the OSPREY class minehunter coastal ship BLACKHAWK (MHC–58).

(2) LITHUANIA.—To the Government of Lithuania, the OSPREY class minehunter coastal ships CORMORANT (MHC–57) and KINGFISHER (MHC–56).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) TAIWAN.—To the Taipei Economic and Cultural Representative Office of the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a))), the OSPREY class minehunter coastal ships ORIOLE (MHC–55) and FALCON (MHC–59).

(2) TURKEY.—To the Government of Turkey, the OSPREY class minehunter coastal ship SHRIKE (MHC–62).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) or (c) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient.

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of the recipient performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

By Mr. FEINGOLD:

S. 1569. A bill to establish a pilot program on the provision of legal services to assist veterans and members of the Armed Forces receive health care, benefits and services, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing the Veterans Advocacy Act of 2007. This bill would create a grant program for organizations providing pro bono legal representation to servicemembers and veterans to ensure that they receive the health care and benefits to which they are entitled.

The men and women of the Armed Services have served this Nation honorably and deserve the best health care and benefits available. However, as recent revelations about the extent of bureaucratic delays at the Walter Reed Army Medical Center demonstrate, these brave individuals face a series of hurdles as they navigate the health care and disability compensation processes. Many of them are forced to turn to their representatives in Congress for help cutting through the red tape. I have heard from many military personnel and veterans who are frustrated with the system or unaware of Federal health care and other benefits for which they may be eligible. I regret that the system too often makes the burden of proving that a condition is related to military service nearly insurmountable. Our men and women in uniform deserve the benefit of the doubt, and should not have to fight the Department of Defense or the Department of Veterans Affairs for benefits that they have earned through their service to our Nation.

Numerous reports have detailed the range of administrative and legal hurdles injured servicemembers will face when they return home. Service members returning with unprecedented rates of post traumatic stress disorder, PTSD, and traumatic brain injury, TBI, will struggle to get the medical records they need to file benefits claims. Those with severe TBI that does not show up on brain scans will have an even harder time establishing that they need compensation. Those with profound TBI may be prematurely relegated to care in a nursing home when, with proper assistance, they may be fully capable of living independent lives in the community. The Government Accountability Office reported

that over 75 percent of servicemembers who screen positive for PTSD will not be referred to a mental health professional. Members of the Guard and Reserves face additional hurdles to gain access to military doctors. This is unacceptable.

I commend my colleagues for their support of increased funding for the military and veterans' health care systems in the 2007 emergency supplemental. However, I am concerned that unless veterans have independent advocates to ensure that they are receiving top notch care and that they are aware of the benefits to which they are entitled, these additional funds may be mismanaged. Last November, the Government Accountability Office reported that for the last two years the Department of Veterans Affairs has not expended all the funds allocated for mental health initiatives. My bill would ensure that service members and veterans who have trouble accessing the care to which they are entitled will have an advocate outside the chain of command who can negotiate with the Departments to ensure proper care.

In addition to helping ensure that service members and veterans receive top notch care, my bill would help service members and veterans overcome legal barriers to obtaining benefits. During the Veterans' Affairs Committee's hearing on benefits legislation, Meredith Beck of the Wounded Warrior Project summarized the problem as follows: ''In many of the cases we have seen, the creation of new benefits wasn't needed to aid the service member, rather, the wounded warrior just needed to have the existing benefits systems better explained and untangled in order to understand what was available to them.''

Fortunately, service members and veterans benefit from the services of a nationwide system of veterans and military service organizations. However, the system is simply overwhelmed. It will be further inundated when the over 170,000 servicemembers deployed in Iraq and Afghanistan return home. I want to be clear that the purpose of this legislation is to supplement the existing network of advocates to ease the caseload of overburdened service officers and allow them to spend more time per case helping veterans and service members.

Congress has a responsibility to simplify the system and ensure that it gives service members and veterans the benefit of the doubt when they seek assistance for service-connected disabilities. It is my hope that the majority of veterans will not need legal representation. But the reality is that many veterans face unnecessary delays and appeals of legitimate compensation claims that could be avoided if there were enough advocates to ensure that every veteran's case is carefully developed from the beginning. Several judges of the Court of Appeals for Veterans Claims have described the importance of ensuring that veterans have legal representation throughout the claim process. Judge Holdaway summarized the need as follows:

If you get lawyers involved at the beginning, you can focus in on what is this case about. I think you would get better records, you would narrow the issue, there would be screening . . . I think if we had lawyers involved at the beginning of these cases, it would be the single most fundamental change for the better that this system could have.

While the need for legal representation in complicated cases is clear, I do not believe that veterans should have to pay for legal representation just to get the benefits they earned through their service. I have been troubled when I have heard that service members are seeking expensive legal assistance to help them overcome daunting administrative and legal hurdles. Fortunately, there are legal service organizations and attorneys who are willing to provide assistance to these service members and veterans free of charge. The purpose of this bill is to help these organizations get the training they need to help veterans and service members.

The bill would establish a pilot program of one-year grants to organizations that have experience serving veterans or persons with disabilities. The Veterans Administration will be charged with appointing a committee to disburse the grants. The committee shall be composed of veterans and military service officers, veterans and disability legal service attorneys, and representatives of the Department of Veterans Affairs employees and the Department of Defense. The Secretary of Veterans Affairs will be required to submit a report to Congress on the number of individuals served and the kinds of assistance they received as a result of the pilot program.

In order to avoid adding to our country's sizable debt, the $1 million cost of this program is taken from the $3 billion appropriated to the defense health program by the 2008 supplemental spending bill. The grant program will help ensure that these funds are spent wisely.

Veterans and military service organizations that currently employ attorneys will be eligible to receive the grants either to provide legal services at no charge or to provide training to other pro bono attorneys. The bill will also help servicemembers and veterans access the services of the federally funded and mandated protection and advocacy system for persons with disabilities. This system has lawyers in every state who are trained to help people with disabilities obtain the benefits, health care and services they need to live independent lives. These attorneys are uniquely qualified to, for example, ensure that veterans with PTSD are properly diagnosed and treated and to prevent those with TBI from being placed in nursing homes when they are capable of living in the community. Many veterans have been seeking out their assistance but the system is currently overwhelmed. I have included a description of the assistance that the protection and advocacy systems have been providing veterans. This bill would help foster collaboration between lawyers with expertise in veterans' law and those with expertise in disability law.

I commend my colleagues who have offered bills to increase funding for the care of service members and veterans, to expand necessary benefits and to ensure that our military and veterans health care systems offer the best care available. In order to ensure that service members and veterans are able to capitalize on these important reforms, they need independent advocates who can help them cut through the red tape. My bill would help expand the cadre of experienced advocates who will do just that. The bill has been endorsed by the National Organization of Veterans Advocates, the Vietnam Veterans of America and the Protection and Advocacy System's National Disability Rights Network.

I ask unanimous consent that the text of the bill and supporting material be printed in the RECORD.

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

S. 1569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Advocacy Act of 2007''.

SEC. 2. PILOT PROGRAM ON PROVISION OF LEGAL ASSISTANCE TO ASSIST VETERANS AND MEMBERS OF THE ARMED FORCES RECEIVE HEALTH CARE, BENEFITS, AND SERVICES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of utilizing eligible entities to provide legal services to assist veterans and members of the Armed Forces in applying for and receiving health care, benefits, and services.

(2) CONSULTATION.—The Secretary of Veterans Affairs shall carry out the pilot program in consultation with the Secretary of Defense.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out the pilot program through the award of grants to eligible entities selected by the panel established in accordance with subsection (d)(1) for—

(A) the provision of legal services at no cost to members of the Armed Forces and veterans as described in subsection (a)(1); or

(B) the provision of legal training to attorneys of eligible entities on the health and benefits programs of the Department of Defense and the Department of Veterans Affairs to facilitate the provision of legal services described in subsection (a)(1).

(2) AWARDING GRANTS.—Grants under this subsection shall be awarded to eligible entities selected pursuant to subsection (d) not later than 180 days after the date of the enactment of this Act.

(3) NUMBER OF GRANTS.—

(A) IN GENERAL.—The Secretary shall award 10 grants under the pilot program.

(B) STATE-DESIGNATED PROTECTION AND ADVOCACY SYSTEMS.—Not less than five of the grants awarded under the pilot program

shall be awarded to State-designated protection and advocacy systems.

(4) GRANT AMOUNT.—The amount of each grant awarded under the pilot program shall be determined by the selection panel described in subsection (d)(1), except that each such grant may not be awarded in an amount that—

(A) exceeds $100,000; or

(B) is less than $25,000.

(5) DURATION.—The duration of any grant awarded under the pilot program may not exceed one year.

(6) AVOIDANCE OF FRIVOLOUS BENEFIT CLAIMS.—An eligible entity that receives a grant under this subsection shall make reasonable efforts to avoid representing veterans and members of the Armed Forces with respect to frivolous benefits claims.

(c) ELIGIBLE ENTITIES.—For purposes of this subsection, an eligible entity is any entity or organization, including a State-designated protection and advocacy systems, that—

(1) is not part of the Department of Veterans Affairs or the Department of Defense; and

(2) provides legal services by licensed attorneys with experience assisting veterans, members of the Armed Forces, or persons with disabilities.

(d) SELECTION OF GRANT RECIPIENTS.—

(1) SELECTION BY PANEL.—

(A) IN GENERAL.—Each application submitted under paragraph (2) shall be evaluated by a panel appointed by the Secretary for purposes of the pilot program. The panel shall select eligible entities for receipt of grants under subsection (b) from among the applications so evaluated.

(B) MEMBERSHIP OF PANEL.—Members of the panel shall be appointed in equal numbers from among individuals as follows:

(i) Officers and employees of the Department of Veterans Affairs.

(ii) With the approval of the Secretary of Defense, officers and employees of the Department of Defense.

(iii) Representatives of veterans service organizations.

(iv) Representatives of organizations that provide services to members of the Armed Forces.

(v) Attorneys that represent veterans.

(vi) Attorneys employed by a State-designated protection and advocacy system.

(2) APPLICATION.—An eligible entity seeking a grant under the pilot program shall submit to the Secretary of Veterans Affairs an application therefor in such form and in such manner as the Secretary considers appropriate.

(3) ELEMENTS.—Each application submitted under paragraph (2) shall include the following:

(A) In the case of an eligible entity applying for a grant under subsection (b)(1)(A), the following:

(i) A description of the population of members of the Armed Forces and veterans to be provided assistance.

(ii) A description of the outreach to be conducted by the eligible entity concerned to notify members of the Armed Forces and veterans of the availability of such assistance.

(B) In the case of an eligible entity applying for a grant under subsection (b)(1)(B), the following:

(i) A description of the population of attorneys to be provided training.

(ii) A description of the outreach to be conducted by the eligible entity concerned to notify attorneys of the availability of such training.

(C) In the case of an eligible entity applying for a grant under subparagraphs (A) and (B) of subsection (b)(1), the elements described in subparagraphs (A) and (B) of this paragraph.

(e) REPORT.—Not later than one year after the date described in subsection (b)(2), the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the pilot program required by subsection (a), including the following:

(1) The number of veterans and members of the Armed Forces that received assistance or services from such pilot program.

(2) A description of the assistance and services provided as part of such pilot program.

(f) DEFINITIONS.—In this section:

(1) STATE-DESIGNATED PROTECTION AND ADVOCACY SYSTEM.—The term ''State-designated protection and advocacy system'' means a system established in a State to protect the legal and human rights of individuals with developmental disabilities in accordance with subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(2) VETERANS SERVICE ORGANIZATION.—The term ''veterans service organization'' means any organization organized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

(g) FUNDING.—Of amounts appropriated for ''Defense Health Program'' in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), $1,000,000 shall be available for fiscal year 2008 to carry out the provisions of this section and not for the purposes for which appropriated by such Act. Any amount made available by this subsection shall remain available without fiscal year limitation.

EXAMPLES OF THE PROTECTION AND ADVOCACY (P&A) SYSTEM'S INTERACTION WITH VETERANS

ALASKA

The Alaska P&A has been visiting the VA Domiciliary, a 50-bed domiciliary residential rehabilitation treatment program for homeless veterans, to provide information on their services and has begun to provide advocacy and services to a number of veterans with disabilities. They have been averaging 15–20 appointments at the facility a month. The advocacy assistance the Alaska P&A provided has encompassed activities directed at obtaining and/or maintaining housing, securing government benefits, SSI, Medicaid, and working with individuals seeking employment accommodations.

The Alaska P&A has also developed and disseminated a resource guide about educational supports for people with Traumatic Brain Injury, TBI.

ARIZONA

The Arizona P&A has partnered with a case manager in a veterans group to work with returning veterans with disabilities and help them obtain the services and benefits they deserve. The Arizona P&A has worked to ensure voting access for veterans with disabilities in Arizona.

The Arizona P&A also cosponsored a day-long conference in collaboration with the Governor's Council on Spinal Cord and Head Injuries on TBI to provide information on benefits and services individuals, including veterans, who have suffered a TBI are eligible to receive.

CALIFORNIA

A peer/self advocacy coordinator in the San Diego P&A office holds weekly training and information sessions with veterans. One of the sessions occurs at the P&A's office while the other takes place at the VA facility.

The California P&A represented residents of a veteran's hospital who had been denied access to voter registration services. The issue arose after it was learned that a VA Medical Center was refusing to allow advocates for people with disabilities to conduct voter registration on the campus. In addition, some residents were not being permitted to register, regardless of their competence. Ultimately, the VA reversed its position and allowed voter registration on the medical campus.

COLORADO

The Colorado P&A is coordinating with an Army caseworker to help veterans with disabilities make the transition back into the community. They also offered voter registration at the Denver Veterans Affairs Medical Center to help ensure returning veterans maintain their right to vote.

GEORGIA

The Georgia P&A has been working with veterans with disabilities who are encountering problems returning to work. They have also reached out to the people running a program demonstrating how veterans with poly-trauma, TBI, Post Traumatic Stress Disorder, PTSD, and other mental health issues can return to work and how the P&A system could be a great resource for these veterans.

HAWAII

The Hawaii P&A has been a featured speaker at the military families Children's Community Council on Oahu and continues to assist an ever growing number of military families who have children with special education needs. The Hawaii P&A has also done outreach to a wide group of military service programs on the island regarding benefits and services they can provide to veterans who have suffered a TBI. They have also formed a collaboration with the Christopher Reeves Foundation to help with the Foundation's work with returning veterans from Iraq that have been diagnosed with a TBI.

ILLINOIS

The Illinois P&A has provided training and information to VA staff and also met with VA hospital social workers and administrative staff to provide training and information to help veterans with disabilities make the transition from VA care to the community.

The Illinois P&A has also helped a veteran who was in a Veteran's Home integrate into the community following a stroke. The Illinois P&A worked in conjunction with the local center for independent living to assist the client in finding his own apartment and getting a personal care attendant to address his support needs.

IOWA

The Iowa P&A has received a number of individual contacts from veterans in Iowa's VA Hospitals seeking help accessing veterans' benefits and services as well as community programs. Their staff has encountered a variety of challenges while attempting to meet directly with a client in a VA hospital.

The Iowa P&A also worked with an individual who had concerns that if he returned to work that he would lose his Social Security benefits. The Protection and Advocacy for Beneficiaries of Social Security, PABSS, advocate explained that he had options available without immeadiately losing his benefits and he was eventually able to reenter the workforce in a situation he was comfortable with.

KANSAS

The Kansas P&A has been providing information and training to the staff and veterans at the Kansas VA facilities and is working on outreach to the Kansas veterans

groups to provide information and assistance to help veterans with disabilities make the transition back to the community.

The Kansas P&A also worked to help a veteran successfully move from a VA nursing facility back into the community. Additionally, they are helping a veteran who was authorized by the VA to have a surgery at a university medical center. He suffered complications from the surgery which required additional hospitalization and the P&A is working to get the VA to pay for the follow†up treatments related to the complications.

KENTUCKY

The Kentucky P&A has done outreach to the Kentucky Veterans Affairs Office, the Joint Executive Council of Veterans, as well as to all the state's Veterans Centers, and all the state chapters of the Disabled American Veterans.

LOUISIANA

The Louisiana P&A helped a client successfully appeal a denial from the VA to pay a private hospital for in-patient mental health treatment. They then had to represent the same client when the hospital tried to collect the remaining balance. The Louisiana P&A was able to show that the hospital is barred from collecting additional funds from a patient whose care was paid for under a VA contract. With the help of the Louisiana P&A, the veteran was able to receive appropriate mental health services and afforded protection from the hospital's illegal collection efforts.

MAINE

The Maine P&A has had meetings with the Director of the State VA Services in order to identify benefits and services available to veterans with disabilities and their families after the veteran is discharged from the VA. They have also provided trainings and information to National Guard units in the State about the resources that are available for veterans with disabilities.

MASSACHUSETTS

The Massachusetts P&A had a case of a former marine sergeant who had suffered partial hemiparesis and a TBI. This affected his ability to speak and forced him to communicate with gestures and a special set of picture cards. This type of communication created problems and misunderstanding at his job, and his eventual termination. The Massachusetts P&A was able to work with his employer to find him another job within the company.

MICHIGAN

The Michigan P&A has been working on a variety of issues involving veterans, including access to polling facilities and voting booths, public transportation systems, and community projects. They also worked to address community reintegration issues faced by a veteran in a VA facility far from his home when he became eligible for discharge. The P&A's work allowed the veteran to return to his home community.

MINNESOTA

The Minnesota P&A has held trainings with the National Alliance on Mental Illness, NAMI, at VA hospitals in the State concerning benefits and services for veterans with disabilities. They have also been contacted by some veterans with disabilities to help get the benefits and services they require. For example, the Minnesota P&A assisted a veteran with a TBI move from a State hospital back to her home with needed community supports.

MISSOURI

The Missouri P&A worked with a man who had spent much of his adult life in the military, but was discharged after suffering a TBI. This veteran needed help obtaining services in order to build a new career. The Missouri P&A helped him identify affordable, accessible housing and arranged accommodations from the school, VA and vocational rehabilitation as he embarks on training for his new career.

MONTANA

The Montana P&A had a veteran with a TBI who needed assistance getting the schools he was attending for his degree to better coordinate the Montana Vocational Rehabilitation and VA benefits he was receiving in order to afford his education. The Montana P&A was able to work out an agreement so that the institutions accepted payments from both sources so the veteran did not have any out-of-pocket cost for his tuition.

NEBRASKA

The Nebraska P&A has initiated contact with the County Veteran Service Officers group in Nebraska and the local VFW and American Legion representatives. They recently made a presentation at the County Veteran Service Officers group's annual meeting about the P&A system. Their goal is to not supplant their work assisting veterans within the VA system but to be a resource for veterans with disabilities who are returning to their communities and their families.

NEVADA

The Nevada P&A has been providing information and training to veterans family support groups and an organization working with homeless veterans on the services and benefits available for veterans with disabilities.

NEW HAMPSHIRE

The New Hampshire P&A has attempted to carry out the external advocacy activities as set forth in the VA handbook, but so far has been unable to do so because of resistance of the VA staff.

NEW JERSEY

The New Jersey P&A has been working with two veterans on employment related issues. One is an employment discrimination complaint, and the other one is a complaint against the Division of Vocational Rehabilitative Services within the New Jersey Department of Labor for services needed. The New Jersey P&A has also been holding trainings and providing information to VA hospitals in the State as well as family support groups and the National Guard.

NEW YORK

The New York P&A has been working with the New York State Department of Health to identify and address the needs of veterans returning from Iraq and Afghanistan who have brain injuries and their families. They have also been working to create a primary advisory board comprised of veterans groups and health groups to help address the needs of veterans with disabilities. Finally, the New York P&A has taken calls and emails from veterans and their families to provide them assistance through every P&A program.

For example, the New York P&A represented a veteran in a disability claim on referral from the Clinton County Veteran Services office. Among other things, this veteran had cognitive problems caused by a buildup of fluid on his brain. Through the New York P&A's work, his claim was allowed after a hearing.

NORTH DAKOTA

The North Dakota P&A has worked with the North Dakota Legislature on state legislation to help veterans with disabilities, and has held a Statewide training session to learn more about the VA system as well as provide information on community services available to returning veterans with disabilities.

NORTHERN MARIANAS

The Northern Marianas P&A has been working closely with the Office of Military Liaison on training and technical assistance to help address the needs of returning veterans with disabilities.

OHIO

The Ohio P&A represented a 44-year-old veteran who, while in treatment for mental illness, was threatened with eviction by his HUD-subsidized landlord. Compounding the problem, the VA withdrew the client's community services funding for a home health aide, which the client required. The Ohio P&A worked with the client's HUD landlord, multiple provider agencies, the VA community services nurse, VA case workers, the VA ombudsman, the VA psychologist, and the VA attorney regarding client's service needs and his legal rights related to his disability. Ultimately, the client's landlord agreed to withdraw eviction threat and the VA restored funding for a home health aide.

PENNSYLVANIA

The Pennsylvania Protection and Advocacy system organized a Brain Injury Awareness Day at the Lebanon and Coatesville Veterans Administration Medical Centers for staff and veterans. Following the success of this event, the Pennsylvania P&A was invited back for a day of in-service staff training and technical assistance at the Lebanon facility.

At that time, the Pennsylvania P&A hopes to meet the veterans and see who would like advocacy assistance. They feel this is especially needed because VA staff and the veterans need to be connected with and aware of the community-based services they can access and use.

The Pennsylvania P&A has also successfully worked for a veteran who had suffered a service-connected brain injury which left him unable to walk or perform activities of daily living on his own. The VA ratings board contested that he is 100 percent disabled, and refused to offer special compensation. The Pennsylvania P&A helped the veteran obtain the necessary documentation to connect the brain injury to his physical disabilities so that special compensation could be provided.

RHODE ISLAND

The Rhode Island P&A has formed an internal veterans' outreach work group which has met with individual veterans organizations in the State and has participated in the State's ''Veterans Task Force of Rhode Island'', providing information and training on the benefits and services available to veterans with disabilities.

SOUTH CAROLINA

The South Carolina P&A has provided training and technical assistance to administrative staff at the Richard M. Campbell Veterans Nursing Home in Anderson, SC. The training focused on the legal rights of people with disabilities, including veterans.

SOUTH DAKOTA

The South Dakota P&A has been establishing contact with VA medical centers, outpatient clinics, and a VA sponsored support group for veterans to provide information about available resources. They also participate in the Veterans' Services Officers' Congressional Forum. The South Dakota P&A shares the same concern that the Pennsylvania P&A has that beyond its health care services the VA does not provide a lot of community-based services other than vocational. As a result, they have been working with the patient advocate at the VA hospital to help veterans with disabilities make

the transition into long-term care and housing following discharge from the VA hospital.

TEXAS

The Texas P&A has been working on several cases for veterans with disabilities to access VA services. One of the cases was a veteran living in a State hospital that had her lump-sum VA benefits unlawfully taken by the hospital without her knowledge or consent and applied retroactively to pay for her support, maintenance, and treatment while she was at the state hospital. The Texas P&A was able to recover these funds and arrange for a new representative payee for the client.

UTAH

The Utah P&A has been providing training and information at the VA facilities in Utah on the resources, services, and benefits that exist for veterans that have suffered a TBI.

VERMONT

The Vermont P&A has held trainings at the White River Junction VA facility for staff and veterans. They are also in the midst of presenting veterans, National Guard, and family groups information about TBI resources at four sites around the State. They have also collaborated with personnel at the VA to support a project to identify veterans who are inmates who might qualify for benefits upon release.

They have also recently been contacted about three issues they are pursuing on behalf of veterans with disabilities. One is a veteran in the psychiatric unit at Rutland Regional Medical Center who had been turned down for VA care. Another case is a veteran at the VA who had concerns about his medications. The third case is a woman veteran from the Northeast Kingdom who has a mental health issue, referred from the Mental Health unit at the VA.

VIRGINIA

The Virginia P&A, to the extent they are being allowed to, are providing education and advocacy services at Virginia's VA facilities.

WASHINGTON

The Washington Protection & Advocacy System has investigated allegations of abuse and neglect at a veterans' inpatient mental health facility, advocated for veterans with Post-Traumatic Stress Disorder to maintain vital mental health services, and assisted veterans seeking access to outpatient VA mental health services. They have also advocated for veterans regarding assistive technology and Tricare coverage. In addition, they have provided information and referrals to veterans on issues of housing, access to medical care, employment, guardianship, and the VA appeal and grievance procedures.

One of those cases was a veteran who received physical and mental health services from the VA but wanted to be able to choose who his mental health provider would be. He was initially told that if he changed mental health providers, he would lose his other healthcare services. The Washington P&A provided the veteran with self-advocacy strategies about how to request his preferred service, how to go through the chain of command, and how to utilize his supporters. Ultimately, the veteran was allowed to change his mental health provider without threatening his other healthcare services.

In 2005, the Washington P&A system created a project to conduct outreach to underserved veterans with disabilities. This project focused on issues of access to benefits and assistance, housing, employment, and assistive technology issues. They have also attended a variety of assistance fairs conducted by the Washington State Department of Veterans Affairs and worked with a number of veterans' service organizations and the VA on staff training sessions and outreach to veterans with disabilities.

WISCONSIN

The Wisconsin P&A has provided training and information to the State Veterans Administration, as well as veterans with disabilities. These trainings address the barriers veterans with disabilities, who also receive Social Security benefits, face, as well as suggest possible solutions.

WYOMING

The Wyoming P&A has been working with the National Guard State Family Assistance Center to address the needs of returning National Guard members with disabilities. They also attend the Inter-Service Family Assistance Committee meeting where they gave presentation on P&A services and distributed information packets. The Wyoming P&A has also been helping military families at bases located in Wyoming with matters related to special education.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. HAGEL, and Mr. NELSON of Nebraska):

S. 1571. A bill to reform the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to join my colleagues, Senators BINGAMAN, HAGEL, and NELSON of Nebraska to introduce the bipartisan Rural Aviation Improvement Act. I am proud to join my colleagues, each one a steadfast and resolute guardian of commercial aviation service to all communities, particularly rural areas that would otherwise be deprived of any air service.

I have always believed that reliable air service in our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. All of us who come from rural States know how critical aviation is to economic development, vital to move people and goods to and from areas that may otherwise have dramatically limited transportation options. Quite frankly, I have long held serious concerns about the impact deregulation of the airline industry has had on small and medium size cities in rural areas, like Maine. That fact is, since deregulation, many small and medium-size communities, in Maine and elsewhere, have experienced a decrease in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

This legislation will serve to improve the Essential Air Service program. Additional resources will augment the resources available to the program, reducing the impact on the general fund while providing small communities with a greater degree of certainty when planning future improvements to their airports. The bill also gives those same communities a greater role in retaining and determining the sort of air service which they receive.

Increasingly, the Essential Air Service program has been plagued with a decline in the number of airlines willing to provide this critical link to the national transportation network. A few ''bad actors'' have jeopardized commercial aviation for entire regions by submitting low-ball contracts to the Department of Transportation and then reneging on their commitment to the extent and quality of their service. Our bill will not only establish a system of minimum requirements for contracts to protect these small cities that rely on EAS, but it will also extend those contracts to 4 years from the current 2. This gives a heightened degree of stability in terms of air service, rather than having communities negotiating new contracts or receiving service from entirely new carriers every 18 months.

In closing, the truth is, everyone benefits when our Nation is at its strongest economically. Most importantly in this case, greater prosperity everywhere, including in rural America, will, in the long run, mean more passengers for the airlines. Therefore, it is very much in our national interests to ensure that every region has reasonable access to air service. That is why I strongly believe the Federal Government has an obligation to fulfill the commitment it made to these communities in 1978; to safeguard their ability to continue commercial air service.

Mr. BINGAMAN. Mr. President, I wish today to join with my colleague, Senator SNOWE to introduce the bipartisan Rural Aviation Improvement Act. Senator SNOWE has been a longtime champion of commercial air service in rural areas, and I applaud her continued leadership on this important legislation.

One of the goals of our bill is to preserve and improve the Essential Air Service Program. Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation would continue to receive scheduled service. The Essential Air Service Program currently ensures commercial air service to over 100 communities in 35 States. EAS supports an additional 39 communities in Alaska. Without EAS, many rural communities would have no commercial air service at all. I believe our bill makes a number of important improvements to EAS to ensure rural communities continue to have the commercial air service that is so vital to their futures.

Our bill also extends through 2011 the Department of Transportation's authority to provide grants to cities under the Small Community Air Service Development Program, which was first established in 2000. The program helps rural communities establish new air service or to promote and improve their existing air service. Since it was first enacted, a number of New Mexico communities have won grants, including most recently Gallup in 2006.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads, or broadband

telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system. I do believe Congress must help ensure that affordable, reliable, and safe air service remains available in rural America.

The Senate Commerce Committee and its Aviation Subcommittee are well along in developing a reauthorization of aviation programs this year. I look forward to working with my colleagues Chairmen INOUYE and ROCKEFELLER and Ranking Members STEVENS and LOTT to improve commercial air service programs for rural areas. I believe our bill is one important step in that process.

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. LEAHY, Mr. DURBIN, Mr. REED, Mr. HARKIN, Ms. STABENOW, Mr. DODD, and Mr. SANDERS):

S. 1572. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the landmark 1999 Surgeon General's report on mental health brought a hidden mental health crisis to the attention of the U.S. public. According to that report, 13.7 million children in our country—about one in five—suffer from a diagnosable emotional or behavioral disorder. Such disorders as Anxiety Disorders, Attention-Deficit/Hyperactivity Disorder, and Depression are among the most common in this age group. Yet more than two-thirds of these children do not receive any treatment. Long waiting lists for children seeking services, including those in crisis, are not uncommon. The primary reason is that severe shortages exist in qualified mental health professionals, including child psychiatrists, psychologists, social workers, and counselors. The President's New Freedom Commission on Mental Health also found that ''the supply of well-trained mental health professionals is inadequate in most areas of the country . . . particular shortages exist for mental health providers who serve children, adolescents, and older Americans.'' The situation is no better in our public schools, where children's mental health needs are often first identified. According to the National Center for Education Statistics within the Department of Education, there are approximately 479 students for each school counselor in U.S. schools, nearly twice the recommended ratio of 250 students for each counselor.

The situation in my home State of New Mexico is a case in point. Estimates suggest that 56,000 children and adolescents in New Mexico have an emotional or behavioral disorder. Of these, roughly 20,000 have serious disturbances that impair their ability to fulfill the demands of everyday life. In 2001, there were a total of 44 child and adolescent psychiatrists in the entire State of New Mexico. The impact of this shortage on the affected children and their communities is disconcerting. Research shows that children with untreated emotional and behavioral disorders are at higher risk for school failure and dropping out of school, violence, drug abuse, suicide, and criminal activity. For New Mexico youth, the suicide rate is twice the national average, the fourth highest in the nation, and the third leading cause of death. By one estimate, roughly one in seven youth in New Mexico detention centers are in need of mental health treatment that is just not available.

New Mexico is not alone in its struggle to address the needs of these children. Nationwide, over 1600 urban, suburban, and rural communities have been designated Mental Health Professional Shortage Areas by the Federal Government due to their severe lack of psychiatrists, psychologists, social workers, and other professionals to serve children and adults. Rural areas are especially hard hit. For example, in New Mexico there is one psychiatrist per 20,000 residents in rural areas, whereas in urban areas there is one per 3000 residents. In rural and frontier counties, it is not unusual for the parents of a child in need of services to travel 60 to 90 miles to reach the nearest psychiatrist, psychologist, or other mental health provider. In States like Alaska and Wyoming, the distance may be even farther.

Finally, graduate programs providing the vital pipeline for the child mental health workforce have not sufficiently increased their funding, class sizes, and training programs to meet the ever growing need for these specialists. In the U.S., only 300 new child and adolescent psychiatrists are trained each year, despite projections by the Bureau of Health Professions that the shortage of child and adolescent psychiatrist will grow to 4,000 by the year 2020. Federal grant funding for graduate psychology education has also been significantly reduced in the past two years, which could reduce the numbers of child and adolescent psychologists entering the profession.

Clearly something needs to be done to address this serious shortage in mental health professionals to meet the growing needs of our Nation's youth. It is for this reason that I rise today with my colleagues Senator COLLINS of Maine, Senator LEAHY of Vermont, Senator DURBIN of Illinois, Senator REED of Rhode Island, Senator HARKIN of Iowa, Senator STABENOW of Michigan, Senator DODD of Connecticut, and Senator SANDERS of Vermont to offer The Child Health Care Crisis Relief Act of 2007. This bill creates incentives to help recruit and retain mental health professionals providing direct clinical care, and to help create, expand, and improve programs to train child mental health professionals. It provides loan repayments and scholarships for child mental health and school-based service professionals as well as internships and field placements in child mental health services and training for paraprofessionals who work in children's mental health clinical settings. The bill also provides grants to graduate schools to help develop and expand child and adolescent mental health programs. It restores the Medicare Graduate Medical Education Program for child and adolescent psychiatrists and extends the board eligibility period for residents and fellows from 4 years to 6 years. Across all mental health professions, priority for loan repayments, scholarships, and grants is given to individuals and programs serving children and adolescents in high-need areas.

Finally, The Child Health Care Crisis Relief Act of 2007 requires the Secretary to prepare a report on the distribution and need for child mental health and school-based professionals, including disparities in the availability of services, on a State-by-State basis. This report will help Congress more clearly ascertain the mental health workforce needs that are facing our Nation.

I ask unanimous consent that the text of the bill and my statement be printed in the RECORD. I also ask unanimous consent that the appended letter from the Mental Health Liaison Group, representing 40 national professional and mental health advocacy organizations in support of The Child Health Care Crisis Relief Act of 2007, be printed in the RECORD.

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

S. 1572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Health Care Crisis Relief Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Center for Mental Health Services estimates that 20 percent or 13,700,000 of the Nation's children and adolescents have a diagnosable mental disorder, and about ⅔ of these children and adolescents do not receive mental health care.

(2) According to ''Mental Health: A Report of the Surgeon General'' in 1999, there are approximately 6,000,000 to 9,000,000 children and adolescents in the United States (accounting for 9 to 13 percent of all children and adolescents in the United States) who meet the definition for having a serious emotional disturbance.

(3) According to the Center for Mental Health Services, approximately 5 to 9 percent of United States children and adolescents meet the definition for extreme functional impairment.

(4) According to the Surgeon General's Report, there are particularly acute shortages in the numbers of mental health service professionals serving children and adolescents with serious emotional disorders.

(5) According to the National Center for Education Statistics in the Department of Education, there are approximately 479 students for each school counselor in United States schools, which ratio is almost double the recommended ratio of 250 students for each school counselor.

(6) According to the Bureau of Health Professions in 2000, the demand for the services of child and adolescent psychiatry is projected to increase by 100 percent by 2020.

(7) The development and application of knowledge about the impact of disasters on children, adolescents, and their families has been impeded by critical shortages of qualified researchers and practitioners specializing in this work.

(8) According to the Bureau of the Census, the population of children and adolescents in the United States under the age of 18 is projected to grow by more than 40 percent in the next 50 years from 70 million to more than 100 million by 2050.

(9) There are approximately 7,000 child and adolescent psychiatrists in the United States. Only 300 child and adolescent psychiatrists complete training each year.

(10) According to the Department of Health and Human Services, minority representation is lacking in the mental health workforce. Although 12 percent of the United States population is African-American, only 2 percent of psychologists, 2 percent of psychiatrists, and 4 percent of social workers are African-American providers. Moreover, there are only 29 Hispanic mental health professionals for every 100,000 Hispanics in the United States, compared with 173 non-Hispanic white providers per 100,000.

(11) According to a 2006 study in the Journal of the American Academy of Child and Adolescent Psychiatry, the national shortage of child and adolescent psychiatrists affects poor children and adolescents living in rural areas the hardest.

(12) According to the National Center for Mental Health and Juvenile Justice, 70 percent of youth involved in State and local juvenile justice systems throughout the country suffer from mental disorders, with at least 20 percent experiencing symptoms so severe that their ability to function is significantly impaired.

SEC. 3. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

"Subpart 3—Child and Adolescent Mental Health Care

"SEC. 771. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

''(a) LOAN REPAYMENTS FOR CHILD AND ADOLESCENT MENTAL HEALTH SERVICE PROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program of entering into contracts on a competitive basis with eligible individuals under which—

''(A) the eligible individual agrees to be employed full-time for a specified period (which shall be at least 2 years) in providing mental health services to children and adolescents; and

''(B) the Secretary agrees to make, during not more than 3 years of the period of employment described in subparagraph (A), partial or total payments on behalf of the individual on the principal and interest due on the undergraduate and graduate educational loans of the eligible individual.

''(2) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means an individual who—

''(A) is receiving specialized training or clinical experience in child and adolescent mental health in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling and has less than 1 year remaining before completion of such training or clinical experience; or

''(B)(i) has a license or certification in a State to practice allopathic medicine, osteopathic medicine, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling; and

''(ii)(I) is a mental health service professional who completed (but not before the end of the calendar year in which this section is enacted) specialized training or clinical experience in child and adolescent mental health described in subparagraph (A); or

''(II) is a physician who graduated from (but not before the end of the calendar year in which this section is enacted) an accredited child and adolescent psychiatry residency or fellowship program in the United States.

''(3) ADDITIONAL ELIGIBILITY REQUIREMENTS.—The Secretary may not enter into a contract under this subsection with an eligible individual unless—

''(A) the individual is a United States citizen or a permanent legal United States resident; and

''(B) if the individual is enrolled in a graduate program (including a medical residency or fellowship), the program is accredited, and the individual has an acceptable level of academic standing (as determined by the Secretary).

''(4) PRIORITY.—In entering into contracts under this subsection, the Secretary shall give priority to applicants who—

''(A) are or will be working with high-priority populations;

''(B) have familiarity with evidence-based methods and cultural competence in child and adolescent mental health services;

''(C) demonstrate financial need; and

''(D) are or will be working in the publicly funded sector, particularly in community mental health programs described in section 1913(b)(1).

''(5) MEANINGFUL LOAN REPAYMENT.—If the Secretary determines that funds appropriated for a fiscal year to carry out this subsection are not sufficient to allow a meaningful loan repayment to all expected applicants, the Secretary shall limit the number of contracts entered into under paragraph (1) to ensure that each such contract provides for a meaningful loan repayment.

''(6) AMOUNT.—

''(A) MAXIMUM.—For each year that the Secretary agrees to make payments on behalf of an individual under a contract entered into under paragraph (1), the Secretary may agree to pay not more than $35,000 on behalf of the individual.

''(B) CONSIDERATION.—In determining the amount of payments to be made on behalf of an eligible individual under a contract to be entered into under paragraph (1), the Secretary shall consider the eligible individual's income and debt load.

''(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2008 through 2012.

''(b) SCHOLARSHIPS FOR STUDENTS STUDYING TO BECOME CHILD AND ADOLESCENT MENTAL HEALTH SERVICE PROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to award scholarships on a competitive basis to eligible students who agree to enter into full-time employment (as described in paragraph (4)(C)) as a child and adolescent mental health service professional after graduation or completion of a residency or fellowship.

''(2) ELIGIBLE STUDENT.—For purposes of this subsection, the term 'eligible student' means a United States citizen or a permanent legal United States resident who—

''(A) is enrolled or accepted to be enrolled in an accredited graduate program that includes specialized training or clinical experience in child and adolescent mental health in psychology, school psychology, psychiatric nursing, behavioral pediatrics, social work, school social work, marriage and family therapy, school counseling, or professional counseling and, if enrolled, has an acceptable level of academic standing (as determined by the Secretary); or

''(B)(i) is enrolled or accepted to be enrolled in an accredited graduate training program of allopathic or osteopathic medicine in the United States and, if enrolled, has an acceptable level of academic standing (as determined by the Secretary); and

''(ii) intends to complete an accredited residency or fellowship in child and adolescent psychiatry or behavioral pediatrics.

''(3) PRIORITY.—In awarding scholarships under this subsection, the Secretary shall give—

''(A) highest priority to applicants who previously received a scholarship under this subsection and satisfy the criteria described in subparagraph (B); and

''(B) second highest priority to applicants who—

''(i) demonstrate a commitment to working with high-priority populations;

''(ii) have familiarity with evidence-based methods in child and adolescent mental health services;

''(iii) demonstrate financial need; and

''(iv) are or will be working in the publicly funded sector, particularly in community mental health programs described in section 1913(b)(1).

''(4) REQUIREMENTS.—The Secretary may award a scholarship to an eligible student under this subsection only if the eligible student agrees—

''(A) to complete any graduate training program, internship, residency, or fellowship applicable to that eligible student under paragraph (2);

''(B) to maintain an acceptable level of academic standing (as determined by the Secretary) during the completion of such graduate training program, internship, residency, or fellowship; and

''(C) to be employed full-time after graduation or completion of a residency or fellowship, for at least the number of years for which a scholarship is received by the eligible student under this subsection, in providing mental health services to children and adolescents.

''(5) USE OF SCHOLARSHIP FUNDS.—A scholarship awarded to an eligible student for a school year under this subsection may be used only to pay for tuition expenses of the school year, other reasonable educational expenses (including fees, books, and laboratory expenses incurred by the eligible student in

the school year), and reasonable living expenses, as such tuition expenses, reasonable educational expenses, and reasonable living expenses are determined by the Secretary.

''(6) AMOUNT.—The amount of a scholarship under this subsection shall not exceed the total amount of the tuition expenses, reasonable educational expenses, and reasonable living expenses described in paragraph (5).

''(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Scholarship Program established in subpart III of part D of title III.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.

''(c) CLINICAL TRAINING GRANTS FOR PROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to accredited institutions of higher education to establish or expand internships or other field placement programs for students receiving specialized training or clinical experience in child and adolescent mental health in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling.

''(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

''(A) have demonstrated the ability to collect data on the number of students trained in child and adolescent mental health and the populations served by such students after graduation;

''(B) have demonstrated familiarity with evidence-based methods in child and adolescent mental health services; and

''(C) have programs designed to increase the number of professionals serving high-priority populations.

''(3) REQUIREMENTS.—The Secretary may award a grant to an applicant under this subsection only if the applicant agrees that—

''(A) any internship or other field placement program assisted under the grant will prioritize cultural competency;

''(B) students benefitting from any assistance under this subsection will be United States citizens or permanent legal United States residents;

''(C) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

''(D) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

''(4) APPLICATION.—The Secretary shall require that any application for a grant under this subsection include a description of the applicant's experience working with child and adolescent mental health issues.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2008 through 2012.

''(d) PROGRESSIVE EDUCATION GRANTS FOR PARAPROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to State-licensed mental health nonprofit and for-profit organizations (including accredited institutions of higher education) to enable such organizations to pay for programs for preservice or in-service training of paraprofessional child and adolescent mental health workers.

''(2) DEFINITION.—For purposes of this subsection, the term 'paraprofessional child and adolescent mental health worker' means an individual who is not a mental health service professional, but who works at the first stage of contact with children and families who are seeking mental health services.

''(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

''(A) have demonstrated the ability to collect data on the number of paraprofessional child and adolescent mental health workers trained by the applicant and the populations served by these workers after the completion of the training;

''(B) have familiarity with evidence-based methods in child and adolescent mental health services;

''(C) have programs designed to increase the number of paraprofessional child and adolescent mental health workers serving high-priority populations; and

''(D) provide services through a community mental health program described in section 1913(b)(1).

''(4) REQUIREMENTS.—The Secretary may award a grant to an organization under this subsection only if the organization agrees that—

''(A) any training program assisted under the grant will prioritize cultural competency;

''(B) the organization will provide to the Secretary such data, assurances, and information as the Secretary may require; and

''(C) with respect to any violation of the agreement between the Secretary and the organization, the organization will pay such liquidated damages as prescribed by the Secretary by regulation.

''(5) APPLICATION.—The Secretary shall require that any application for a grant under this subsection include a description of the applicant's experience working with paraprofessional child and adolescent mental health workers.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.

''(e) CHILD AND ADOLESCENT MENTAL HEALTH PROGRAM DEVELOPMENT GRANTS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to increase the number of well-trained child and adolescent mental health service professionals in the United States by awarding grants on a competitive basis to accredited institutions of higher education to enable the institutions to establish or expand accredited graduate child and adolescent mental health programs.

''(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

''(A) demonstrate familiarity with the use of evidence-based methods in child and adolescent mental health services;

''(B) provide experience in and collaboration with community-based child and adolescent mental health services;

''(C) have included normal child development curricula; and

''(D) demonstrate commitment to working with high-priority populations.

''(3) USE OF FUNDS.—Funds received as a grant under this subsection may be used to establish or expand any accredited graduate child and adolescent mental health program in any manner deemed appropriate by the Secretary, including by improving the course work, related field placements, or faculty of such program.

''(4) REQUIREMENTS.—The Secretary may award a grant to an accredited institution of higher education under this subsection only if the institution agrees that—

''(A) any child and adolescent mental health program assisted under the grant will prioritize cultural competency;

''(B) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

''(C) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2008 through 2012.

''(f) DEFINITIONS.—In this section:

''(1) SPECIALIZED TRAINING OR CLINICAL EXPERIENCE IN CHILD AND ADOLESCENT MENTAL HEALTH.—The term 'specialized training or clinical experience in child and adolescent mental health' means training and clinical experience that—

''(A) is part of or occurs after completion of an accredited graduate program in the United States for training mental health service professionals;

''(B) consists of at least 500 hours of training or clinical experience in treating children and adolescents; and

''(C) is comprehensive, coordinated, developmentally appropriate, and of high quality to address the unique ethnic and cultural diversity of the United States population.

''(2) HIGH-PRIORITY POPULATION.—The term 'high-priority population' means—

''(A) a population in which there is a significantly greater incidence than the national average of—

''(i) children who have serious emotional disturbances; or

''(ii) children who are racial, ethnic, or linguistic minorities; or

''(B) a population consisting of individuals living in a high-poverty urban or rural area.

''(3) MENTAL HEALTH SERVICE PROFESSIONAL.—The term 'mental health service professional' means an individual with a graduate or postgraduate degree from an accredited institution of higher education in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, marriage and family counseling, school counseling, or professional counseling.''.

SEC. 4. AMENDMENTS TO SOCIAL SECURITY ACT TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

(a) INCREASING NUMBER OF CHILD AND ADOLESCENT PSYCHIATRY RESIDENTS PERMITTED TO BE PAID UNDER THE MEDICARE GRADUATE MEDICAL EDUCATION PROGRAM.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended by adding at the end the following new clause:

''(iii) INCREASE ALLOWED FOR TRAINING IN CHILD AND ADOLESCENT PSYCHIATRY.—In applying clause (i), there shall not be taken into account such additional number of full-time equivalent residents in the field of allopathic or osteopathic medicine who are residents or fellows in child and adolescent psychiatry as the Secretary determines reasonable to meet the need for such physicians as demonstrated by the 1999 report of the Department of Health and Human Services entitled 'Mental Health: A Report of the Surgeon General'.''.

(b) EXTENSION OF MEDICARE BOARD ELIGIBILITY PERIOD FOR RESIDENTS AND FELLOWS IN CHILD AND ADOLESCENT PSYCHIATRY.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking ''and (v)'' and inserting ''(v), and (vi)''; and

(2) by adding at the end the following new clause:

''(vi) CHILD AND ADOLESCENT PSYCHIATRY TRAINING PROGRAMS.—In the case of an individual enrolled in a child and adolescent psychiatry residency or fellowship program approved by the Secretary, the period of board eligibility and the initial residency period shall be the period of board eligibility for the specialty of general psychiatry, plus 2 years for the subspecialty of child and adolescent psychiatry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residency training years beginning on or after July 1, 2008.

SEC. 5. CHILD MENTAL HEALTH PROFESSIONAL REPORT.

(a) STUDY.—The Administrator of the Health Resources and Services Administration (in this section referred to as the ''Administrator'') shall study and make findings and recommendations on—

(1) the distribution and need for child mental health service professionals, including with respect to specialty certifications, practice characteristics, professional licensure, practice types, locations, education, and training; and

(2) a comparison of such distribution and need, including identification of disparities, on a State-by-State basis.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to the Congress and make publicly available a report on the results of the study required by subsection (a), including with respect to findings and recommendations on disparities among the States.

SEC. 6. REPORTS.

(a) TRANSMISSION.—The Secretary of Health and Human Services shall transmit a report described in subsection (b) to the Congress—

(1) not later than 3 years after the date of the enactment of this Act; and

(2) not later than 5 years after the date of the enactment of this Act.

(b) CONTENTS.—The reports transmitted to the Congress under subsection (a) shall address each of the following:

(1) The effectiveness of the amendments made by, and the programs carried out under, this Act in increasing the number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

(2) The demographics of the individuals served by such increased number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

MENTAL HEALTH LIAISON GROUP,
June 7, 2007.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.
Hon. PATRICK J. KENNEDY,
House of Representatives,
Washington, DC.

DEAR SENATOR BINGAMAN AND REPRESENTATIVE KENNEDY: The undersigned national organizations are writing to express our support for legislation you are sponsoring, the Child Health Care Crisis Relief Act. This important legislation will address the national shortage of children's mental health professionals, including school-based professionals, by encouraging more individuals to enter these critical fields.

The Surgeon General estimates that over 13.7 million children and adolescents are in need of treatment for emotional and behavioral disorders but less than 20% ever receive it. After the option of early intervention is lost, the possibilities for a lifetime cycle of difficulties from unresolved mental health issues looms ahead: school failure, substance abuse, job and relationship instability, and even the possibility of entering the criminal justice system.

One of the key barriers to treatment is the shortage of available specialists trained in the identification, diagnosis and treatment of children and adolescents with emotional and behavioral disorders. Primary care providers report seeing a large number of children and youth with mental health problems, but have difficulty finding available clinicians to take referrals. The Surgeon General reported in 1999 that ''there is a dearth of child psychiatrists, appropriately trained clinical child psychologists, or social workers.'' The shortage of children's mental health professionals has also been recognized by the President's New Freedom Commission on Mental Health, the Council on Graduate Medical Education and the state mental health commissioners.

Enactment of the Child Health Care Crisis Relief Act will spur the creation of educational incentives and federal support for children's mental health training programs. It will authorize scholarships, loan repayment programs, training grants, and specialty training program support. Children's mental health professionals covered under the bill include child and adolescent psychiatrists, behavioral pediatricians, psychologists, school psychologists, school social workers, school counselors, psychiatric nurses, social workers, marriage and family therapists and professional counselors.

National organizations representing consumers, family members, advocates, professionals and providers thank you for your continued leadership on mental health issues. We look forward to working with you on this important bill.

Sincerely,

Alliance for Children and Families, American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Association for Geriatric Psychiatry, American Association for Marriage and Family Therapy, American Counseling Association, American Group Psychotherapy Association, American Mental Health Counselors Association, American Nurses Association, American Psychiatric Association, American Psychoanalytic Association, American Psychological Association, American Psychotherapy Association, Anxiety Disorders Association of America, Association for the Advancement of Psychology, Bazelon Center for Mental Health Law, Center for Clinical Social Work,

Child & Adolescent Bipolar Foundation, Child Welfare League of America, Children and Adults with Attention-Deficit/Hyperactivity Disorder, Children's Healthcare Is a Legal Duty, Clinical Social Work Guild, Coalition for the Health and Advocacy of Rural Minorities, Depression and Bipolar Support Alliance, Eating Disorders Coalition for Research, Policy & Action, Federation of Families Children's Mental Health, Mental Health America, National Alliance on Mental Illness, National Association for Children's Behavioral Health, National Association for Rural Mental Health,

National Association of Anorexia Nervosa and Associated Disorders, National Association of County Behavioral Health and Developmental Disability Directors, National Association of Mental Health Planning & Advisory Councils, National Association of School Psychologists, National Association of Social Workers, National Association of State Mental Health Program Directors, National Coalition of Mental Health Professionals and Consumers, National Council for Community Behavioral Healthcare, Suicide Prevention Action Network USA, Therapeutic Communities of America.

By Mr. DODD:

S. 1573. A bill to promote public-private partnerships to strengthen investment in early childhood development for children from birth to entry into kindergarten in order to ensure healthy development and school readiness for all children; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today, to introduce The Early Childhood Investment Act of 2007 to create and enhance public-private partnerships to strengthen investment in early childhood development programs, considering the needs of all children from birth to their entry in kindergarten. Investing in our youngest children is essential to promote their healthy development and school readiness. I pleased that two of my colleagues from Connecticut in the House of Representatives—Congresswoman ROSA DELAURO and Congressman JOE COURTNEY—will introduce companion legislation today.

We have a body of knowledge on early childhood development that must be put into practice through policies that aid the crucial emotional, social and intellectual development that occurs in the first 3 years of life. Research indicates that investments in the early years of a child's life pay dividends later through improved health, readiness for school, and economic well-being. The return on investment also includes more successful transition to kindergarten; reduced special education and remedial education placements; better employment opportunities and higher earnings; and lower incidence of crime and dependence on public welfare. Our Nation's economy benefits from early childhood investments through a better prepared workforce, stronger growth, and a rising standard of living. Additionally, society will benefit from less crime, enhanced schools, and children who are better prepared to participate as citizens in a democratic society, as a result of increased investments in early childhood development.

Many States have an Early Learning Council or an advisory council that coordinates and aligns various programs serving children from birth to kindergarten entry. These entities facilitate collaboration among early childhood development activities in each State, but do not necessarily provide additional funding. Resources from Federal and State governments alone are not adequate to provide access to quality

early childhood development programs for all children.

Currently the Federal Government provides funding for a variety of early childhood development programs including the Child Care and Development Block Grant, and Head Start, which have been essentially flat funded in recent years. States supplement this funding and also provide funding for State and local prekindergarten programs and parent development and support programs, such as home visiting. However, the Federal and State resources alone are not enough to reach all of our Nation's young children. In order to get closer to the goal of providing access to quality programs for all children before they enter kindergarten, the private sector also plays an important role. In addition, the Federal Government should provide resources to reward innovation at the state and community level and to leverage additional resources for continued innovation.

In States such as Washington, Georgia, Michigan, Minnesota, Oklahoma, North Carolina, Arizona, Nebraska, Illinois, Vermont, and Virginia, public-private partnerships leverage resources to provide for the varied health and learning needs of children from birth to kindergarten entry and their families. Public-private partnerships have the ability to leverage the assets of public and private entities in terms of financial resources, expertise, and infrastructure in order to maximize and align investments in early childhood development. Federal funding authorized by this legislation will create incentives for more States to develop such partnerships and leverage further investment in young children and enhance existing partnerships in states.

The purpose of the Early Childhood Investment Act of 2007 is to establish or enhance existing public-private partnerships that will strengthen investment in early childhood development by awarding grants to local community initiatives and programs that serve young children and their families.

The bill is fairly straightforward. It requires the Secretary of Health and Human Services to establish a competitive grant program to award grants to a public-private partnership, in each State that applies, which will leverage resources to supplement existing State and Federal funds. The partnership will then award subgrants to State and local community initiatives to improve access to and quality of early childhood development for children from birth through age five and their families. The partnerships will leverage funding from nonprofit or for-profit organizations, private entities and State government to invest in high quality early childhood development programs.

The Early Childhood Investment Act of 2007 authorizes $8 billion for fiscal year 2008, $10 billion for fiscal year 2009 and such sums as necessary in the following years. The Federal share represents 50 percent of total expenditures by a partnership in the first year, 40 percent in the second year and 30 percent in the outyears. I know I will hear that this cost is too large for the government to bear, but I would argue that the cost of not investing would be even greater. Children represent only a quarter of our population, but they are 100 percent of our future and each of our children deserves an opportunity to reach his or her potential.

The bill has been endorsed by America's Promise Alliance, First Focus, National Association for the Education of Young Children, National Association of Child Care Resource and Referral Agencies, and the National Women's Law Center. I hope that my colleagues will join me in supporting this important legislation.

By Mr. OBAMA:

S. 1574. A bill to establish Teaching Residency Programs for preparation and induction of teachers; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, we will soon begin consideration of legislation to educate America's students, with Head Start, the Elementary and Secondary Education Act, and the Higher Education Act all slated for reauthorization. One of the most important aspects of No Child Left Behind is its provision for a highly qualified teacher for every child, in every classroom in America.

Expert teachers are the most important educational resource in our schools, and also the most inequitably distributed. In the United States, too many students in high-need schools are taught by inadequately prepared teachers, who are often not ready for the challenges they face, and thus leave the classroom too soon. High-poverty schools lose one-fifth of their teaching staff each year. This constant turnover of inexperienced, inadequately prepared teachers undermines efforts to create stable learning cultures and to sustain school improvement, especially in schools with greatest need.

Many schools are being identified as in need of improvement, and many students are asked to be successful in schools where success is a rare commodity. Rather than being a leader in a competitive world where educational attainment is precious, America has one of the lowest high school graduation rates in the industrialized world. Three out of every 10 ninth-grade students will not graduate on time, and about half of all African American and Hispanic ninth graders will not earn a diploma in four years. Less than 2 out of every 10 students who begin high school will receive a postsecondary degree within a reasonable time. Students of color, new immigrants, and children living in poverty are all being left behind. A good education is granted to some, but denied to others, denied not only to children of color in our cities, but also to children living in poverty in our rural areas. We must end this.

We must recruit the best and the brightest Americans to become teachers and we must transform teaching, restoring its luster as a profession, so that when new teachers join it, they are successful, and want to stay. As teachers and principals are increasingly being held individually responsible for student success, it is increasingly important that we adequately prepare teachers to become successful.

Research shows that inexperienced teachers are less effective than teachers with several years of experience, but good preparation programs can make novice teachers effective more rapidly. We must help novice teachers get the training and coaching they need. Teacher preparation seldom provides the opportunity to learn under the supervision of expert teachers working in schools that effectively serve high-need students. Most new teachers lack such support, and so leave the profession before achieving success.

Today I am proud to introduce the Teaching Residency Act, which builds on a successful model of teacher preparation similar to medical residencies. Teaching Residency Programs are school-based teacher preparation programs in which prospective teachers teach alongside a mentor teacher for one academic year, receive master's level coursework in teaching the content area in which they will become certified, and attain certification prior to completion of the program. Once certified, graduates of the program are placed in high-needs schools, and continue to receive strong mentoring and coaching for their first years of teaching. This bill proposes establishing Teaching Residency Programs as a provision of Title II of the Higher Education Act.

I am particularly proud to introduce this legislation today, because it is a model of effective teacher preparation that I have supported since before I was elected to the Senate in 2004. I have seen the power of teacher residencies through the very successful Academy for Urban School Leadership in my home State of Illinois. And I am pleased to be supported in this effort by the introduction of legislation in the House by my good friend, Congressman RAHM EMANUEL.

It is critical to develop programs that increase the probability that recruits will succeed and stay in those classrooms where they are most needed. Teaching Residency Programs are based on what we know works best to improve teacher preparation. We know that mentoring is critical to help young teachers develop in the early years of their career and to retain many of new teachers who would otherwise leave the profession in their first years. We cannot afford to lose any more high quality teachers because they do not feel supported or do not feel that they are progressing professionally.

I hope my colleagues will support this important legislation.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. OBAMA, Mr. BINGAMAN, Mrs. CLINTON, Mr. BROWN, and Mr. DURBIN):

S. 1576. A bill to amend the Public Health Service Act to improve the health and healthcare of racial and ethnic minority groups; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, serious and unjustified health disparities continue to exist in our Nation today. Forty five million Americans have no health insurance and often don't get the health care they need or get it too late. We know that the uninsured are more likely to delay doctor visits and needed screenings like mammograms and other early detection tests which can help prevent serious illness and death. The Institute of Medicine estimates that at least 18,000 Americans die prematurely each year because they lack health coverage.

Some of the most shameful health disparities involve racial and ethnic minorities. African Americans have a lower life expectancy than Whites. They are much more likely to die from stroke, and their uninsurance rates are much higher than those of their White counterparts.

Many Americans want to believe such disparities don't exist, but ignoring them only contributes more to the widening gap between the haves and have-nots.

It is a scandal that people of color have greater difficulty obtaining good health care than other Americans. Your health should not depend on the color of your skin, the size of your bank account, or where you live. In a nation as advanced as ours, with its state-of-the-art medical technology for preventing illness and caring for the sick, it is appalling that so many health disparities continue to exist.

That is the reason why I am introducing the Minority Health and Health Disparity Elimination Act, as part of our effort to reduce or eliminate these unacceptable differences in the health and health care of racial and ethnic minorities.

The bill includes grants and demonstration projects that will help communities promote positive health behaviors and improve outreach, participation, and enrollment of racial and ethnic minorities in available health care programs. The bill will also establish collaborative partnerships led by community health centers. In particular it will support the Delta Health Initiative Rural Health, Education, and Workforce Infrastructure Demonstration Program to address longstanding, unmet health and health care needs in the Mississippi Delta

In addition, the bill codifies the Centers for Disease Control and Prevention's Racial and Ethnic Approaches to Community Health Program, so that this successful program can continue to assist communities to mobilize and organize resources to support effective and sustainable programs to help close the health and health care gap. It also establishes Health Action Zones to support State, tribal or local initiatives to improve minority health in communities that have been historically burdened by health disparities.

Greater diversity in the health care workforce is essential to creating a healthy America. Studies demonstrate that minority health professionals are more likely to care for minority patients, including those who are low-income and uninsured. African Americans, Hispanic Americans, and Native Americans account for only 6 percent of the Nation's doctors and 5 percent of nurses and dentists, even though they are almost one-quarter of the U.S. population. The disparity in the health workforce must be closed, not just to fulfill our commitment to equality and opportunity, but also because of the impact it has on the health of America.

The act reauthorizes the title VII health care workforce diversity programs, including the Centers of Excellence at Historically Black Colleges and Universities and institutions that educate Hispanic and Native American students.

A diverse health care workforce is essential for a healthy country. Emphasizing workforce diversity does not mean that health care workers should not be prepared to work with diverse patients. We must also make a more serious effort to train culturally competent health care professionals, and to create a health care system that is accessible for the more than 48 million Americans who speak a language other than English at home. The bill creates an Internet clearinghouse to increase cultural competency and improve communication between health care providers and patients. It also supports the development of curricula on cultural competence in health professions schools.

Language barriers in health care obviously contribute to reduced access and poorer care for those who have limited English proficiency or low health literacy. The legislation recognizes the importance of this issue for the quality of our health care system and provides funds for activities to improve and encourage services for such patients.

The bill reauthorizes the National Center for Minority Health and Health Disparities that was created as part of the Minority Health and Health Disparities Research and Education Act of 2000. It strengthens the center's role in coordinating and planning research that focuses on minority health and health disparities at the National Institutes of Health. The bill also requires the Agency for Health care Research and Quality to establish a grant program to support private research initiatives and a public-private partnership to evaluate and identify the best practices in disease management strategies and interventions.

In addition, the bill ensures that research on genetic variation within and between populations includes a focus on racial and ethnic minorities. It also promotes the participation of racial and ethnic minorities in clinical trials and intensifies efforts throughout the Department of Health and Human Services to increase and apply knowledge about the interaction of racial, genetic, and environmental factors that affect people's health.

Finally, the bill reinforces and clarifies the duties of the Office of Minority Health and instructs the office to develop and implement a comprehensive department-wide plan to improve minority health and eliminate health disparities. It also encourages greater cooperation among federal agencies and departments in meeting these serious challenges.

We have worked diligently with a wide variety of organizations on this bill that are eager for strong legislation to eliminate health disparities. The following groups have expressed their support: Aetna, American Association of Colleges of Pharmacy, American Heart Association/American Stroke Association, American Public Health Association, Asian American and Pacific Islander Health Forum, Association for Community Affiliated Plans, Association of Minority Health Professions Schools, California Pan-Ethnic Network, Charles R. Drew University of Medicine and Science, Families USA, Harvard Medical School, Massachusetts General Hospital, Meharry Medical College, Morehouse School of Medicine, National Association of Community Health Centers, National Association of Public Hospitals and Health Systems, National Coalition for Hispanic Health—Campaign for Tobacco Free Kids, Hispanic Association of Colleges and Universities, League of United Latin American Citizens, National Council of La Raza, National Hispanic Caucus of State Legislators, National Hispanic Medical Association, National Puerto Rican Coalition—National Council of La Raza, National Health Law Program, National Hispanic Medical Association, National Medical Association, Network Health, Racial and Ethnic Health Disparities, REHDC, and Summit Health Institute for Research and Education.

I look forward to working with these dedicated groups as we work towards final passage of this bill.

I greatly appreciate the cooperation of Senator COCHRAN, Senator OBAMA, Senator BINGAMAN, Senator CLINTON, Senator BROWN, and Senator DURBIN on this legislation, and I look forward to working with my colleagues to enact this much needed legislation.

Mr. OBAMA. Mr. President, this Nation has witnessed dramatic improvements in public health and health care technology and practice over the last century. Diseases that were once life-threatening are now curable; conditions that once devastated are now treatable. Our Federal investment in

medical research has paid off handsomely, with new and more effective tests and treatments and near daily reports of new scientific breakthroughs. Yet still today too many Americans have not and will not derive full benefit from these advances.

We know that minority Americans and other vulnerable populations needlessly continue to experience higher rates of disease and lower rates of survival, and this is simply unacceptable. As we in the Congress work to combat the serious health issues that threaten the well-being of all Americans, we must also remain vigilant and committed in our fight to address the persistent and pervasive health disparities that affect millions of minorities, low-income individuals and other at-risk populations.

Congress has passed legislation before to address the health of minority populations and eliminate health disparities—the Minority Health and Health Disparities Research and Education Act of 2000. That bill created the National Center for Minority Health and Health Disparities, supported the landmark IOM report Unequal Treatment, required annual reporting on health care disparities by AHRQ, and strengthened the research base for many HBCU's, among many other provisions.

Since that bill passed, our knowledge and understanding about the root causes of these disparities has dramatically increased. Efforts to strengthen the research infrastructure needed to investigate health concerns among people of color have been quite effective. Momentum has also accelerated in the medical and public health communities as advocates' voices are heard more and more, with new interventions being implemented and evaluated. All of these positive steps and advances have helped to raise minority health as a national priority. However, despite this activity, much work remains to be done in order to close the gap and eliminate health and health care disparities.

Study after study reveals the stark line of health disparity drawn between minorities and whites. In cancer alone, the numbers are hard to overlook. In 2004, African American men were 2.4 times as likely to die from prostate cancer, as compared to white men. For heart disease, the statistics are equally compelling: 2004 data show that when compared to white men, African American men were 30 percent more likely to die from heart disease, and American Indian adults were 30 percent more likely to have high blood pressure.

The underlying factors for health disparities are multi-factorial. Our individual genetic makeup certainly contributes to differences in rates of disease and mortality in diverse populations. However, other factors play an equal if not greater role. We know that minority and low-income Americans are disproportionately less likely to live in communities that promote healthy behaviors and choices through access to wholesome foods and opportunities for physical activity, and that protect from exposure to environmental toxins and violence. In addition, minority Americans are less likely to have health coverage and thus more likely to experience difficulties accessing the health care system, which leads to delayed diagnoses and foregone care. And last but not least, we know that minority Americans are less likely to receive medical care that meets recommended or accepted standards of practice, when compared to White Americans. As an example, the American Journal of Public Health has reported that more than 886,000 deaths could have been prevented from 1991 to 2000 if African Americans had received the same level of health care as Whites.

For all of these reasons, I am joining my colleagues Senator KENNEDY and Senator COCHRAN in introducing the Minority Health Improvement and Health Disparity Elimination Act of 2007. This critical legislation has a number of important provisions to help us achieve our goal to improve the health status of minority and other underserved populations. First, this bill strengthens education and training in cultural competence and communication, which is the cornerstone of quality health care for all patients. It also reauthorizes the pipeline programs in title VII of the Public Health Service Act, which seek to increase diversity in the health professions. We all know that the door to opportunity is only half open for minority students in the health professions. The percentage of minority health professionals is shockingly low—African Americans, Hispanics and American Indians account for one-third of the Nation's population but less than 10 percent of the Nation's doctors, less than 5 percent of dentists and only 12 percent of nurses. We can—and must—do better.

Lack of workforce diversity has serious implications for both access and quality of health care. Minority physicians are significantly more likely to treat low-income patients, and their patients are disproportionately minority. Studies have also shown that minority physicians provide higher quality of care to minority patients, who are more satisfied with their care and more likely to follow the doctor's recommendations.

Second, this bill expands and supports a number of initiatives to increase access to quality care. Specifically, the legislation authorizes demonstration grants to improve access to healthcare, patient navigators, and health literacy education services. Additionally, partnerships modeled after the Health Disparity Collaboratives at the Bureau of Primary Health Care are supported through established grants. The REACH program at Centers for Disease Control and Prevention—designed to assist communities in mobilizing and organizing resources to support effective and sustainable programs to reduce health disparities—is established under this bill. And I am pleased that the Health Action Zone Initiative has also been authorized. This new environmental public health program was introduced as part of the Healthy Communities Act of 2007 that I introduced earlier this year, and guides and strengthens community efforts to improve health in comprehensive and sustained fashion.

A third area of focus is expansion and acceleration of data collection and research across the agencies, including the Agency for Healthcare Research and Quality and the National Institute of Health, with special emphasis on translational research. The tremendous advances in medical science and health technology, which have benefited millions of Americans, have remained out of reach for too many minorities, and translational research will help to remedy this problem. The National Center on Minority Health and Health Disparities, which has a leadership role in establishing the disparities research strategic plan at the National Institutes of Health, is reauthorized. And a new advisory committee has been established at the Food and Drug Administration to focus on pharmacogenomics and its safe and appropriate use in minority populations, another issue area that I championed as part of my Genomics and Personalized Medicine Act of 2006.

Last but not least, I want to highlight that the bill strengthens and clarifies the duties of the Office of Minority Health. This office has been critical in providing the leadership, expertise and guidance for health improvement activities across the agencies of the Department of Health and Human Services, and has helped to ensure coordination, collaboration and integration of such efforts as well.

In conclusion, I want emphasize that it is past time to expand and accelerate our work in a of minority health beyond the initial bipartisan effort Congress achieved in 2000. We have got to translate the knowledge we have gained into practical and effective interventions that will improve minority health and eliminate disparities, and this bill will help us do just that.

I urge my colleagues to join me in cosponsoring and passing this critical legislation. Regardless of how you measure it, whether by needless suffering, lost productivity, financial costs, or lives lost, disparities in health and health care are a tremendous problem and a moral imperative for our Nation, and one that is within our power to address right now.

Mrs. CLINTON. Mr. President, I am pleased to join Senators KENNEDY, COCHRAN, BINGAMAN, OBAMA, DURBIN and BROWN in introducing the Minority Health Improvement and Health Disparity Elimination Act 2007.

As we debate health care issues, we often discuss what is wrong with our health care system: Costs are spiraling upward, the ranks of uninsured have

increased, and the strains on our system and its ability to provide quality care have worsened. And while the impact of these situations are felt by all Americans, the problems with our health care system often disproportionately impact our racial and ethnic minority populations.

We continue to have disparities in health care for our minority populations—disparities in access, disparities in quality, and disparities in outcomes. The Agency for Healthcare Research and Quality (AHRQ) tracks these in its annual National Healthcare Disparities Report, aggregating data from a variety of Federal health surveys and databases. And the findings from the report are staggering, including the following: Minorities had worse access to care than whites; Blacks and Hispanics received poorer quality care than Whites on more than 70 percent of the measures used by AHRQ; and While gains were made on approximately one-quarter of the quality indicators, disparities actually got worse for all minority populations on one-third of the quality indicators.

These system wide disparities have translated into increased burden of disease for our racial and ethnic minority populations.

HIV/AIDS is devastating our African-American communities. Blacks account for about half of all new HIV/AIDS diagnoses. In New York City, the rate of new HIV diagnoses is six times higher among Blacks than Whites. In addition, the AIDS case rate among Hispanic populations is about 3.5 times higher than that of Whites.

The incidence of asthma is highest among Puerto Rican populations, with 22 percent of these individuals receiving a diagnosis of asthma, a rate roughly double that of White populations. Although African-Americans have slightly higher rates of asthma than White populations, they experience disparities in asthma management and access to care. The emergency department visit rate for Blacks seeking asthma treatment was 350 percent higher than that of the rates for Whites, while the hospitalization rate for Blacks with asthma was 240 percent higher than that for Whites with asthma.

One out of every 10 Asian Americans will be diagnosed with diabetes. Among all Americans with diabetes, Blacks are about two times more likely to require amputations, two to five times more likely to have kidney disease, and twice as likely to suffer from diabetes-related blindness.

The impact of health disparities are experienced not only by racial and ethnic minority communities but by all of us. They are symptomatic of the underuse and misuse of health care. And the costs associated with these disparities—such as delayed diagnoses and complications that result from lack of access to primary care—add unnecessary costs to our health care system.

The Minority Health Improvement and Health Disparity Elimination Act of 2007 would allow us to address healthcare disparities through a variety of mechanisms.

The bill will create a cultural competency clearinghouse, helping providers to understand, first of all, the concept of cultural competence, and second, how to better tailor care to their patients of diverse backgrounds. We cannot, for example, ask a person with diabetes to make changes to their diet if we do not understand what foods are part of their diet. Having a culturally competent health care system is especially important in my home State of New York, where our residents come from all over the world. With the information that will be available in this clearinghouse, we will make it easier for both patients and providers to communicate and understand essential concepts of care.

The Minority Health Improvement and Health Disparity Elimination Act will improve health professions programs that increase recruitment and retention of underrepresented minorities in the health professions. New York's population is 15 percent Black and 15.6 percent Hispanic, yet the percentage of Black physicians practicing in our State is 3.2 percent, and the percentage of Hispanic physicians practicing in our State is 2.3 percent. This bill will reauthorize the Centers of Excellence established by the Health Resources and Services Administration, HRSA—a program that has benefited the Mt. Sinai School of Medicine—and establish new programs to train mid-career individuals in the health professions.

It will codify currently existing health promotion and disease prevention activities targeted toward racial and ethnic minorities, including the Centers for Disease Control and Prevention's Racial and Ethnic Approaches to Community Health, REACH. REACH grantees working in northern Manhattan have managed to increase childhood immunization rates by 10 to 15 percent. It will also codify the Health Disparities Collaboratives program operated by HRSA, through which health centers across the country focus on improving their treatments for specific diseases, or implementing models to improve patient care. These centers include Whitney Young Health Center in Albany, NY, which, through this collaborative, successfully helped more than 200 patients learn how to manage their asthma.

The legislation will establish new programs to increase community health workers, address environmental health concerns, and improve outreach and enrollment, thus reducing barriers to accessing care. It will increase support for the Agency for Healthcare Research and Quality's research into healthcare disparities and help to improve overall data collection.

The Minority Health Improvement and Health Disparity Elimination Act will reauthorize the National Center for Minority Health and Health Disparities at the National Institutes of Health, which is designed to conduct and support health disparities research; disseminate information about disparities, and reach out to racial and ethnic minority disparity communities. Through the Center, New York University received support for its Center for the Study of Asian American Health, a collaboration between researchers, health providers, and community organizations that is designed to reduce the disparities faced by Asian Americans in New York City.

Finally, the legislation would reauthorize and strengthen the Office of Minority Health, OMH, at HHS, requiring it to develop a National Action Plan to address disparities in collaboration with other Federal health agencies. The OMH has provided support to New York's Office of Minority Health, as well as community-based organizations in Syracuse, Buffalo, and Lower Manhattan, and this reauthorization of the office will allow them to support and sustain more programs at the State and local level.

I am excited about this legislation because I have seen what happens in communities when we come together—providers, researchers, and neighborhood leaders—to address these concerns. Last month, the University of Rochester and the Monroe County Health Department announced that an initiative to increase pneumococcal immunization rates in African-American seniors resulted in a more than 30-percent gain in immunization rates—protecting more New Yorkers against pneumonia and reducing the vaccination disparity between Blacks and Whites.

I believe that the Minority Health Improvement and Health Disparity Elimination Act will allow us to create, maintain, and support this type of collaboration across the Nation. It will make a real change in the health care for our minority communities and improve the quality of care received by all Americans. I look forward to working with my colleagues in Congress to pass this legislation as quickly as possible.

Mr. DURBIN. Mr. President, Abraham Lincoln once said, ''The declaration that 'all men are created equal' is the great fundamental principle upon which our free institutions rest.''

As a Senator representing the distinguished land of Lincoln, I take seriously our Nation's promise for equality, particularly when it comes to health care.

I rise today as a strong and proud cosponsor of the Minority Health Improvement and Health Disparity Elimination Act of 2007—an important piece of legislation, long in the making, and long overdue.

Not since 2000 has our Congress made a concerted effort to address the health of some of our most at-risk populations—people of color.

In these 7 years, we have not seen a substantial improvement in the health status of people of color.

Cervical cancer, a disease that can be greatly reduced by effective health care, is five times more common among Vietnamese women in the United States than it is among Caucasian women.

African Americans with diabetes are seven times more likely to have amputations and develop kidney failure than are Caucasians with diabetes.

In Chicago's Latino community, you will likely find one in two Latino children who are obese, a condition that often leads to the onset of diabetes.

In the hospitals of East St. Louis, it's likely that African-American babies die at more than double the rate of White infants.

In the small town of Cairo, families have to travel hours to other parts of the State and sometimes even to other States to obtain the right care.

In general, we are making progress in prolonging life. Death rates for Whites, African Americans, and Latinos from many of our most debilitating diseases have declined during the last decade. But what progress are we making on quality of life during those extra years? Is the answer different depending on the racial or ethnic minority groups? Simply speaking, yes.

Even when controlling for insurance coverage and economic status, racial and ethnic minorities tend to have less access to health care and a lower quality of health care than their Caucasian counterparts.

The Centers for Disease Control and Prevention has reported that, among a wide range of health indicators, ''relatively little progress has been made toward the goal of eliminating racial/ethnic disparities.''

In general, yes, Americans are healthier, but the shameful gaps between minority groups and Caucasians remain nearly the same as a decade ago.

When will we as a nation demand more and work harder to reach that ideal of equality that is a pillar of our Nation's moral strength?

This legislation is a critical step toward achieving that notion of equality: the belief that we are all created equal and as such should have equal access to quality care.

Why is it that this country spends so much more than any other industrialized country on its health care, but has consistently lagged behind other countries in delivering better health outcomes? Why is it that one in six Americans, almost one in three African Americans, almost one in two Latino Americans, are uninsured? Why do our health outcomes not reflect the $2 trillion investment we make in health care each year? There is a disconnect between the rhetoric around our Nation's health crisis and where our resources are placed. It is a shame, and we can do better.

Our health workforce should reflect, understand, and respect the backgrounds, experiences, and perspectives of the people it serves. We need to recruit, train and retain health care professionals from underrepresented groups and underserved areas.

In areas like downstate Illinois, small communities rely heavily on Federal incentives, such as loan repayment, the Health Careers Opportunity Program, and Centers of Excellence to create a critical pipeline of professionals.

Graduates of title VII programs are more likely to serve in underserved areas. That is the outcome we want, so we need to support successful programs like these.

In addition to improving the diversity of our workforce, we need to redouble efforts to fight diseases that disproportionately affect racial and ethnic minorities—diseases like diabetes, heart disease, breast cancer and so many others.

To accurately respond to the presence of health care disparities and try to address them, we need better data on health care access and utilization that includes race, ethnicity, primary language, and socio-economic status. To develop accurate solutions, we need accurate information on prevalence, contributing factors, and effects of health care disparities.

The Minority Health Improvement and Health Disparity Elimination Act of 2007 is a critically important step toward improving the access, workforce, research and information that will close the color gap that exists in health care today. I look forward to working with my colleagues to improve the health of all Americans and, specifically, to eliminate health disparities that hurt our communities of color, and all of us.

I did not always agree with the former majority leader, Senator William H. Frist, but I couldn't agree more with his statement that, ''Inequity is a cancer that can no longer be allowed to fester in health care.''

I urge my colleagues to support the health disparity legislation introduced today.

By Mr. KOHL (for himself, Mr. DOMENICI, Mrs. MCCASKILL, Ms. STABENOW, Mrs. LINCOLN, Mr. LEVIN, and Mrs. CLINTON):

S. 1577. A bill to amend titles XVIII and XIX of the Social Security Act to require screening, including national criminal history background checks, of direct patient access employees of skilled nursing facilities, nursing facilities, and other long-term facilities and providers, and to provide for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Patient Safety and Abuse Prevention Act with Senators DOMENICI, MCCASKILL, STABENOW, LINCOLN, LEVIN and CLINTON.

This bill is supported by the Elder Justice Coalition, the National Citizens' Coalition for Nursing Home Reform, the American Association of Homes and Services for the Aging, AARP and many other organizations dedicated to protecting our Nation's vulnerable citizens. If enacted, this legislation could help to prevent many of the tragic tales of physical and financial elder abuse that we hear about from our constituents and read about in our local newspapers. I strongly urge this Congress to do what the States cannot: create a nationwide system of background checks for workers who care for our Nation's frail elders and those who are living with disabilities.

The vast majority of long-term care workers are selfless and dedicated. Yet there are a few with violent criminal histories who pose a clear threat to the defenseless individuals needing long-term care services. Under the disorganized, patchwork system of background checks that exists today, employers trying to hire caregivers do not always know which applicants have records of abuse or a history of committing violent crimes. As a result, predators are sometimes hired to take care of our most vulnerable citizens, allowing them to work in situations where they can cause enormous harm. For example, in just the last 6 weeks, three stories of such elder abuse created headlines across the country:

Last year, Pat Torano, at the age of 89, was partially paralyzed by a stroke. He realized he no longer could care for his 95-year-old wife, who by then was blind and suffering from dementia. Intent on staying at home, the Toranos contracted with Visiting Angels, a network of private home-care agencies that matches clients with caretakers. They expected to find an honest professional to help them with household chores and other non-medical needs. Instead they got convicted felon Gina Treveno, who stole their house just five months later by tricking the couple into placing the deed in her name.

Attorney General Andrew M. Cuomo today announced the sentencing of William Morrison, a former aide at the Rome Memorial Hospital Residential Health Care Facility, who was convicted last month of raping and sexually assaulting a 90-year-old resident of the nursing home. . . . The background check would have revealed that Morrison was previously convicted for one felony drug offense in 1992 and several misdemeanors in the 1990s.

An 84-year-old man allegedly assaulted at a nursing home last month is suing the facility, claiming it failed to protect him from the employee accused of punching him in his bed. Earl Gates of Bozeman claims Evergreen Bozeman Health and Rehabilitation center didn't do a background check on his accused attacker, Joshua Fowler, 23, who has a prior assault conviction.

The bill that I am introducing today with Senators DOMENICI, STABENOW, MCCASKILL, LINCOLN, LEVIN, and CLINTON proposes to take action to stop predators from working in all long-term care settings. It would close gaping loopholes in our current system of background checks through a nationwide expansion of a pilot program that Congress enacted as part of the Medicare Modernization Act of 2003.

Under the MMA, the Centers for Medicare and Medicaid Services has been conducting a pilot program in seven states to implement efficient, equitable systems that cost-effectively screen out certain applicants for employment in long-term care facilities. Applicants excluded are those whose backgrounds include findings of substantiated abuse and/or a serious criminal history.

The seven pilot States are Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico and Wisconsin. These States have significant flexibility in several key areas under the grant. For example, each State establishes parameters for the definition of a ''direct patient access employee'' for workers who must be checked, and defines specific criteria for ''disqualifying'' crimes that prohibit a long-term care employer from hiring workers with such histories.

In other areas, the pilot States must meet Federal standards. They must cover a broad range of long-term care providers, including nursing homes, home health agencies and intermediate care facilities for the mentally retarded. States must require each applicant to submit a written statement disclosing any disqualifying information, and to authorize a State and national criminal record check.

As is currently required under Federal law, providers must search any available registry that is likely to contain disqualifying information about an applicant. Forty-one States already require a criminal background check of some variety, mostly at the State level. The pilot States have integrated their systems to coordinate these checks in a single streamlined process and added a Federal background check through the FBI's Integrated Automated Fingerprint Identification System. Applicants who are subsequently found to have a record of substantiated abuse or a serious criminal history cannot be hired. But individuals who are denied employment can appeal the background check results. Finally, facilities can use the results of the background checks only for the purpose of determining suitability of employment.

That is the basic structure of the pilot program that Congress enacted 4 years ago. Since then, we have learned important lessons from the pilot States' experiences. For example, federal funds have been used for a variety of purposes. States have used pilot funds to hire new staff to administer background checks; to purchase mobile digital scanners; to pay for the cost of fingerprint checks; to provide technical assistance to facilities; and to build online systems that applicants and providers can readily access, and which serve to integrate information from various registries and entities, and as storage and retrieval systems.

States have passed legislation under the pilot program that treat disqualifying crimes somewhat differently. For example, Michigan has created a tiered system, under which certain disqualifying crimes carry time-limited prohibitions on working in long-term care facilities. By comparison, Wisconsin has chosen to enact legislation defining disqualifying crimes as those that carry a lifetime ban only. Alaska has established a ''variance'' process to permit certain individuals to work who have committed crimes but who have subsequently shown evidence of recovery. Similarly, in Idaho, some disqualifying crimes result in an ''unconditional'' denial that carries a lifetime ban on working in long-term care settings, while others result in ''conditional'' denials that apply to less serious crimes that may be waived under certain circumstances, following an ''exemption review'' by the Department of Health and Welfare.

The data on results from the pilot programs are impressive. Among the seven States, Michigan's information is the most complete. In the first year of operation, Michigan excluded more than 3,000 people with records of abuse or a disqualifying criminal history. As of April 30, 2007, 625 of these were excluded through a fingerprint check. Twenty-five percent of these exclusions were identified through an FBI check only, a fact that State officials believe indicates that these individuals committed crimes in other States, or have been avoiding prosecution within the State. Information for Nevada, while less complete, suggests similar results. As of last December, Nevada was identifying an even higher percentage of individuals with criminal histories on the basis of an FBI check only.

The director of Michigan's workforce background check program, Orlene Christie, recently testified before the Special Committee on Aging about the State's program. ''The applicants that have been excluded from employment are not the types of people Michigan could ever allow to work with our most vulnerable citizens,'' she said. ''We have prevented hardened criminals that otherwise would have access to our vulnerable population from employment.''

Ms. Christie also noted that ''of the criminal history reports examined, fraudulent activity and controlled substance violations account for 25 percent of all disqualifying crimes. Fraudulent activity includes such things as embezzlement, identity theft, and credit card fraud. This is particularly alarming giving the projected increase in financial abuse of the elderly.''

Importantly, Michigan has implemented a ''rap back'' system where the Michigan State Police notifies the health agency of any subsequent arrest, which in turn notifies the employer. This is a key component of the bill we are introducing today. It will allow the States, as well as the FBI, to ensure that an employer will be automatically notified as soon as a worker's criminal history record is updated.

To find out what providers think of the pilot program, Idaho conducted a survey of participating facilities, which found 87 percent believed the background checks were successfully screening out workers who shouldn't be hired. Additionally, 63 percent said that the quality of employees hired has improved since the pilot began.

The pilot program demonstrates that participating States are successfully excluding individuals who have a history of abuse or a disqualifying criminal background. If this model is expanded, the resulting nationwide system would greatly enhance the probability of identifying individuals with criminal backgrounds who can now easily escape detection. If all States had parallel, multi-level, comprehensive systems in place, very few potentially abusive workers would be hired into positions of caring for the extremely vulnerable residents of our Nation's long-term care facilities.

The MMA pilot program is scheduled to end this September. I urge the Senate not to let this initiative simply expire. Rather, I hope that we will take the logical step of expanding on the success of this program, and provide limited federal funding for all other States to create similar programs. The Patient Safety and Abuse Prevention Act also lays out sensible standards for creating a nationwide system that will prevent predators, who now go undetected, from being hired into positions where they can harm society's most vulnerable people. I sincerely hope that all of my colleagues will join me in this effort.

I ask unanimous consent that the bill and supporting material be printed in the RECORD.

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

S. 1577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patient Safety and Abuse Prevention Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Frail elders are a highly vulnerable population who often lack the ability to give consent or defend themselves. Since the best predictor of future behavior is past behavior, individuals with histories of abuse pose a definite risk to patients and residents of long-term care facilities.

(2) Every month, there are stories in the media of health care employees who commit criminal misconduct on the job and are later found, through a background check conducted after the fact, to have a history of convictions for similar crimes.

(3) A 2006 study conducted by the Department of Health and Human Services determined that—

(A) criminal background checks are a valuable tool for employers during the hiring process;

(B) the use of criminal background checks during the hiring process does not limit the pool of potential job applicants;

(C) ''a correlation exists between criminal history and incidences of abuse''; and

(D) the long-term care industry supports the practice of conducting background

checks on potential employees in order to reduce the likelihood of hiring someone who has potential to harm residents.

(4) In 2005, the Michigan Attorney General found that 10 percent of employees who were then providing services to frail elders had criminal backgrounds.

(5) In 2004, the staffs of State Adult Protective Services agencies received more than 500,000 reports of elder and vulnerable adult abuse, and an ombudsman report concluded that more than 15,000 nursing home complaints involved abuse, including nearly 4,000 complaints of physical abuse, more than 800 complaints of sexual abuse, and nearly 1,000 complaints of financial exploitation;

(6) The Department of Health and Human Services has determined that while 41 States now require criminal background checks on certified nurse aides prior to employment, only half of those (22) require criminal background checks at the Federal level.

(b) PURPOSES.—The purposes of this Act are to—

(1) create a coordinated, nationwide system of State criminal background checks that would greatly enhance the chances of identifying individuals with problematic backgrounds who move across State lines;

(2) stop individuals who have a record of substantiated abuse, or a serious criminal record, from preying on helpless elders and individuals with disabilities; and

(3) provide assurance to long-term care employers and the residents they care for that potentially abusive workers will not be hired into positions of providing services to the extremely vulnerable residents of our Nation's long-term care facilities.

SEC. 3. NATIONWIDE EXPANSION OF PILOT PROGRAM FOR NATIONAL AND STATE BACKGROUND CHECKS ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-TERM CARE FACILITIES OR PROVIDERS.

Section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395aa note) is amended by adding at the end the following new subsection:

''(h) NATIONWIDE EXPANSION PROGRAM.—

''(1) IN GENERAL.—Beginning on the date of enactment of the Patient Safety and Abuse Prevention Act of 2007, the Secretary shall expand the pilot program under this section to be conducted on a nationwide basis (in this subsection, such expanded pilot program shall be referred to as the 'nationwide expansion program'). Except for the following modifications, the provisions of this section shall apply to the nationwide expansion program:

''(A) AGREEMENTS.—

''(i) NEWLY PARTICIPATING STATES.—The Secretary shall enter into agreements with each State—

''(I) that the Secretary has not entered into an agreement with under subsection (c)(1);

''(II) that agrees to conduct background checks under the nationwide expansion program on a Statewide basis; and

''(III) that submits an application to the Secretary containing such information and at such time as the Secretary may specify.

''(ii) CERTAIN PREVIOUSLY PARTICIPATING STATES.—The Secretary shall enter into agreements with each State—

''(I) that the Secretary has entered into an agreement with under subsection (c)(1) in the case where such agreement did not require the State to conduct background checks under the pilot program established under subsection (a) on a Statewide basis;

''(II) that agrees to conduct background checks under the nationwide expansion program on a Statewide basis; and

''(III) that submits an application to the Secretary containing such information and at such time as the Secretary may specify.

''(B) NONAPPLICATION OF SELECTION CRITERIA.—The selection criteria required under subsection (c)(3)(B) shall not apply.

''(C) REQUIRED FINGERPRINT CHECK AS PART OF CRIMINAL HISTORY BACKGROUND CHECK.—The procedures established under subsection (b)(1) shall require that the facility or provider obtain State and national criminal history background checks on the prospective employee utilizing a search of State and Federal criminal history records and including a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

''(D) PAYMENTS.—

''(i) NEWLY PARTICIPATING STATES.—

''(I) IN GENERAL.—As part of the application submitted by a State under subparagraph (A)(i)(III), the State shall guarantee, with respect to the costs to be incurred by the State in carrying out the nationwide expansion program, that the State will make available (directly or through donations from public or private entities) a particular amount of non-Federal contributions.

''(II) FEDERAL MATCH.—The payment amount to each State that the Secretary enters into an agreement with under subparagraph (A)(i) shall be 3 times the amount that the State guarantees to make available under subclause (I), except that in no case may the payment amount exceed $3,000,000.

''(ii) PREVIOUSLY PARTICIPATING STATES.—

''(I) IN GENERAL.—As part of the application submitted by a State under subparagraph (A)(ii)(III), the State shall guarantee, with respect to the costs to be incurred by the State in carrying out the nationwide expansion program, that the State will make available (directly or through donations from public or private entities) a particular amount of non-Federal contributions.

''(II) FEDERAL MATCH.—The payment amount to each State that the Secretary enters into an agreement with under subparagraph (A)(ii) shall be 3 times the amount that the State guarantees to make available under subclause (I), except that in no case may the payment amount exceed $1,500,000.

''(iii) NO RESERVATION FOR EVALUATION.—There shall be no reservation of any portion of the payment amount provided under clauses (i) or (ii) for conducting an evaluation.

''(E) EVALUATIONS AND REPORT.—

''(i) EVALUATIONS.—The Inspector General of the Department of Health and Human Services shall conduct an annual evaluation of the nationwide expansion program in each of calendar years 2008 and 2009.

''(ii) REPORTS.—Not later than 6 months after completion of the second year of the nationwide expansion program, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the results of the annual evaluations conducted under clause (i), together with recommendations for the implementation of the requirements of sections 1819(b)(9) and 1919(b)(9) of the Social Security Act, as added by section (3)(a) of the Patient Safety and Abuse Prevention Act of 2007.

''(2) FUNDING.—

''(A) NOTIFICATION.—The Secretary shall notify the Secretary of the Treasury of the amount necessary to carry out the nationwide expansion program under this subsection for the period of fiscal years 2008 through 2010, except that in no case shall such amount exceed $156,000,000.

''(B) TRANSFER OF FUNDS.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide for the transfer to the Secretary of the amount specified as necessary to carry out the nationwide expansion program under subparagraph (A).''.

SEC. 4. BACKGROUND CHECKS ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-TERM CARE FACILITIES AND PROVIDERS.

(a) SCREENING OF SKILLED NURSING FACILITY AND NURSING FACILITY EMPLOYEE APPLICANTS.—

(1) MEDICARE PROGRAM.—

(A) IN GENERAL.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

''(9) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—

''(A) SCREENING AND CRIMINAL HISTORY BACKGROUND CHECKS ON APPLICANTS.—

''(i) SCREENING.—Beginning on January 1, 2011, before hiring a direct patient access employee, a skilled nursing facility shall screen the employee for any disqualifying information in accordance with such procedures as the State shall establish through a search of—

''(I) State-based abuse and neglect registries and databases, including the abuse and neglect registries and databases of another State in the case where a prospective employee previously resided in that State; and

''(II) criminal records and the records of any proceedings that may contain disqualifying information about applicants, such as proceedings conducted by State professional licensing and disciplinary boards and State medicaid fraud control units.

''(ii) CRIMINAL HISTORY BACKGROUND CHECKS.—As part of such screening, the skilled nursing facility shall request that the State agency designated under subsection (e)(6)(E) oversee the coordination of a State and national criminal history background check that utilizes a search of State and Federal criminal history records and includes a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

''(iii) USE OF PROCEDURES PREVIOUSLY ESTABLISHED.—Nothing in this paragraph shall be construed as preventing a State from using procedures established for purposes of the pilot program for National and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or the nationwide expansion program under subsection (h) of such section, to satisfy the requirements of paragraph (6).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—Subject to clause (ii), a skilled nursing facility may not knowingly employ any direct patient access employee who has any disqualifying information (as defined in subparagraph (F)(ii)).

''(ii) PROVISIONAL EMPLOYMENT.—Subject to clause (iii), the State may permit a skilled nursing facility to provide for a provisional period of employment (not to exceed 30 days) for a direct patient access employee—

''(I) pending completion of the screening and background check required under subparagraph (A); and

''(II) in the case where the employee has appealed the results of such screening and background check, pending completion of the appeals process.

''(iii) SUPERVISION.—The facility shall maintain direct on-site supervision of the employee during such provisional period of employment.

''(C) PROCEDURES.—

''(i) IN GENERAL.—The procedures established by the State under subparagraph (A) shall be designed to accomplish the following:

''(I) Give a prospective direct patient access employee notice that the skilled nursing facility is required to perform background checks with respect to new employees, including a fingerprint check as part of the national criminal history background check conducted under subparagraph (A)(ii) in the case of any new employee who does not have a certificate indicating that a fingerprint check has been completed and has not found any disqualifying information (as described in subclause (V)).

''(II) Require, as a condition of employment, that the employee—

''(aa) provide a written statement disclosing any disqualifying information;

''(bb) provide a statement signed by the employee authorizing the facility to request a background check that includes a search of the registries and databases described in clause (i)(I) of subparagraph (A) and the records described in clause (i)(II) of such subparagraph and a criminal history background check conducted in accordance with clause (ii) of such subparagraph that includes a fingerprint check using the Integrated Automated Fingerprint System of the Federal Bureau of Investigation;

''(cc) provide the facility with a rolled set of the employee's fingerprints or submit to being fingerprinted; and

''(dd) provide any other identification information the State may require.

''(III) Require the skilled nursing facility to check any available registries that would be likely to contain disqualifying information about a prospective employee, including the registries and databases described in subclause (I) of subparagraph (A)(i) and the records described in clause (II) of such subparagraph.

''(IV) Provide a prospective direct patient access employee the opportunity to request a copy of the results of the background check conducted with respect to such employee and to correct any errors by providing appropriate documentation to the State and the facility.

''(V) Upon completion of a fingerprint check as part of the national criminal history background check conducted with respect to a direct patient access employee under subparagraph (A)(ii), provide the skilled nursing facility and the direct patient access employee with a certificate indicating that such fingerprint check has been completed and no disqualifying information was found. Such certificate shall—

''(aa) be valid for 2 years; and

''(bb) in the case where such direct patient access employee is hired by any other skilled nursing facility located in the State during such 2-year period, satisfy the requirement that such facility have a fingerprint check conducted as part of such national criminal history background check.

''(ii) ELIMINATION OF UNNECESSARY CHECKS.—The procedures established by the State under subparagraph (A) shall permit a skilled nursing facility to terminate the background check at any stage at which the facility obtains disqualifying information regarding a prospective direct patient access employee.

''(iii) DEVELOPMENT OF MODEL FORM OF CERTIFICATE.—The Secretary shall develop a model form of the certificate described in clause (i)(V) that States may use to satisfy the requirements of such clause.

''(D) USE OF INFORMATION; IMMUNITY FROM LIABILITY.—

''(i) USE OF INFORMATION.—A skilled nursing facility that obtains information about a direct patient access employee pursuant to screening or a criminal history background check shall use such information only for the purpose of determining the suitability of the employee for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant, reasonably and in good faith relies upon credible information about such applicant provided by a criminal history background check shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) PROHIBITION ON CHARGING EMPLOYEES FEES FOR CONDUCTING BACKGROUND CHECKS.—A skilled nursing facility shall not charge a prospective direct patient access employee a fee for the screening or criminal history background check conducted under this paragraph.

''(E) PENALTIES.—

''(i) IN GENERAL.—

''(I) STATE PENALTIES.—Subject to subclause (II), a skilled nursing facility that violates the provisions of this paragraph shall be subject to such penalties as the State determines appropriate to enforce the requirements of this paragraph. A skilled nursing facility shall report to the Secretary on a quarterly basis any penalties imposed by the State under the preceding sentence.

''(II) EXCLUSION FROM PARTICIPATION.—In any case where the Secretary determines that a State is not sufficiently enforcing the requirements of this paragraph, the Secretary may exclude a skilled nursing facility located within the State that violates the provisions of this paragraph from participating in the programs under this title and title XIX (in accordance with the procedures of section 1128).

''(ii) KNOWING RETENTION OF WORKER.—In addition to any penalty under clause (i), a skilled nursing facility that knowingly continues to employ a direct patient access employee in violation of subparagraph (A) or (B) shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in section 1128(a); and

''(II) such other types of offenses, including violent crimes, as the State may specify.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of substantiated patient or resident abuse.

''(iii) DIRECT PATIENT ACCESS EMPLOYEE.—The term 'direct patient access employee' means any individual who has access to a patient or resident of a skilled nursing facility through employment or through a contract with such facility and has duties that involve (or may involve) one-on-one contact with a patient or resident of the facility, as determined by the State for purposes of this paragraph. Such term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve (or may involve) one-on-one contact with a patient or resident of the facility.''.

(B) CONFORMING AMENDMENT.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following new paragraph:

''(6) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—Beginning on January 1, 2011, the State must—

''(A) have procedures in place for the conduct of screening and criminal history background checks under subparagraph (A) of subsection (b)(9), in accordance with the requirements of subparagraph (C) of such subsection;

''(B) be responsible for monitoring compliance with the procedures and requirements of such subsection;

''(C) as appropriate, provide for a provisional period of employment of a direct patient access employee under clause (ii) of subparagraph (B) of such subsection, including procedures to ensure that a skilled nursing facility provides direct on-site supervision of the employee in accordance with clause (iii) of such subparagraph;

''(D) provide an independent process by which a provisional employee or an employee may appeal or dispute the accuracy of the information obtained in a background check performed under such subsection; and

''(E) designate a single State agency as responsible for—

''(i) overseeing the coordination of any State and national criminal history background checks requested by a skilled nursing facility utilizing a search of State and Federal criminal history records, including a fingerprint check of such records;

''(ii) reviewing, using appropriate privacy and security safeguards, the results of any State or national criminal history background checks conducted regarding a prospective direct patient access employee to determine whether the employee has any conviction for a relevant crime;

''(iii) immediately reporting to the skilled nursing facility that requested the criminal history background checks the results of such review; and

''(iv) in the case of an employee with a conviction for a relevant crime that is subject to reporting under section 1128E of the Social Security Act (42 U.S.C. 1320a–7e), reporting the existence of such conviction to the database established under that section;

''(F) have a system in place for determining and levying appropriate penalties for violations of the provisions of such subsection;

''(G) have a system in place for determining which individuals are direct patient access employees for purposes of subparagraph (F)(iii) of such subsection;

''(H) as appropriate, specify offenses, including violent crimes, for purposes of subparagraph (F)(i)(II) of such subsection; and

''(I) develop 'rap back' capability such that, if a direct patient access employee of a skilled nursing facility is convicted of a crime following the initial criminal history background check conducted with respect to such employee, and the employee's fingerprints match the prints on file with the State law enforcement department, the department will immediately inform the State agency designated under subparagraph (E).''.

(2) MEDICAID PROGRAM.—

(A) IN GENERAL.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(9) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—

''(A) SCREENING AND CRIMINAL HISTORY BACKGROUND CHECKS ON APPLICANTS.—

''(i) SCREENING.—Beginning on January 1, 2011, before hiring a direct patient access employee, a nursing facility shall screen the employee for any disqualifying information in accordance with such procedures as the State shall establish through a search of—

''(I) State-based abuse and neglect registries and databases, including the abuse and neglect registries and databases of another State in the case where a prospective

employee previously resided in that State; and

''(II) criminal records and the records of any proceedings that may contain disqualifying information about applicants, such as proceedings conducted by State professional licensing and disciplinary boards and State medicaid fraud control units.

''(ii) CRIMINAL HISTORY BACKGROUND CHECKS.—As part of such screening, the nursing facility shall request that the State agency designated under subsection (e)(6)(E) oversee the coordination of a State and national criminal history background check that utilizes a search of State and Federal criminal history records and includes a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

''(iii) USE OF PROCEDURES PREVIOUSLY ESTABLISHED.—Nothing in this paragraph shall be construed as preventing a State from using procedures established for purposes of the pilot program for National and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or the nationwide expansion program under subsection (h) of such section, to satisfy the requirements of paragraph (6).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—Subject to clause (ii), a nursing facility may not knowingly employ any direct patient access employee who has any disqualifying information (as defined in subparagraph (F)(ii)).

''(ii) PROVISIONAL EMPLOYMENT.—Subject to clause (iii), the State may permit a nursing facility to provide for a provisional period of employment (not to exceed 30 days) for a direct patient access employee—

''(I) pending completion of the screening and background check required under subparagraph (A); and

''(II) in the case where the employee has appealed the results of such screening and background check, pending completion of the appeals process.

''(iii) SUPERVISION.—The facility shall maintain direct on-site supervision of the employee during such provisional period of employment.

''(C) PROCEDURES.—

''(i) IN GENERAL.—The procedures established by the State under subparagraph (A) shall be designed to accomplish the following:

''(I) Give a prospective direct patient access employee notice that the nursing facility is required to perform background checks with respect to new employees, including a fingerprint check as part of the national criminal history background check conducted under subparagraph (A)(ii) in the case of any new employee who does not have a certificate indicating that a fingerprint check has been completed and has not found any disqualifying information (as described in subclause (V))

''(II) Require, as a condition of employment, that the employee—

''(aa) provide a written statement disclosing any disqualifying information;

''(bb) provide a statement signed by the employee authorizing the facility to request a background check that includes a search of the registries and databases described in clause (i)(I) of subparagraph (A) and the records described in clause (i)(II) of such subparagraph and a criminal history background check conducted in accordance with clause (ii) of such subparagraph that includes a fingerprint check using the Integrated Automated Fingerprint System of the Federal Bureau of Investigation;

''(cc) provide the facility with a rolled set of the employee's fingerprints or submit to being fingerprinted; and

''(dd) provide any other identification information the State may require.

''(III) Require the nursing facility to check any available registries that would be likely to contain disqualifying information about a prospective employee, including the registries and databases described in subclause (I) of subparagraph (A)(i) and the records described in clause (II) of such subparagraph.

''(IV) Provide a prospective direct patient access employee the opportunity to request a copy of the results of the background check conducted with respect to such employee and to correct any errors by providing appropriate documentation to the State and the nursing facility.

''(V) Upon completion of a fingerprint check as part of the national criminal history background check conducted with respect to a direct patient access employee under subparagraph (A)(ii), provide the nursing facility and the direct patient access employee with a certificate indicating that such fingerprint check has been completed and no disqualifying information was found. Such certificate shall—

''(aa) be valid for 2 years; and

''(bb) in the case where such direct patient access employee is hired by any other nursing facility located in the State during such 2-year period, satisfy the requirement that such facility have a fingerprint check conducted as part of such national criminal history background check.

''(ii) ELIMINATION OF UNNECESSARY CHECKS.—The procedures established by the State under subparagraph (A) shall permit a nursing facility to terminate the background check at any stage at which the facility obtains disqualifying information regarding a prospective direct patient access employee.

''(iii) DEVELOPMENT OF MODEL FORM OF CERTIFICATE.—The Secretary shall develop a model form of the certificate described in clause (i)(V) that States may use to satisfy the requirements of such clause.

''(D) USE OF INFORMATION; IMMUNITY FROM LIABILITY.—

''(i) USE OF INFORMATION.—A nursing facility that obtains information about a direct patient access employee pursuant to screening or a criminal history background check shall use such information only for the purpose of determining the suitability of the employee for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant, reasonably and in good faith relies upon credible information about such applicant provided by a criminal history background check shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) PROHIBITION ON CHARGING EMPLOYEES FEES FOR CONDUCTING BACKGROUND CHECKS.—A nursing facility shall not charge a prospective direct patient access employee a fee for the screening or criminal history background check conducted under this paragraph.

''(E) PENALTIES.—

''(i) IN GENERAL.—

''(I) STATE PENALTIES.—Subject to subclause (II), a nursing facility that violates the provisions of this paragraph shall be subject to such penalties as the State determines appropriate to enforce the requirements of this paragraph. A nursing facility shall report to the Secretary on a quarterly basis any penalties imposed by the State under the preceding sentence.

''(II) EXCLUSION FROM PARTICIPATION.—In any case where the Secretary determines that a State is not sufficiently enforcing the requirements of this paragraph, the Secretary may exclude a nursing facility located within the State that violates the provisions of this paragraph from participating in the programs under this title and title XVIII (in accordance with the procedures of section 1128).

''(ii) KNOWING RETENTION OF WORKER.—In addition to any penalty under clause (i), a nursing facility that knowingly continues to employ a direct patient access employee in violation of subparagraph (A) or (B) shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in section 1128(a); and

''(II) such other types of offenses, including violent crimes, as the State may specify.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of substantiated patient or resident abuse.

''(iii) DIRECT PATIENT ACCESS EMPLOYEE.—The term 'direct patient access employee' means any individual who has access to a patient or resident of a nursing facility through employment or through a contract with such facility and has duties that involve (or may involve) one-on-one contact with a patient or resident of the facility, as determined by the State for purposes of this paragraph. Such term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve (or may involve) one-on-one contact with a patient or resident of the facility.''.

(B) CONFORMING AMENDMENT.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—Beginning on January 1, 2011, the State must—

''(A) have procedures in place for the conduct of screening and criminal history background checks under subparagraph (A) of subsection (b)(9), in accordance with the requirements of subparagraph (C) of such subsection;

''(B) be responsible for monitoring compliance with the procedures and requirements of such subsection;

''(C) as appropriate, provide for a provisional period of employment of a direct patient access employee under clause (ii) of subparagraph (B) of such subsection, including procedures to ensure that a nursing facility provides direct on-site supervision of the employee in accordance with clause (iii) of such subparagraph;

''(D) provide an independent process by which a provisional employee or an employee may appeal or dispute the accuracy of the information obtained in a background check performed under such subsection; and

''(E) designate a single State agency as responsible for—

''(i) overseeing the coordination of any State and national criminal history background checks requested by a nursing facility utilizing a search of State and Federal criminal history records, including a fingerprint check of such records;

''(ii) reviewing, using appropriate privacy and security safeguards, the results of any State or national criminal history background checks conducted regarding a prospective direct patient access employee to

determine whether the employee has any conviction for a relevant crime;

''(iii) immediately reporting to the nursing facility that requested the criminal history background checks the results of such review; and

''(iv) in the case of an employee with a conviction for a relevant crime that is subject to reporting under section 1128E of the Social Security Act (42 U.S.C. 1320a–7e), reporting the existence of such conviction to the database established under that section;

''(F) have a system in place for determining and levying appropriate penalties for violations of the provisions of such subsection;

''(G) have a system in place for determining which individuals are direct patient access employees for purposes of subparagraph (F)(iii) of such subsection;

''(H) as appropriate, specify offenses, including violent crimes, for purposes of subparagraph (F)(i)(II) of such subsection; and

''(I) develop 'rap back' capability such that, if a direct patient access employee of a nursing facility is convicted of a crime following the initial criminal history background check conducted with respect to such employee, and the employee's fingerprints match the prints on file with the State law enforcement department, the department will immediately inform the State agency designated under subparagraph (E).''.

(b) APPLICATION TO OTHER LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) MEDICARE.—Part E of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO LONG-TERM CARE FACILITIES AND PROVIDERS

''SEC. 1898. (a) The provisions of section 1819(b)(9) shall apply to a long-term care facility or provider (as defined in subsection (b)) in the same manner as such provisions apply to a skilled nursing facility.

''(b) LONG-TERM CARE FACILITY OR PROVIDER.—In this section, the term 'long-term care facility or provider' means the following facilities or providers which receive payment for services under this title or title XIX:

''(1) A home health agency.

''(2) A provider of hospice care.

''(3) A long-term care hospital.

''(4) A provider of personal care services.

''(5) A provider of adult day care.

''(6) A residential care provider that arranges for, or directly provides, long-term care services, including an assisted living facility that provides a level of care established by the Secretary.

''(7) An intermediate care facility for the mentally retarded (as defined in section 1905(d)).''.

(2) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (69), by striking ''and'' at the end;

(B) in paragraph (70)(B)(iv), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70)(B)(iv) the following:

''(71) provide that the provisions of section 1919(b)(9) apply to a long-term care facility or provider (as defined in section 1898(b)) in the same manner as such provisions apply to a nursing facility.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2011.

(c) PAYMENTS.—

(1) PROCEDURES TO REIMBURSE COSTS OF NATIONAL BACKGROUND CHECK.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall establish procedures to reimburse the costs of conducting national criminal history background checks under sections 1819(b)(9), 1919(b)(9), 1898, and 1902(a)(71) of the Social Security Act, as added by subsections (a)(1), (a)(2), (b)(1), and (b)(2), respectively, through the following mechanisms, in such proportion as the Secretary determines appropriate:

(i) By providing payments to skilled nursing facilities and long-term care facilities or providers for costs incurred as are attributable to the conduct of such national criminal history background checks under such section 1819(b)(9).

(ii) By making a payment, from sums appropriated therefore, under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) to each State which has a plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), for each quarter, beginning with the quarter commencing on January 1, 2011, in an amount equal to 90 percent of the sums expended with respect to costs incurred during such quarter as are attributable to the conduct of such national criminal history background checks under such section 1919(b)(9).

(B) FUNDING FOR PAYMENTS FOR COSTS INCURRED UNDER MEDICARE PROGRAM.—The Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of such funds as are necessary to make payments under subparagraph (A)(i) for fiscal year 2011 and each fiscal year thereafter.

(C) DETERMINATION OF APPROPRIATE PROPORTION.—In establishing the procedures under subparagraph (A), the Secretary of Health and Human Services shall determine what proportion of payments using the mechanisms described in such subparagraph would result in an equitable allocation of the costs of such reimbursement between the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act.

(2) ENSURING NO DUPLICATIVE PAYMENTS.—The procedures established under paragraph (1)(A) shall ensure that no duplicative payments are made for the costs of conducting such national criminal history background checks, including any duplication of payments made under the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2007, including the nationwide expansion program under subsection (h) of such section, as added by section 3.

(3) SUBMISSION OF COSTS INCURRED BY FACILITIES IN PERFORMING CHECKS.—

(A) IN GENERAL.—The procedures established under paragraph (1)(A) shall provide a process, such as through submission of a bill, by which a skilled nursing facility, a nursing facility, and a long-term care facility or provider may submit information regarding the costs incurred by such facility in conducting national criminal history background checks under sections 1819(b)(9), 1919(b)(9), 1898, and 1902(a)(71) of the Social Security Act, as added by subsections (a)(1), (a)(2), (b)(1), and (b)(2), respectively.

(B) MODEL FORMS.—The Secretary of Health and Human Services shall develop model forms that may be used by a skilled nursing facility, a nursing facility, and a long-term care facility or provider to submit a claim for reimbursement of the costs described in paragraph (1)(A) that contains the information described in subparagraph (A).

(4) REGULATIONS.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to carry out this subsection.

SEC. 5. BACKGROUND CHECKS PROVIDED BY THE FEDERAL BUREAU OF INVESTIGATION.

(a) DEVELOPMENT OF RAP BACK CAPABILITIES.—

(1) IN GENERAL.—Not later than January 1, 2011, the Director of the Federal Bureau of Investigation (in this section referred to as the ''Director'') shall ensure that the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation has the capacity to store and retrieve fingerprints from its database.

(2) NOTIFICATION OF CONVICTION OF DIRECT PATIENT ACCESS EMPLOYEE.—In the case where a direct patient access employee (as defined in subparagraph (F)(iii) of sections 1819(b)(9) and 1919(b)(9) of the Social Security Act, as added by section 4(a)) is convicted of a crime following the initial national criminal history background check conducted with respect to such employee under such sections 1819(b)(9) and 1919(b)(9), and the employee's fingerprint matches the prints on file with the Federal Bureau of Investigation, the Bureau shall inform the State law enforcement department, in order for the State to inform the skilled nursing facility, nursing facility, or long-term care facility or provider of such conviction in accordance with the requirements of sections 1819(e)(6)(I) and 1919(e)(8)(I) of the Social Security Act, as added by section 4(a).

(b) REASONABLE FEE FOR NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS CONDUCTED ON EMPLOYEES OF LONG-TERM CARE FACILITIES.—The Director may charge a reasonable fee, in consultation with the Secretary of Health and Human Services, for a national criminal history background check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation that is conducted under section 1819(b)(9), 1919(b)(9), 1898, or 1902(a)(71) of the Social Security Act, as added by subsections (a)(1), (a)(2), (b)(1), and (b)(2) of section 4, respectively, that represents the actual cost of conducting such national criminal history background check.

THE NURSING HOME REFORM ACT TURNS TWENTY: WHAT HAS BEEN ACCOMPLISHED, AND WHAT CHALLENGES REMAIN?

(By Orlene Christie)

Thank you, Senators Kohl and Smith and the Senate Special Committee on Aging for this opportunity to testify before you today on Michigan's Workforce Background Check Program.

My name is Orlene Christie, and I am the Director of the Legislative and Statutory Compliance Office in the Michigan Department of Community Health. I oversee the Workforce Background Check Program.

In 2004, Governor Jennifer Granholm and the Michigan Department of Community Health (MDCH) Director Janet Olszewski proposed strong requirements to assure the health and safety of Michigan citizens in long-term care facilities. This project is a priority for the Governor and the Department Director. Working cooperatively with the Michigan Legislature, the Office of Attorney General, and the Centers for Medicaid and Medicare Services (CMS), Michigan successfully implemented the Workforce Background Check Program. Through a competitive process, Michigan secured from CMS a $3.5 million grant to create an effective statewide background check system.

Through the passage of Public Acts 27 and 28 of 2006, Michigan laws were enhanced and

improved to require all applicants for employment that would have direct access to our most vulnerable populations—the elderly and disabled—to undergo a background check. Additionally, all employees who were hired before the effective date of April 1, 2006, would need to be fingerprinted within 24 months of the enactment of the laws.

Before the new laws were passed, only some employees in nursing homes, county medical care facilities, homes for the aged, and adult foster care facilities required some type of background check. Prior to 2006, the background checks were less comprehensive and primarily included a ''name-based'' check of the Internet Criminal History Tool (ICHAT). The FBI fingerprint check was only required for employees residing in Michigan for less than three (3) years. The previous law also did not require all employees with direct access to residents in long-term care facilities to undergo a background check. Further, for those persons who were subject to a background check, there was no systematic process across the multiple health and human service agencies to conduct the checks, to disseminate findings, or to follow through on results.

With Michigan's expansion of the laws, all individuals with direct access to residents' personal information, financial information, medical records, treatment information or any other identifying information are now also required to be part of Michigan's Workforce Background Check Program in addition to individuals providing direct services to patients. The scope of the checks was also enhanced to include hospice, psychiatric hospitals, and hospitals with swing beds, home health, and intermediate care facility/mental retardation (ICFs/MR).

HOW OUR PROGRAM/SYSTEM WORKS

Michigan created a Web based application that integrates the databases for the available registries and provides a convenient and effective mechanism for conducting criminal history checks on prospective employees, current employees, independent contractors and those granted clinical privileges in facilities and agencies covered under the new laws.

Further, the online workforce background check system is designed to eliminate unnecessary fingerprinting through a screening process.

As of April 1, 2006, 98,625 applicants had been screened through Michigan's Workforce Background Check Program. Of the 61,474 applicants that prompted the full background check, 3,262 were deemed unemployable and excluded from potential hiring pools due to information found on state lists such as ICHAT, (U.S. HHS Exclusion List) OIG exclusion list, the nurse aid registry, the sex offender registry, the offender tracking information system, and the FBI list.

The applicants that have been excluded from employment are not the types of people Michigan could ever allow to work with our most vulnerable citizens. We have prevented hardened criminals that otherwise would have access to our vulnerable population from employment.

As Michigan's demographic profile mirrors that of the nation, the offenses that disqualify individuals from employment in long-term care under the new laws are expected to also be similar across the United States.

Of the criminal history reports examined, fraudulent activity and controlled substance violations account for 25 percent of all disqualifying crimes. Fraudulent activity includes such things as embezzlement, identity theft, and credit card fraud. This is particularly alarming giving the projected increase in financial abuse of the elderly.

Accessible to long-term care providers through a secure ID and password, a provider is easily able to log onto the workforce background check online system to conduct a check of a potential employee. If no matches are found on the registries, the applicant goes to an independent vendor for a digital live scan of their fingerprints. The prints are then submitted to the Michigan State Police and then to the FBI. If there is a ''hit'' on the state or national database search, a notice is sent to either the Michigan Department of Community Health or the Michigan Department of Human Services for staff analysts to examine the applicant's criminal history.

Michigan has also implemented a ''rap back'' system where the Michigan State Police notifies one of the two state agencies of a subsequent arrest and in turn the agency notifies the employer. This way we can ensure that in real time, as soon as the criminal history record is updated (arrest, charge or conviction), the department and employer are also notified.

CONCLUSION

As a result of Michigan's Workforce Background Check Program, the health and safety of Michigan's vulnerable population is protected by ensuring that adequate safeguards are in place for background screenings of direct care service workers.

While the vast majority of health care workers are outstanding individuals who do a wonderful job caring for people in need, we are extremely pleased that Michigan's Workforce Background Check Program has stopped more than 3,000 people with criminal histories from possibly preying on our most vulnerable citizens. By building an appeals process, we have also developed a fair system for reviewing inaccurate criminal records or convictions.

As you can see, Michigan has been leading the way in the area of employee background checks. As I indicated, this project has been a priority of Governor Jennifer Granholm and Michigan Department of Community Health Director Janet Olszewski. We appreciate this opportunity to share this information with you today and look forward to our continued cooperation on this vital topic.

Thank you.

NCCNHR,
Washington, DC, May 16, 2007.

Hon. HERB KOHL,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: NCCNHR, The National Consumer Voice for Quality Long-Term Care, strongly endorses and supports the Patient Safety and Abuse Prevention Act of 2007.

The Patient Safety and Abuse Prevention Act would close critical loopholes in the protection of nursing home residents and other long-term care recipients by requiring national criminal background checks on all workers who have direct access to residents. Today, in most states, long-term care providers are not required to conduct interstate criminal background checks on any workers, and where background checks are carried out, they are usually confined to nursing assistants. Enactment of your legislation will ensure that both licensed and unlicensed workers with histories of criminal abuse do not move from job to job and state to state while continuing to injure and exploit their vulnerable charges.

NCCNHR and its members across the United States wish to thank you for pursuing this important legislation, and we look forward to working with you to ensure its passage.

Sincerely,

ALICE H. HEDT,
Executive Director.
JANET C. WELLS,
Director of Public Policy.

AARP,
Washington, DC, June 6, 2007.

Hon. HERBERT H. KOHL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KOHL: AARP is very pleased to support the bipartisan Patient Safety and Abuse Prevention Act of 2007 that you are sponsoring with Senator Domenici. We truly appreciate your leadership and applaud your advocacy for national criminal background checks for long-term care employees.

Individuals with criminal convictions or histories of abuse can pose a significant risk to persons receiving long-term care. A system of national criminal background checks is especially critical, given the mobility of today's workers, the turnover in the long-term care workforce, and the fact that it is not unusual for individuals to work in multiple states.

Your bill takes important steps to protect individuals in both home-and community-based and institutional settings by establishing a system of screening and national criminal history background checks, including an FBI fingerprint check. These background checks would apply to employees of long-term care providers receiving Medicare or Medicaid funds whose duties involve or may involve one-on-one contact with individuals receiving long-term care. Penalties would apply if providers knowingly hire or continue to employ an individual with a conviction for a relevant crime or a finding of substantiated abuse of an individual receiving long-term care.

This legislation builds on the framework of the criminal background check pilot program included in the Medicare Modernization Act and gives states resources to put in place the infrastructure for criminal background checks. This bill includes many important provisions, and we want to continue working with you to ensure that long-term care employers provide adequate direct supervision of employees during provisional employment or an appeal. In addition, we want to improve the balance in accountability between states and providers in the legislation. We appreciate your willingness to work with AARP on this bill.

This bill would make significant strides in protecting individuals across the country receiving long-term care services and we look forward to working with you and your colleagues on both sides of the aisle to advance this important initiative. If there are any further questions, please feel free to call me or have your staff contact Rhonda Richards of our Federal Affairs staff.

Sincerely,

DAVID P. SLOANE,
Senior Managing Director, Government Relations and Advocacy.

STATE OF WISCONSIN,
BOARD ON AGING AND LONG TERM CARE,
Madison, WI, May 16, 2007.

Hon. HERB KOHL,
Chairman, Special Committee on Aging,
Washington, DC.

DEAR SENATOR KOHL: On behalf of the Wisconsin Board on Aging and Long Term Care, I am pleased to express our support for the Patient Safety and Abuse Prevention Act of 2007.

The Patient Safety and Abuse Prevention Act would offer substantially increased protection for consumers of long-term care by requiring a national criminal background check on all caregivers who come into direct contact with residents. Today, long-term

care providers often are not required to do interstate criminal background checks on workers. Where background checks are done, they are often limited to nursing assistants. This overlooks the possibility that licensed professional staff and ancillary workers such as dietary or housekeeping staff who may have criminal histories could be employed to deliver resident care. It is imperative that Congress ensure that workers with histories of criminal abuse cannot move from state to state with impunity while continuing to work in a ''target-rich environment.''

As well, the bill's provisions addressing the need for assistance by CMS in funding the costs of obtaining the interstate background checks and the requirement that states notify employers of subsequent offenses by previously cleared workers are welcome additions to the system. These provisions will tighten the net and make it even more difficult for workers with backgrounds of criminal misappropriation of property, abuse, and neglect to find a place providing care to our vulnerable elders.

As the Executive Director of the Wisconsin Board on Aging and Long Term Care, I thank you for pursuing this important legislation, and I look forward to working with you to ensure its passage.

Sincerely,

GEORGE F. POTARACKE,
Executive Director.

THE ELDER JUSTICE COALITION,
Washington, DC, June 7, 2007.

Hon. HERBERT H. KOHL,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN KOHL: On behalf of the 542-member Elder Justice Coalition (EJC), I applaud you on the planned introduction of the Patient Safety and Abuse Prevention Act of 2007. The Elder Justice Coalition has long supported your efforts to secure passage of legislation to ensure that employees of long-term care facilities or providers do not have criminal records or other histories of abusive conduct that could lead to endangering facility residents and others receiving long-term care.

Since the Elder Justice Act, as introduced in the 110th Congress (S. 1070), does not include background check provisions, we are pleased that you will be introducing this important bill. We commend your leadership and steadfast commitment to protecting individuals who need long-term care from abuse, neglect, and exploitation, and for your leadership on other issues concerning the nation's older population.

Thank you also for being an original cosponsor of the Elder Justice Act. Please let us know how we can be supportive of your continued work for elder justice.

Sincerely,

ROBERT B. BLANCATO,
National Coordinator.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 1578. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and or other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, the United States has more than 95,000 miles of coastline, and its ocean territory is larger than the combined land area of all 50 States. We rely on our oceans for such diverse benefits as recreation, food, transportation, and energy. All Americans, regardless of whether they reside in the Nation's heartland or along the coast, are impacted by the ocean.

That is why I rise today, joined by Vice Chairman TED STEVENS and several other Commerce Committee colleagues, in introducing a group of bills to provide for sustainable use and protection of our ocean and coastal areas.

Our oceans and coasts provide us with tremendous economic and recreational opportunities. It is critical that use of ocean resources and coasts is sustainable and that we address the many existing and emerging risks to their well-being. As the U.S. Commission on Ocean Policy has thoroughly documented, our oceans and coasts are faced with many threats, including those posed by pollution, increasing population growth and coastal development, overfishing, climate change, and ocean acidification. All of the bills my colleagues and I are introducing today implement recommendations of the Ocean Commission.

First, the Coral Reef Conservation Amendments Act of 2007 would reauthorize the Coral Reef Conservation Act of 2000 and provide critical authorities for preserving, restoring, and managing in a sustainable manner our coral reef ecosystems. Coral reefs are one of the oldest and most diverse ecosystems on the planet, and they provide environmental and economic benefits such as shoreline protection as well as critical habitat for approximately half of all federally-managed fisheries.

Second, the Hydrographic Services Improvement Act Amendments of 2007 would reauthorize and strengthen authorities to survey and analyze the physical condition of our Nation's coasts and waterways, along with elements that impact safe navigation. Conducting surveys of our Nation's coasts and waterways is a core mission for the National Oceanic and Atmospheric Administration and provides valuable services to the maritime industry and to Federal agencies responsible for maritime transportation, homeland security, and emergency response.

Third, the Ballast Water Management Act of 2007 would amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 and establish ballast water management requirements to mitigate the introduction and spread of invasive species from ships. The bill would also seek to prevent the introduction of invasive species from ship equipment or hulls. Invasive species brought into the United States from other countries have caused billions of dollars in damage to the U.S. economy.

In addition to the initiatives I have highlighted, a number of other ocean-related bills are being introduced today by colleagues on the Commerce Committee. These include a bill by Senator LAUTENBERG to establish a much-needed Federal program to conduct research, monitoring, and education to examine the processes and consequences of ocean acidification, and a bill by Senator SNOWE to reauthorize the Coastal Zone Management Act.

This week we celebrate Capitol Hill Ocean Week. Many organizations and agencies are using this opportunity to educate and raise public awareness about the impact of our oceans on our society and economy. The bills that my colleagues and I are introducing today address many of those needs being highlighted. I urge my Senate colleagues to support the Commerce Committee's bipartisan efforts to improve the health and management of our oceans and coasts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ballast Water Management Act of 2007''.

SEC. 2. FINDINGS.

Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

(1) by redesignating paragraphs (14) and (15) as paragraphs (15) and (16);

(2) by inserting after paragraph (13) the following:

''(14) aquatic nuisance species may be introduced by other vessel conduits, including the hulls of ships;

(3) by striking ''inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and'' in paragraph (15), as redesignated, and inserting ''other areas of the United States, including coastal areas, inland lakes, and rivers by recreational boaters, commercial traffic, and a variety of other pathways;'';

(4) by inserting ''nongovernmental entities, institutions of higher education, and the private sector,'' after ''governments,'' in paragraph (16), as redesignated;

(5) by striking ''technologies.'' in paragraph (16), as redesignated, and inserting ''technologies;''; and

(6) adding at the end the following:

''(17) in 2004, the International Maritime Organization agreed to a Convention, which the United States played an active role in negotiating, to prevent, minimize, and ultimately eliminate the transfer of aquatic nuisance species through the control and management of ballast water and sediments;

''(18) the International Maritime Organization agreement specifically recognizes that countries can take more stringent measures than those of the Convention with respect to the control and management of ships' ballast water and sediment; and

''(19) due to the interstate nature of maritime transportation and the ways by which aquatic nuisance species may be transferred by vessels, a comprehensive and uniform national approach for addressing vessel-borne aquatic nuisance species is needed to address this issue effectively.''.

SEC. 3. MANAGEMENT OF VESSEL-BORNE AQUATIC NUISANCE SPECIES.

(a) IN GENERAL.—Section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711) is amended to read as follows:

"SEC. 1101. MANAGEMENT OF VESSEL-BORNE AQUATIC NUISANCE SPECIES.

''(a) STATEMENT OF PURPOSE; VESSELS TO WHICH THIS SECTION APPLIES.—

''(1) PURPOSES.—The purposes of this section are—

''(A) to provide an effective, comprehensive, and uniform national approach for addressing the introduction and spread of aquatic nuisance species from ballast water and other ship-borne vectors;

''(B) to require, as part of that approach, mandatory treatment technology, with the ultimate goal of achieving zero discharge of aquatic nuisance species;

''(C) to create incentives for the development of ballast water treatment technologies;

''(D) to implement the International Convention for the Control and Management of Ships' Ballast Water and Sediments, adopted by the International Maritime Organization in 2004; and

''(E) to establish a management approach for other ship-borne vectors of aquatic nuisance species.

''(2) IN GENERAL.—Except as provided in paragraphs (3), (4), (5), and (6) this section applies to a vessel that is designed, constructed, or adapted to carry ballast water; and

''(A) is a vessel of United States registry or nationality, or operated under the authority of the United States, wherever located; or

''(B) is a foreign vessel that—

''(i) is en route to a United States port or place; or

''(ii) has departed from a United States port or place and is within waters subject to the jurisdiction of the United States.

''(3) PERMANENT BALLAST WATER VESSELS.—Except as provided in paragraph (6), this section does not apply to a vessel that carries all of its permanent ballast water in sealed tanks and is not subject to discharge.

''(4) ARMED FORCES VESSELS.—

''(A) EXEMPTION.—Except as provided in subparagraph (B) and paragraph (6), this section does not apply to a vessel of the Armed Forces.

''(B) BALLAST WATER MANAGEMENT PROGRAM.—The Secretary and the Secretary of Defense, after consultation with each other and with the Under Secretary of Commerce for Oceans and Atmosphere, the Administrator of the Environmental Protection Agency, and other appropriate Federal agencies as determined by the Secretary, shall implement a ballast water management program, including the promulgation of standards for ballast water exchange and treatment and for sediment management, for vessels of the Armed Forces under their respective jurisdictions designed, constructed, or adapted to carry ballast water that is—

''(i) consistent with the requirements of this section, including the deadlines; and

''(ii) at least as stringent as the requirements promulgated for such vessels under section 312 of the Clean Water Act (33 U.S.C. 1322).

''(5) SPECIAL RULE FOR SMALL VESSELS.—In applying this section to vessels less than 50 meters in length that have a maximum ballast water capacity of 8 cubic meters, the Secretary may promulgate alternative measures for managing ballast water in a manner that is consistent with the purposes of this Act.

''(6) OTHER SOURCES OF VESSEL-BORNE AQUATIC NUISANCE SPECIES.—Measures undertaken by the Secretary under subsection (s) shall apply to all vessels (as defined in section 3 of title 1, United States Code).

''(b) UPTAKE AND DISCHARGE OF BALLAST WATER OR SEDIMENT.—

''(1) PROHIBITION.—The operator of a vessel to which this section applies may not conduct the uptake or discharge of ballast water or sediment except as provided in this section.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the uptake or discharge of ballast water or sediment in the following circumstances:

''(A) The uptake or discharge is solely for the purpose of—

''(i) ensuring the safety of the vessel in an emergency situation; or

''(ii) saving a life at sea.

''(B) The uptake or discharge is accidental and the result of damage to the vessel or its equipment and—

''(i) all reasonable precautions to prevent or minimize ballast water and sediment discharge have been taken before and after the damage occurs, the discovery of the damage, and the discharge; and

''(ii) the owner or officer in charge of the vessel did not willfully or recklessly cause the damage.

''(C) The uptake or discharge is solely for the purpose of avoiding or minimizing the discharge from the vessel of pollution that would otherwise violate applicable Federal or State law.

''(D) The uptake or discharge of ballast water and sediment occurs at the same location where the whole of that ballast water and that sediment originated and there is no mixing with ballast water and sediment from another area that has not been managed in accordance with the requirements of this section.

''(c) VESSEL BALLAST WATER MANAGEMENT PLAN.—

''(1) IN GENERAL.—The operator of a vessel to which this section applies shall conduct all ballast water management operations of that vessel in accordance with a ballast water management plan designed to minimize the discharge of aquatic nuisance species that—

''(A) meets the requirements prescribed by the Secretary by regulation; and

''(B) is approved by the Secretary.

''(2) APPROVAL CRITERIA.—

''(A) IN GENERAL.—The Secretary may not approve a ballast water management plan unless the Secretary determines that the plan—

''(i) describes in detail the actions to be taken to implement the ballast water management requirements established under this section;

''(ii) describes in detail the procedures to be used for disposal of sediment at sea and on shore in accordance with the requirements of this section;

''(iii) describes in detail safety procedures for the vessel and crew associated with ballast water management;

''(iv) designates the officer on board the vessel in charge of ensuring that the plan is properly implemented;

''(v) contains the reporting requirements for vessels established under this section and a copy of each form necessary to meet those requirements;

''(vi) incorporates regulatory requirements, guidance, and best practices developed under subsection (s) for other vessel pathways by which aquatic nuisance species are transported; and

''(vii) meets all other requirements prescribed by the Secretary.

''(B) FOREIGN VESSELS.—The Secretary may approve a ballast water management plan for a foreign vessel (as defined in section 2101(12) of title 46, United States Code) on the basis of a certificate of compliance with the criteria described in subparagraph (A) issued by the vessel's country of registration in accordance with regulations promulgated by the Secretary.

''(3) COPY OF PLAN ON BOARD VESSEL.—The owner or operator of a vessel to which this section applies shall—

''(A) maintain a copy of the vessel's ballast water management plan on board at all times; and

''(B) keep the plan readily available for examination by the Secretary at all reasonable times.

''(d) VESSEL BALLAST WATER RECORD BOOK.—

''(1) IN GENERAL.—The owner or operator of a vessel to which this section applies shall maintain a ballast water record book in English on board the vessel in which—

''(A) each operation involving ballast water or sediment discharge is fully recorded without delay, in accordance with regulations promulgated by the Secretary;

''(B) each such operation is described in detail, including the location and circumstances of, and the reason for, the operation; and

''(C) the exact nature and circumstances of any situation under which any operation was conducted under an exception set forth in subsection (b)(2) or (e)(3) is described.

''(2) AVAILABILITY.—The ballast water record book—

''(A) shall be kept readily available for examination by the Secretary at all reasonable times; and

''(B) notwithstanding paragraph (1), may be kept on the towing vessel in the case of an unmanned vessel under tow.

''(3) RETENTION PERIOD.—The ballast water record book shall be retained—

''(A) on board the vessel for a period of 3 years after the date on which the last entry in the book is made; and

''(B) under the control of the vessel's owner for an additional period of 3 years.

''(4) REGULATIONS.—In the regulations prescribed under this section, the Secretary shall require, at a minimum, that—

''(A) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded;

''(B) each completed page in the ballast water record book be signed and dated by the master of the vessel; and

''(C) the owner or operator of the vessel transmit such information to the Secretary regarding the ballast operations of the vessel as the Secretary may require.

''(5) ALTERNATIVE MEANS OF RECORDKEEPING.—The Secretary shall provide by regulation for alternative methods of recordkeeping, including electronic recordkeeping, to comply with the requirements of this subsection. Any electronic recordkeeping method authorized by the Secretary shall support the inspection and enforcement provisions of this Act and shall comply with applicable standards of the National Institute of Standards and Technology and the Office of Management and Budget governing reliability, integrity, identity authentication, and nonrepudiation of stored electronic data.

''(e) BALLAST WATER EXCHANGE REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Until a vessel is required to conduct ballast water treatment in accordance with subsection (f) of this section, the operator of a vessel to which this section applies may not discharge ballast water in waters subject to the jurisdiction of the United States except after—

''(i) conducting ballast water exchange as required by this subsection, in accordance with regulations prescribed by the Secretary, in a manner that results in an efficiency of at least 95 percent volumetric exchange of the ballast water for each ballast water tank;

''(ii) using ballast water treatment technology that meets the performance standards of subsection (f); or

''(iii) using environmentally-sound alternative ballast water treatment technology, if the Secretary determines that such treatment technology is at least as effective as the ballast water exchange required by clause (i) in preventing and controlling the introduction of aquatic nuisance species.

''(B) TECHNOLOGY EFFICACY.—For purposes of this paragraph, a ballast water treatment technology shall be considered to be at least as effective as the ballast water exchange required by clause (i) in preventing and controlling the introduction of aquatic nuisance species if preliminary experiments prior to installation of the technology aboard the vessel demonstrate that the technology removed at least 98 percent of organisms larger than 50 microns.

''(2) GUIDANCE; 5-YEAR USAGE.—

''(A) GUIDANCE.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, after public notice and opportunity for comment, the Secretary shall develop guidance on technology that may be used under paragraph (1)(A)(iii).

''(B) 5-YEAR USAGE.—The Secretary shall allow a vessel using environmentally-sound alternative ballast water treatment technology under paragraph (1)(A)(iii) to continue to use that technology for 5 years after the date on which the environmentally-sound alternative ballast water treatment technology was first placed in service on the vessel, or the date on which treatment requirements under subsection (f) become applicable, whichever is later.

''(3) EXCHANGE AREAS.—

''(A) VESSELS OUTSIDE THE UNITED STATES EEZ.—The operator of a vessel en route to a United States port or place from a port or place outside the United States exclusive economic zone shall conduct ballast water exchange—

''(i) before arriving at a United States port or place;

''(ii) at least 200 nautical miles from the nearest point of land; and

''(iii) in water at least 200 meters in depth.

''(B) COASTAL VOYAGES.—In lieu of using an exchange zone described in subparagraph (A)(ii) or (iii), the operator of a vessel originating from a port or place within waters subject to the jurisdiction of the United States, or from a port within 200 nautical miles of the United States in Canada, Mexico, or other ports designated by the Secretary for purposes of this section, and which does not voyage into waters described in subparagraph (A)(ii) or (iii), shall conduct ballast water exchange—

''(i) at least 50 nautical miles from the nearest point of land; and

''(ii) in water at least 200 meters in depth.

''(4) SAFETY OR STABILITY EXCEPTION.—

''(A) SECRETARIAL DETERMINATION.—Paragraph (3) does not apply to the discharge of ballast water if the Secretary determines that compliance with that paragraph would threaten the safety or stability of the vessel, its crew, or its passengers because of the design or operating characteristics of the vessel.

''(B) MASTER OF THE VESSEL DETERMINATION.—Paragraph (3) does not apply to the discharge of ballast water if the master of a vessel determines that compliance with that paragraph would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, equipment failure, or any other relevant condition.

''(C) NOTIFICATION REQUIRED.—Whenever the master of a vessel is unable to comply with the requirements of paragraph (3) because of a determination made under subparagraph (B), the master of the vessel shall—

''(i) notify the Secretary as soon as practicable thereafter but no later than 24 hours after making that determination and shall ensure that the determination, the reasons for the determination, and the notice are recorded in the vessel's ballast water record book; and

''(ii) undertake ballast water exchange—

''(I) in an alternative area that may be designated by the Secretary, after consultation with the Undersecretary, and other appropriate Federal agencies as determined by the Secretary, and representatives of States the waters of which may be affected by the discharge of ballast water; or

''(II) undertake discharge of ballast water in accordance with paragraph (6) if safety or stability concerns prevent undertaking ballast water exchange in the alternative area.

''(D) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge under the provisions of this paragraph, the Secretary shall review the circumstances to determine whether the discharge met the requirements of this paragraph. The review under this clause shall be in addition to any other enforcement authority of the Secretary.

''(5) DISCHARGE UNDER WAIVER.—

''(A) SUBSTANTIAL BUSINESS HARDSHIP WAIVER.—If, because of the short length of a voyage, the operator of a vessel is unable to discharge ballast water in accordance with the requirements of paragraph (3)(B) without substantial business hardship, as determined under regulations prescribed by the Secretary, the operator shall request a waiver from the Secretary and discharge the ballast water in accordance with paragraph (6). A request for a waiver under this subparagraph shall be submitted to the Secretary at such time and in such form and manner as the Secretary may require.

''(B) SUBSTANTIAL BUSINESS HARDSHIP.—For purposes of subparagraph (A), the factors taken into account in determining substantial business hardship shall include whether—

''(i) compliance with the requirements of paragraph (3)(B) would require a sufficiently great change in routing or scheduling of service as to compromise the economic or commercial viability of the trade or business in which the vessel is operated; or

''(ii) it is reasonable to expect that the trade or business or service provided will be continued only if a waiver is granted under subparagraph (A).

''(6) PERMISSABLE DISCHARGE.—

''(A) IN GENERAL.—The discharge of unexchanged ballast water shall be considered to be carried out in accordance with this paragraph if it is—

''(i) in an area designated for that purpose by the Secretary, after consultation with the Undersecretary and other appropriate Federal agencies as determined by the Secretary and representatives of any State that may be affected by discharge of ballast water in that area; or

''(ii) into a reception facility described in subsection (f)(2).

''(B) LIMITATION ON VOLUME.—The volume of any ballast water discharged under the provisions of this paragraph may not exceed the volume necessary to ensure the safe operation of the vessel.

''(7) PARTIAL COMPLIANCE.—The operator of a vessel that is unable to comply fully with the requirements of paragraph (3)—

''(A) shall nonetheless conduct ballast water exchange to the maximum extent feasible in compliance with those paragraphs; and

''(B) may conduct a partial ballast water exchange under this paragraph only to the extent that the ballast water in an individual ballast tank can be completely exchanged in accordance with the provisions of paragraph (1)(A).

''(8) CERTAIN GEOGRAPHICALLY LIMITED ROUTES.—Notwithstanding paragraph (3)(B) of this subsection, the operator of a vessel is not required to comply with the requirements of this subsection—

''(A) if the vessel operates exclusively—

''(i) within Lake Superior, Lake Michigan, Lake Huron, and Lake Erie and the connecting channels; or

''(ii) between or among the main group of the Hawaiian Islands; or

''(B) if the vessel operates exclusively within any area with respect to which the Secretary has determined, after consultation with the Undersecretary, the Administrator, and representatives of States the waters of which would be affected by the discharge of ballast water, that the risk of introducing aquatic nuisance species through ballast water discharge in the areas in which the vessel operates is insignificant.

''(9) MARINE SANCTUARIES AND OTHER PROHIBITED AREAS.—A vessel may not conduct ballast water exchange or discharge unexchanged ballast water under this subsection within a marine sanctuary designated under title III of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or in any other waters designated by the Secretary after consultation with the Undersecretary and the Administrator.

''(10) REGULATIONS DEADLINE.—The Secretary shall issue a final rule for regulations required by this subsection within 1 year after the date of enactment of the Ballast Water Management Act of 2007.

''(11) VESSELS OPERATING IN THE GREAT LAKES.—

''(A) REGULATIONS.—Until such time as regulations are promulgated to implement the amendments made by the Ballast Water Management Act of 2007, regulations promulgated to carry out this Act shall remain in effect until revised or replaced pursuant to the Ballast Water Management Act of 2007.

''(B) RELATIONSHIP TO OTHER PROGRAMS.—On promulgation of regulations required under this Act to implement a national mandatory ballast management program that is at least as comprehensive as the Great Lakes program (as determined by the Secretary, in consultation with the Governors of Great Lakes States)—

''(i) the program regulating vessels and ballast water in Great Lakes under this section shall terminate; and

''(ii) the national program shall apply to such vessels and ballast water.

''(12) VESSELS WITH NO BALLAST ON BOARD.—Not later than 180 days after the date of enactment of the Ballast Water Management Act of 2007, the Secretary shall promulgate regulations to minimize the discharge of invasive species from ships entering a United States port or place from outside the United States exclusive economic zone that claim no ballast on board, or that claim to be carrying only unpumpable quantities of ballast, including, at a minimum, a requirement that—

''(i) such a ship shall conduct saltwater flushing of ballast water tanks—

''(I) outside the exclusive economic zone; or

''(II) at a designated alternative exchange site; and

''(ii) before being allowed entry into the Great Lakes beyond the St. Lawrence Seaway, the master of such a ship shall certify that the ship has complied with each applicable requirement under this subsection.

''(f) BALLAST WATER TREATMENT REQUIREMENTS.—

''(1) PERFORMANCE STANDARDS.—A vessel to which this section applies shall conduct ballast water treatment in accordance with the requirements of this subsection before discharging ballast water so that the ballast water discharged will contain—

''(A) less than 1 living organism per 10 cubic meters that is 50 or more micrometers in minimum dimension;

''(B) less than 1 living organism per 10 milliliters that is less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension;

''(C) concentrations of indicator microbes that are less than—

''(i) 1 colony-forming unit of toxicogenic *Vibrio cholera* (serotypes O1 and O139) per 100 milliliters, or less than 1 colony-forming unit of that microbe per gram of wet weight of zoological samples;

''(ii) 126 colony-forming units of *escherichia coli* per 100 milliliters; and

''(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters; and

''(D) concentrations of such additional indicator microbes as may be specified in regulations promulgated by the Administrator, after consultation with the Secretary and other appropriate Federal agencies as determined by the Secretary, that are less than the amount specified in those regulations.

''(2) RECEPTION FACILITY EXCEPTION.—

''(A) IN GENERAL.—Paragraph (1) does not apply to a vessel that discharges ballast water into a facility for the reception of ballast water that meets standards prescribed by the Administrator.

''(B) PROMULGATION OF STANDARDS.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, the Administrator, in consultation with the Secretary other appropriate Federal agencies as determined by the Administrator, shall promulgate standards for—

''(i) the reception of ballast water from vessels into reception facilities; and

''(ii) the disposal or treatment of such ballast water in a way that does not impair or damage the environment, human health, property, or resources.

''(3) IMPLEMENTATION SCHEDULE.—Paragraph (1) applies to vessels in accordance with the following schedule:

''(A) FIRST PHASE.—Beginning January 1, 2011, for vessels constructed on or after that date with a ballast water capacity of less than 5,000 cubic meters.

''(B) SECOND PHASE.—Beginning January 1, 2013, for vessels constructed on or after that date with a ballast water capacity of 5,000 cubic meters or more.

''(C) THIRD PHASE.—Beginning January 1, 2013, for vessels constructed before January 1, 2011, with a ballast water capacity of 1,500 cubic meters or more but not more than 5,000 cubic meters.

''(D) FOURTH PHASE.—Beginning January 1, 2015, for vessels constructed—

''(i) before January 1, 2011, with a ballast water capacity of less than 1,500 cubic meters or 5,000 cubic meters or more; or

''(ii) on or after January 1, 2011, and before January 1, 2013, with a ballast water capacity of 5,000 cubic meters or more.

''(4) TREATMENT SYSTEM APPROVAL REQUIRED.—The operator of a vessel may not use a ballast water treatment system to comply with the requirements of this subsection unless the system is approved by the Secretary, in consultation with the Administrator. The Secretary shall promulgate regulations establishing a process for such approval, after consultation with the Administrator and other appropriate Federal agencies as determined by the Secretary, within 1 year after the date of enactment of the Ballast Water Management Act of 2007.

''(5) FEASIBILITY REVIEW.—

''(A) IN GENERAL.—Not less than 2 years before the date on which paragraph (1) applies to vessels under each subparagraph of paragraph (3), or as that date may be extended under this paragraph, the Secretary, in consultation with the Administrator, shall complete a review to determine whether appropriate technologies are available to achieve the standards set forth in paragraph (1) for the vessels to which they apply under the schedule set forth in paragraph (3). In reviewing the technologies the Secretary, after consultation with the Administrator and other appropriate Federal agencies as determined by the Secretary, shall consider—

''(i) the effectiveness of a technology in achieving the standards;

''(ii) feasibility in terms of compatibility with ship design and operations;

''(iii) safety considerations;

''(iv) whether a technology has an adverse impact on the environment; and

''(v) cost effectiveness.

''(B) DELAY IN SCHEDULED APPLICATION.—If the Secretary determines, on the basis of the review conducted under subparagraph (A), that compliance with the standards set forth in paragraph (1) in accordance with the schedule set forth in any subparagraph of paragraph (3) is not feasible for any class of vessels, the Secretary shall require use of the best performing technology available that meets, at a minimum, the applicable ballast water discharge standard of the International Maritime Organization. If the Secretary finds that no technology exists that will achieve either the standards set forth in paragraph (1) or the standards of the International Maritime Organization, then, the Secretary shall—

''(i) extend the date on which that subparagraph first applies to vessels for a period of not more than 24 months; and

''(ii) recommend action to ensure that compliance with the extended date schedule for that subparagraph is achieved.

''(C) HIGHER STANDARDS; EARLIER IMPLEMENTATION.—

''(i) STANDARDS.—If the Secretary determines that ballast water treatment technology exists that exceeds the performance standards required under this subsection, the Secretary shall, for any class of vessels, revise the performance standards to incorporate the higher performance standards.

''(ii) IMPLEMENTATION.—If the Secretary determines that technology that achieves the applicable performance standards required under this subsection can be implemented earlier than required by this subsection, the Secretary shall, for any class of vessels, accelerate the implementation schedule under paragraph (3). If the Secretary accelerates the implementation schedule pursuant to this clause, the Secretary shall provide at least 24 months notice before such accelerated implementation goes into effect.

''(iii) DETERMINATIONS NOT MUTUALLY EXCLUSIVE.—The Secretary shall take action under both clause (i) and clause (ii) if the Secretary makes determinations under both clauses.

''(6) DELAY OF APPLICATION FOR VESSEL PARTICIPATING IN PROMISING TECHNOLOGY EVALUATIONS.—

''(A) IN GENERAL.—If a vessel participates in a program approved by the Secretary to test and evaluate promising ballast water treatment technologies that are likely to result in treatment technologies achieving a standard that is the same as or more stringent than the standard that applies under paragraph (1) before the first date on which paragraph (1) applies to that vessel, the Secretary shall allow the vessel to use that technology for a 10 year period and such vessel shall be deemed to be in compliance with the requirements of paragraph (1) during that 10-year period.

''(B) VESSEL DIVERSITY.—The Secretary—

''(i) shall seek to ensure that a wide variety of vessel types and voyages are included in the program; but

''(ii) may not grant a delay under this paragraph to more than 5 percent of the vessels to which subparagraph (A), (B), (C), or (D) of paragraph (3) applies.

''(C) TERMINATION OF GRACE PERIOD.—The Secretary may terminate the 10-year grace period of a vessel under subparagraph (A) if participation of the vessel in the program is terminated without the consent of the Secretary.

''(D) ANNUAL RE-EVALUATION; TERMINATION.—The Secretary shall establish an annual evaluation process to determine whether the performance of an approved technology is sufficiently effective and whether it is causing harm to the environment. If the Secretary determines that an approved technology is insufficiently effective or is causing harm to the environment, the Secretary shall revoke the approval granted under subparagraph (A).

''(7) REVIEW OF STANDARDS.—

''(A) IN GENERAL.—In December, 2014, and in every third year thereafter, the Administrator, in consultation with the Secretary, shall review ballast water treatment standards to determine, after consultation with the Undersecretary and other appropriate Federal agencies as determined by the Secretary, if the standards under this subsection should be revised to reduce the amount of organisms or microbes allowed to be discharged, taking into account improvements in the scientific understanding of biological processes leading to the spread of aquatic nuisance species and improvements in ballast water treatment technology. The Administrator shall revise by regulation the performance standard required under this subsection as necessary.

''(B) APPLICATION OF ADJUSTED STANDARDS.—In the regulations, the Secretary shall provide for the prospective application of the adjusted standards prescribed under this paragraph to vessels constructed after the date on which the adjusted standards apply and for an orderly phase-in of the adjusted standards to existing vessels.

''(8) INSTALLED EQUIPMENT.—If ballast water treatment technology used for purposes of complying with the regulations under this subsection is installed on a vessel, maintained in good working order, and used by the vessel, the vessel may use that technology for the shorter of—

''(A) the 10-year period beginning on the date of initial use of the technology; or

''(B) the life of the ship on which the technology is used.

''(9) HIGH-RISK VESSELS.—

''(A) VESSEL LIST.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, the Secretary shall publish and regularly update a list of vessels identified by States that, due to factors such as the origin of their voyages, the frequency of their voyages, the volume of ballast water they carry, the biological makeup of the ballast water, and the fact that they frequently discharge unexchanged ballast water pursuant to an exception under subsection (e), pose a relatively high risk of introducing aquatic nuisance species into the waters of those States.

''(B) INCENTIVE PROGRAMS.—The Secretary shall give priority to vessels on the list for participation in pilot programs described in paragraph (6). Any Federal agency, and any State agency with respect to vessels identified by such State to the Secretary for inclusion on the list pursuant to subparagraph (A), may develop technology development

programs or other incentives (whether positive or negative) to such vessels in order to encourage the adoption of ballast water treatment technology by those vessels consistent with the requirements of this section on an expedited basis.

''(9) EXCEPTION FOR VESSELS OPERATING EXCLUSIVELY IN DETERMINED AREA.—

''(A) IN GENERAL.—Paragraph (1) does not apply to a vessel that operates exclusively within an area if the Secretary has determined through a rulemaking proceeding, after consultation with the Undersecretary and other appropriate Federal agencies as determined by the Secretary, and representatives of States the waters of which could be affected by the discharge of ballast water, that the risk of introducing aquatic nuisance species through ballast water discharge from the vessel is insignificant.

''(B) CERTAIN VESSELS.—A vessel constructed before January 1, 2001, that operates exclusively within Lake Superior, Lake Michigan, Lake Huron, and Lake Erie and the connecting channels shall be presumed not to pose a significant risk of introducing aquatic nuisance species unless the Secretary finds otherwise in a rulemaking proceeding under subparagraph (A).

''(C) BEST PRACTICES.—The Secretary shall develop, and require vessels exempted from complying with the requirements of paragraph (1) under this paragraph to follow, best practices, developed in consultation with the Governors or States that may be affected, to minimize the spreading of aquatic nuisance species in its operating area.

''(10) LABORATORIES.—The Secretary may use any Federal or non-Federal laboratory that meets standards established by the Secretary for the purpose of evaluating and certifying ballast water treatment technologies and equipment under this subsection.

''(g) WARNINGS CONCERNING BALLAST WATER UPTAKE.—

''(1) IN GENERAL.—The Secretary shall notify vessel owners and operators of any area in waters subject to the jurisdiction of the United States in which vessels may not uptake ballast water due to known conditions.

''(2) CONTENTS.—The notice shall include—

''(A) the coordinates of the area; and

''(B) if possible, the location of alternative areas for the uptake of ballast water.

''(h) SEDIMENT MANAGEMENT.—

''(1) IN GENERAL.—The operator of a vessel to which this section applies may not remove or dispose of sediment from spaces designed to carry ballast water except—

''(A) in accordance with this subsection and the ballast water management plan required under subsection (c); and

''(B) more than 200 nautical miles from the nearest point of land or into a reception facility that meets the requirements of paragraph (3).

''(2) DESIGN REQUIREMENTS.—

''(A) NEW VESSELS.—After December 31, 2008, it shall be unlawful to construct a vessel in the United States to which this section applies unless that vessel is designed and constructed, in accordance with regulations prescribed under subparagraph (C), in a manner that—

''(i) minimizes the uptake and entrapment of sediment;

''(ii) facilitates removal of sediment; and

''(iii) provides for safe access for sediment removal and sampling.

''(B) EXISTING VESSELS.—Every vessel to which this section applies that was constructed before January 1, 2009, shall be modified before January 1, 2009, to the extent practicable, to achieve the objectives described in clauses (i), (ii), and (iii) of subparagraph (A).

''(C) REGULATIONS.—The Secretary shall promulgate regulations establishing design and construction standards to achieve the objectives of subparagraph (A) and providing guidance for modifications and practices under subparagraph (B). The Secretary shall incorporate the standards and guidance in the regulations governing the ballast water management plan.

''(3) SEDIMENT RECEPTION FACILITIES.—

''(A) STANDARDS.—The Secretary, in consultation with other appropriate Federal agencies as determined by the Secretary, shall promulgate regulations governing facilities for the reception of vessel sediment from spaces designed to carry ballast water that provide for the disposal of such sediment in a way that does not impair or damage the environment, human health, or property or resources of the disposal area.

''(B) DESIGNATION.—The Administrator, in consultation with the Secretary and other appropriate Federal agencies as determined by the Administrator, shall designate facilities for the reception of vessel sediment that meet the requirements of the regulations promulgated under subparagraph (A) at ports and terminals where ballast tanks are cleaned or repaired.

''(i) EXAMINATIONS AND CERTIFICATIONS.—

''(1) INITIAL EXAMINATION.—

''(A) IN GENERAL.—The Secretary shall examine vessels to which this section applies to determine whether—

''(i) there is a ballast water management plan for the vessel that meets the requirements of this section; and

''(ii) the equipment used for ballast water and sediment management in accordance with the requirements of this section and the regulations promulgated hereunder is installed and functioning properly.

''(B) NEW VESSELS.—For vessels constructed in the United States on or after January 1, 2011, the Secretary shall conduct the examination required by subparagraph (A) before the vessel is placed in service.

''(C) EXISTING VESSELS.—For vessels constructed before January 1, 2011, the Secretary shall—

''(i) conduct the examination required by subparagraph (A) before the date on which subsection (f)(1) applies to the vessel according to the schedule in subsection (f)(3); and

''(ii) inspect the vessel's ballast water record book required by subsection (d).

''(D) FOREIGN VESSELS.—In the case of a foreign vessel (as defined in section 2101(12) of title 46, United States Code), the Secretary shall perform the examination required by this paragraph the first time the vessel enters a United States port.

''(2) SUBSEQUENT EXAMINATIONS.—The Secretary shall examine vessels no less frequently than once each year to ensure vessel compliance with the requirements of this section.

''(3) INSPECTION AUTHORITY.—

''(A) IN GENERAL.—The Secretary may carry out inspections of any vessel to which this section applies at any time, including the taking of ballast water samples, to ensure the vessel's compliance with this Act. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

''(B) INVESTIGATIONS.—Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpoenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

''(4) REQUIRED CERTIFICATE.—If, on the basis of an initial examination under paragraph (1) the Secretary finds that a vessel complies with the requirements of this section and the regulations promulgated hereunder, the Secretary shall issue a certificate under this paragraph as evidence of such compliance. The certificate shall be valid for a period of not more than 5 years, as specified by the Secretary. The certificate or a true copy shall be maintained on board the vessel.

''(5) NOTIFICATION OF VIOLATIONS.—If the Secretary finds, on the basis of an examination under paragraph (1) or (2), sampling under paragraph (3), or any other information, that a vessel is being operated in violation of the requirements of this section or the regulations promulgated hereunder, the Secretary shall—

''(A) notify in writing—

''(i) the master of the vessel; and

''(ii) the captain of the port at the vessel's next port of call; and

''(B) take such other action as may be appropriate.

''(6) COMPLIANCE AND MONITORING.—

''(A) IN GENERAL.—The Secretary shall by regulation establish sampling and other procedures to monitor compliance with the requirements of this section and any regulations promulgated under this section.

''(B) USE OF MARKERS.—The Secretary may verify compliance with treatment standards under this section and the regulations through identification of markers associated with a treatment technology's effectiveness, such as the presence of indicators associated with a certified treatment technology.

''(7) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the requirements issued under this section.

''(j) DETENTION OF VESSELS.—

''(1) IN GENERAL.—The Secretary, by notice to the owner, charterer, managing operator, agent, master, or other individual in charge of a vessel, may detain that vessel if the Secretary has reasonable cause to believe that—

''(A) the vessel is a vessel to which this section applies; and

''(B) the vessel does not comply with the requirements of this section or of the regulations issued hereunder or is being operated in violation of such requirements.

''(2) CLEARANCE.—

''(A) IN GENERAL.—A vessel detained under paragraph (1) may obtain clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) only if the violation for which it was detained has been corrected.

''(B) WITHDRAWAL.—If the Secretary finds that a vessel detained under paragraph (1) has received a clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) before it was detained under paragraph (1), the Secretary shall withdraw, withhold, or revoke the clearance.

''(k) SANCTIONS.—

''(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under this section shall be liable for a civil penalty in an amount not to exceed $32,500. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of this section or the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

''(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under this section is guilty of a class C felony.

''(3) REVOCATION OF CLEARANCE.—Except as provided in subsection (j)(2), upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a

vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of this section or the regulations issued under this section.

''(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a discharge pursuant to subsection (b)(3), (e)(5), or (e)(7).

''(l) ENFORCEMENT.—

''(1) ADMINISTRATIVE ACTIONS.—If the Secretary finds, after notice and an opportunity for a hearing, that a person has violated any provision of this section or any regulation promulgated hereunder, the Secretary may assess a civil penalty for that violation. In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require.

''(2) CIVIL ACTIONS.—At the request of the Secretary, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section, or any regulation promulgated hereunder. Any court before which such an action is brought may award appropriate relief, including temporary or permanent injunctions and civil penalties.

''(m) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, after consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic nuisance species through ballast water.

''(n) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the Undersecretary, the Secretary of State, the Administrator, the heads of other relevant Federal agencies, the International Maritime Organization of the United Nations, and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic nuisance species through ballast water. The Secretary is particularly encouraged to seek bilateral or multilateral agreements with Canada, Mexico, and other nations in the Wider Caribbean (as defined in the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean (Cartagena Convention) under this section.

''(o) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.

''(p) SUPPORT FOR FEDERAL BALLAST WATER DEMONSTRATION PROJECT.—In addition to amounts otherwise available to the Maritime Administration, the National Oceanographic and Atmospheric Administration, and the United States Fish and Wildlife Service for the Federal Ballast Water Demonstration Project, the Secretary shall provide support for the conduct and expansion of the project, including grants for research and development of innovative technologies for the management, treatment, and disposal of ballast water and sediment, for ballast water exchange, and for other vessel vectors of aquatic nuisance species such as hull-fouling. There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2007 through 2011 to carry out this subsection.

''(q) CONSULTATION WITH TASK FORCE.—The Secretary shall consult with the Task Force in carrying out this section.

''(r) RISK ASSESSMENT.—

''(1) IN GENERAL.—Within 2 years after the date of enactment of the Ballast Water Management Act of 2007, the Administrator, in consultation with the Secretary and other appropriate Federal agencies, shall conduct a risk assessment of vessel discharges other than aquatic nuisance species that are not required by the Clean Water Act (33 U.S.C. 1251 et seq.) to have National Pollution Effluent Discharge Standards permits under section 122.3(a) of title 40, Code of Federal Regulations. The risk assessment shall include—

''(A) a characterization of the various types of discharges by different classes of vessels;

''(B) the average volume of such discharges for individual vessels and by class of vessel in the aggregate;

''(C) conclusions as to whether such discharges pose a risk to human health or the environment; and

''(D) recommendations as to steps, including regulations, that are necessary to address such risks.

''(2) PUBLIC COMMENT.—The Administrator shall cause a draft of the risk assessment to be published in the Federal Register for public comment, and shall develop a final risk assessment report after taking into accounts any comments received during the public comment period.

''(3) FINAL REPORT.—The Administrator shall transmit a copy of the final report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

''(s) OTHER SOURCES OF VESSEL-BORNE NUISANCE SPECIES.—

''(1) HULL-FOULING AND OTHER VESSEL SOURCES.—

''(A) REPORT.—Within 180 days after the date of enactment of the Ballast Water Management Act of 2007, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on vessel-borne vectors of aquatic nuisance species and pathogens other than ballast water and sediment, including vessel hulls, anchors, and equipment.

''(B) MANAGEMENT.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, the Secretary shall develop a strategy to address such other vessel sources of aquatic nuisance species and to reduce the introduction of invasive species into and within the United States from vessels. The strategy shall include—

''(i) designation of geographical locations for update and discharge of untreated ballast water, as well as measures to address non-ballast vessel vectors of aquatic invasive species;

''(ii) necessary modifications of existing regulations;

''(iii) best practices standards and procedures; and

''(iv) a timeframe for implementation of those standards and procedures by vessels, in addition to the mandatory requirements set forth in this section for ballast water.

''(C) REPORT.—The Secretary shall transmit a report to the Committees describing the strategy, proposed regulations, best practices, and the implementation timeframe, together with any recommendations, including legislative recommendations if appropriate, the Secretary deems appropriate.

''(D) STANDARDS FOR VESSELS OF THE UNITED STATES.—The strategy shall include requirements to ensure the consistent application of best practices to all vessels owned or operated by a Federal agency.

''(2) TRANSITING VESSELS.—Within 180 days after the date of enactment of the Ballast Water Management Act of 2007, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

''(A) an assessment of the magnitude and potential adverse impacts of ballast water operations from foreign vessels designed, adapted, or constructed to carry ballast water that are transiting waters subject to the jurisdiction of the United States; and

''(B) recommendations, including legislative recommendations if appropriate, of options for addressing ballast water operations of those vessels.

''(t) REGULATIONS.—

''(1) IN GENERAL.—The Secretary, after consultation with other appropriate Federal agencies, shall issue such regulations as may be necessary initially to carry out this section within 1 year after the date of enactment of the Ballast Water Management Act of 2007.

''(2) JUDICIAL REVIEW.—

''(A) 120-DAY RULE.—An interested person may bring an action for review of a final regulation promulgated under this section by the Secretary of the department in which the Coast Guard is operating in the United States Court of Appeals for the District of Columbia Circuit. Any such petition shall be filed within 120 days after the date on which notice of the promulgation appears in the Federal Register, except that if the petition is based solely on grounds arising after the 120th day, then any petition for review under this subsection shall be filed within 120 days after those grounds arise.

''(B) REVIEW IN ENFORCEMENT PROCEEDINGS.—A regulation for which review could have been obtained under subparagraph (A) of this paragraph is not subject to judicial review in any civil or criminal proceeding for enforcement.

''(u) SAVINGS CLAUSE.—

''(1) IN GENERAL.—Nothing in this section shall be construed to preempt the authority of any State or local government to impose penalties or fees for acts or omissions that are violations of this Act, or to provide incentives under subsection (f)(9)(B).

''(2) RECEPTION FACILITIES.—The standards prescribed by the Secretary or other appropriate Federal agencies under subsection (f)(2) do not supersede any more stringent standard under any otherwise applicable Federal, State, or local law.

''(3) APPLICATION WITH OTHER STATUTES.—This section provides the sole Federal authority for preventing the introduction of species through the control and management of vessel ballast water or sediment or other vessel-related vectors.''.

(b) DEFINITIONS.—

(1) IN GENERAL.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(A) by redesignating paragraph (1) as paragraph (1A);

(B) by inserting before paragraph (1A), as redesignated, the following:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency;'';

(C) by striking paragraph (3) and inserting the following:

''(3) BALLAST WATER.—The term 'ballast water'—

''(A) means water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; and

''(B) any water placed into a ballast tank during cleaning, maintenance, or other operations; but

''(C) does not include water taken on board a vessel and used for a purpose described in subparagraph (A) that, at the time of discharge, does not contain aquatic nuisance species;'';

(D) by inserting after paragraph (3) the following:

''(3A) BALLAST WATER CAPACITY.—The term 'ballast water capacity' means the total volumetric capacity of any tanks, spaces, or compartments on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

''(3B) BALLAST WATER MANAGEMENT.—The term 'ballast water management' means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of aquatic nuisance species and pathogens within ballast water and sediment;

''(3C) CONSTRUCTED.—The term 'constructed' means a state of construction of a vessel at which—

''(A) the keel is laid;

''(B) construction identifiable with the specific vessel begins;

''(C) assembly of the vessel has begun comprising at least 50 tons or 1 percent of the estimated mass of all structural material of the vessel, whichever is less; or

''(D) the vessel undergoes a major conversion;'';

(E) by inserting after paragraph (10) the following:

''(10A) MAJOR CONVERSION.—The term 'major conversion' means a conversion of a vessel, that—

''(A) changes its ballast water carrying capacity by at least 15 percent;

''(B) changes the vessel class;

''(C) is projected to prolong the vessel's life by at least 10 years (as determined by the Secretary); or

''(D) results in modifications to the vessel's ballast water system, except—

''(i) component replacement-in-kind; or

''(ii) conversion of a vessel to meet the requirements of section 1101(e);'';

(F) by inserting after paragraph (12), as redesignated, the following:

''(12A) SALTWATER FLUSHING.—The term 'saltwater flushing' means the process of—

''(A) adding midocean water to a ballast water tank that contains residual quantities of ballast waters;

''(B) mixing the midocean water with the residual ballast water and sediment in the tank through the motion of a vessel; and

''(C) discharging the mixed water so that the salinity of the resulting residual ballast water in the tank exceeds 30 parts per thousand;

''(12B) SEDIMENT.—The term 'sediment' means matter that has settled out of ballast water within a vessel;'';

(G) by redesignating paragraph (15) as paragraph (16A) and moving it to follow paragraph (16);

(H) by inserting after paragraph (17) the following:

''(17A) UNITED STATES PORT.—The term 'United States port' means a port, river, harbor, or offshore terminal under the jurisdiction of the United States, including ports located in Puerto Rico, Guam, the Northern Marianas, and the United States Virgin Islands;

''(17B) VESSEL OF THE ARMED FORCES.—The term 'vessel of the Armed Forces' means—

''(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

''(B) any vessel owned or operated by the Department of Homeland Security that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A); and

''(17C) WATERS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term 'waters subject to the jurisdiction of the United States' means navigable waters and the territorial sea of the United States, the exclusive economic zone, and the Great Lakes.''.

(2) STYLISTIC CONSISTENCY.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702), as amended by paragraph (1), is further amended—

(A) by striking ''As used in this Act, the term—'' and inserting ''In this Act:'';

(B) by redesignating paragraphs (1) through (17C) as paragraphs (1) through (27), respectively; and

(C) by inserting a heading after the designation of each existing paragraph , in a form consistent with the form of the paragraphs added by paragraph (1) of this subsection, consisting of the term defined in such paragraph and ''The term''.

(c) REPEAL OF SECTION 1103.—Section 1103 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4713) is repealed.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 1301(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(a)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (4)(B);

(2) by striking ''1102(f).'' in paragraph (5)(B) and inserting ''1102(f); and''; and

(3) by adding at the end the following:

''(6) $20,000,000 for each of fiscal years 2008 through 2012 to the Secretary to carry out section 1101.''.

By Ms. SNOWE (for herself, Ms. CANTWELL, and Mr. LEVIN):

S. 1579. A bill to amend the Coastal Zone Management Act; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Coastal Zone Enhancement Reauthorization Act of 2007. I am pleased to have my colleague, Senator CANTWELL, join me in cosponsoring this bill, which will enable our Nation to improve the management of our valuable, yet vulnerable, coastal resources.

More than half of all Americans reside in coastal zones, and each year their number grows by more than 3,600. Yet, coastal regions comprise just 17 percent of the land area in the contiguous United States. People are drawn to our oceans and Great Lakes to experience the economic opportunities, natural beauty, and recreational bounty that these regions have to offer. Part of that value, both the tangible and intangible, comes from the habitat these ecosystems provide for a variety of plants and animals, ranging from rare microscopic organisms to commercially valuable fish stocks. As population pressures increase, we must work diligently to maintain a balance between human use of these delicate regions and their natural, ecological functions.

When Congress passed the CZMA in 1972, it established a unique State-Federal framework for facilitating sound coastal planning. The law gives States the opportunity to create a coastal zone management plan which, once approved, makes States eligible for matching Federal funds to carry out the goals of its plan. This system allows States to tailor plans to their individual needs, but permits the Federal Government to ensure that marine resources, which often overlap political boundaries, are managed responsibly nationwide. As a result of this program's success, more than 99.9 percent of the United States' 95,376 shoreline miles are managed under this system, including, 34 of the 35 coastal and Great Lakes states and territories. The 35th, Illinois, has submitted a plan for Federal approval.

The CZMA has not been reauthorized in over a decade, and the program has been operating with authorization levels and mandates that expired in 1999. Much has changed in the interim, and persistent threats to coastal areas, such as increasing rates of nonpoint source water pollution and constriction of working waterfront areas, have outpaced states' abilities to maintain an appropriate balance between development and conservation. The Coastal Zone Enhancement Reauthorization Act of 2007 would encourage states to take additional voluntary steps to combat these problems through the Coastal Community Program.

Each year, we also learn more about threats to our coasts from impacts of global climate change, yet the CZMA currently provides no foundation to manage these problems. Mounting evidence indicates that increasing concentrations of atmospheric carbon dioxide, approximately a third of which is absorbed in our oceans, is affecting marine chemistry and acidifying sea water. As global temperatures rise, we are also experiencing an increase in ocean temperatures which can affect the migratory patterns and range of marine species distribution. The problems of potential sea level rise have also been well-documented in academic journals and the mainstream media. The bill I introduce today contains a provision giving states the authority to adapt their coastal zone management plans to address these potential impacts and develop potential mitigation and adaptation measures.

The Coastal Zone Enhancement Reauthorization of 2007 also significantly increases the authorization levels for the Coastal Zone Management Program, enabling States to better achieve their coastal management goals. The bill authorizes $170 million for fiscal year 2008 and increases the authorization levels to $193.5 million for fiscal year 2012. This adjustment in funding

would enable the States' coastal programs to achieve their full potential.

The Coastal Zone Management Program has a long record of helping states achieve their coastal area management goals by enhancing their ability to maintain clean, safe, and productive coastlines that ultimately serve the best interest of our Nation. This program enjoys widespread support among coastal States, as demonstrated by the near unanimous participation by eligible States, and the many Commerce Committee members who have worked with me to strengthen this program over the past several years.

I am pleased to introduce this legislation that would provide our coastal states with the funding and management frameworks necessary to meet the ever-increasing conservation and development challenges facing our coastal communities, and I urge my colleagues to support it.

Additionally, as Ranking Member of the Committee on Commerce, Science, and Transportation's subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, I would like to commend my colleagues for their hard work that has resulted in today's introduction of six ocean-related bills. As you are aware, we are in the midst of Capitol Hill Oceans Week, and I am pleased that we can commemorate that occasion by bringing these critical marine issues to the fore. I look forward to working with my fellow Committee members and the rest of the Senate as we improve management of our Nation's invaluable coastal and ocean resources for the benefit of all Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Coastal Zone Enhancement Reauthorization Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

SEC. 3. FINDINGS.

Section 302 (16 U.S.C. 1451) is amended—

(1) by redesignating paragraphs (a) through (m) as paragraphs (1) through (13);

(2) by inserting ''ports,'' in paragraph (3) (as so redesignated) after ''fossil fuels,'';

(3) by inserting ''including coastal waters and wetlands,'' in paragraph (4) (as so redesignated) after ''zone,'';

(4) by striking ''therein,'' in paragraph (4) (as so redesignated) and inserting ''dependent on that habitat,'';

(5) by striking ''well-being'' in paragraph (5) (as so redesignated) and inserting ''quality of life'';

(6) by inserting ''integrated plans and strategies,'' after ''including'' in paragraph (9) (as so redesignated);

(7) by striking paragraph (11) (as so redesignated) and inserting the following:

''(11) Land and water uses in the coastal zone and coastal watersheds may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from activities in these areas must be improved.''; and

(8) by adding at the end thereof the following:

''(14) There is a need to enhance cooperation and coordination among states and local communities, to encourage local community-based solutions that address the impacts and pressures on coastal resources and on public facilities and public service caused by continued coastal demands, and to increase state and local capacity to identify public infrastructure and open space needs and develop and implement plans which provide for sustainable growth, resource protection and community revitalization.

''(15) The establishment of a national system of estuarine research reserves will provide for protection of essential estuarine resources, as well as for a network of State-based reserves that will serve as sites for coastal stewardship best-practices, monitoring, research, education, and training to improve coastal management and to help translate science and inform coastal decisionmakers and the public.''.

SEC. 4. POLICY.

Section 303 (16 U.S.C. 1452) is amended—

(1) by striking ''the states'' in paragraph (2) and inserting ''state and local governments'';

(2) by striking ''programs'' the first place it appears in paragraph (2) and inserting ''programs, plans, and strategies'';

(3) by striking ''waters,'' each place it appears in paragraph (2)(C) and inserting ''waters and habitats,'';

(4) by striking ''agencies and state and wildlife agencies; and'' in paragraph (2)(J) and inserting ''and wildlife management, and'';

(5) by striking ''specificity'' in paragraph (3) and inserting ''specificity, cooperation, coordination, and effectiveness'';

(6) by inserting ''other countries,'' after ''agencies,'' in paragraph (5);

(7) by striking ''and'' at the end of paragraph (5);

(8) by striking ''zone.'' in paragraph (6) and inserting ''zone;''; and

(9) by adding at the end thereof the following:

''(7) to create and use a National Estuarine Research Reserve System as a Federal, state, and community partnership to support and enhance coastal management and stewardship through State-based conservation, monitoring, research, education, outreach, and training; and

''(8) to encourage the development, application, training, technical assistance, and transfer of innovative coastal management practices and coastal and estuarine environmental technologies and techniques to improve understanding and management decisionmaking for the long-term conservation of coastal ecosystems.''.

SEC. 5. CHANGES IN DEFINITIONS.

Section 304 (16 U.S.C. 1453) is amended—

(1) by striking ''and the Trust Territories of the Pacific Islands,'' in paragraph (4);

(2) in paragraph (6)(B)—

(A) by inserting ''(ix) use or reuse of facilities authorized under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) for energy-related purposes or other authorized marine related purposes;'' after ''transmission facilities;''; and

(B) by striking ''and (ix)'' and inserting ''and (x);

(3) by striking paragraph (8) and inserting the following:

''(8) The terms 'estuarine reserve' and 'estuarine research reserve' mean a coastal protected area that—

''(A) may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to the estuary;

''(B) constitutes to the extent feasible a natural unit; and

''(C) is established to provide long-term opportunities for conducting scientific studies and monitoring and educational and training programs that improve the understanding, stewardship, and management of estuaries and improve coastal decisionmaking.'';

(4) by inserting ''plans, strategies,'' after ''policies,'' in paragraph (12);

(5) in paragraph (13)—

(A) by inserting ''or alternative energy sources on or'' after ''natural gas'';

(B) by striking ''new or expanded'' and inserting ''new, reused, or expanded''; and

(C) by striking ''or production.'' and inserting ''production, or other energy related purposes.'';

(6) by striking ''policies; standards'' in paragraph (17) and inserting ''policies, standards, incentives, guidelines,''; and

(7) by adding at the end the following:

''(19) The term 'coastal nonpoint pollution control strategies and measures' means strategies and measures included as part of the coastal nonpoint pollution control program under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b).

''(20) The term 'qualified local entity' means—

''(A) any local government;

''(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334 (a)(1));

''(C) any regional agency;

''(D) any interstate agency;

''(E) any nonprofit organization; or

''(F) any reserve established under section 315.''.

SEC. 6. REAUTHORIZATION OF MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 (16 U.S.C. 1454) is amended to read as follows:

"SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

''(a) STATES WITHOUT PROGRAMS.—In fiscal years 2008 and 2009, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state under this subsection, no subsequent grant may be made to that coastal state under this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than 4 grants under this subsection.

''(b) SUBMITTAL OF PROGRAM FOR APPROVAL.—A coastal state that has completed the development of its management program shall submit the program to the Secretary for review and approval under section 306.''.

SEC. 7. ADMINISTRATIVE GRANTS.

(a) PURPOSES.—Section 306(a) (16 U.S.C. 1455(a)) is amended by striking ''administering that State's management program,'' and inserting ''administering and implementing that State's management program and any plans, projects, or activities developed pursuant to such program, including developing and implementing applicable coastal nonpoint pollution control program components,''.

(b) EQUITABLE ALLOCATION OF FUNDING.—Section 306(c) (16 U.S.C. 1455(c)) is amended by adding at the end thereof ''In promoting equity, the Secretary shall consider the overall change in grant funding under this section from the preceding fiscal year and minimize the relative increases or decreases among all the eligible States. To the extent practicable, the Secretary shall ensure that each eligible State receives increased funding under this section in any fiscal year for which the total amount appropriated to carry out this section is greater than the total amount appropriated to carry out this section for the preceding fiscal year.

(c) ACQUISITION CRITERIA.—Section 306(d)(10)(B) (16 U.S.C. 1455(d)(10)(B)) is amended by striking ''less than fee simple'' and inserting ''other''.

(d) CONFORMING AMENDMENT.—Section 306(d)(13)(B) (16 U.S.C. 1455(d)(13)(B)) is amended by inserting ''policies, plans, strategies,'' after ''specific''.

SEC. 8. COASTAL RESOURCE IMPROVEMENT PROGRAM.

Section 306A (16 U.S.C. 1455a) is amended—

(1) by inserting ''or other important coastal habitats'' in subsection (b)(1)(A) after ''306(d)(9)'';

(2) by inserting ''or historic'' in subsection (b)(2) after ''urban'';

(3) by adding at the end of subsection (b) the following:

''(5) The coordination and implementation of approved coastal nonpoint pollution control plans, strategies, and measures.

''(6) The preservation, restoration, enhancement or creation of coastal habitats.'';

(4) by inserting ''planning,'' before ''engineering'' in subsection (c)(2)(D);

(5) by striking ''and'' after the semicolon in subsection (c)(2)(D);

(6) by striking ''section.'' in subsection (c)(2)(E) and inserting ''section;'';

(7) by adding at the end of subsection (c)(2) the following:

''(F) work, resources, or technical support necessary to preserve, restore, enhance, or create coastal habitats; and

''(G) the coordination and implementation of approved coastal nonpoint pollution control plans, strategies, measures.''; and

(8) by striking subsections (d), (e), and (f) and inserting after subsection (c) the following:

''(d) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

''(1) IN GENERAL.—If a coastal state chooses to fund a project under this section, then—

''(A) it shall submit to the Secretary a combined application for grants under this section and section 306;

''(B) it shall match the combined amount of such grants in the ratio required by section 306(a) for grants under that section; and

''(C) the Federal funding for the project shall be a portion of that state's annual allocation under section 306(a).

''(2) USE OF FUNDS.—Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

''(e) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program and consistent with the policies of this Act.

''(f) ASSISTANCE.—The Secretary shall assist eligible coastal states in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).''.

SEC. 9. CERTAIN FEDERAL AGENCY ACTIVITIES.

Section 307(c)(1) (16 U.S.C. 1456(c)(1)) is amended by adding at the end the following:

''(D) The provisions of paragraph (1)(A), and implementing regulations thereunder, with respect to a Federal agency activity inland of the coastal zone of the State of Alaska, apply only if the activity directly and significantly affects a land or water use or a natural resource of the Alaskan coastal zone.''.

SEC. 10. COASTAL ZONE MANAGEMENT FUND.

(a) TREATMENT OF LOAN REPAYMENTS.—Section 308(a)(2) (16 U.S.C. 1456a(a)(2)) is amended to read as follows:

''(2) Loan repayments made under this subsection shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b) and shall be made available to the States for grants as under subsection (b)(2).''.

(b) USE OF AMOUNTS IN FUND.—Section 308(b) (16 U.S.C. 1456a(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) Subject to appropriation Acts, amounts in the Fund shall be available to the Secretary to make grants to the States for—

''(A) projects to address coastal and ocean management issues which are regional in scope, including intrastate and interstate projects; and

''(B) projects that have high potential for improving coastal zone and watershed management.

''(3) Projects funded under this subsection shall apply an integrated, watershed-based management approach and advance the purpose of this Act to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations.''.

SEC. 11. COASTAL ZONE ENHANCEMENT GRANTS.

Section 309 (16 U.S.C. 1456b) is amended—

(1) by striking subsection (a)(1) and inserting the following:

''(1) Protection, restoration, enhancement, or creation of coastal habitats, including wetlands, coral reefs, marshes, and barrier islands.'';

(2) by inserting ''and removal'' after ''entry'' in subsection (a)(4);

(3) by striking ''on various individual uses or activities on resources, such as coastal wetlands and fishery resources.'' in subsection (a)(5) and inserting ''of various individual uses or activities on coastal waters, habitats, and resources, including sources of polluted runoff.'';

(4) by adding at the end of subsection (a) the following:

''(10) Development and enhancement of coastal nonpoint pollution control program components, strategies, and measures, including the satisfaction of conditions placed on such programs as part of the Secretary's approval of the programs.

''(11) Significant emerging coastal issues as identified by coastal states, in consultation with the Secretary and qualified local entities.'';

(5) by striking ''changes'' in subsection (b)(2)(A) and inserting ''changes, or for projects that demonstrate significant potential for improving ocean resource management or integrated coastal and watershed management at the local, state, or regional level,'';

(6) by striking ''proposals, taking into account the criteria established by the Secretary under subsection (d).'' in subsection (c) and inserting ''proposals.'';

(7) by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively; and

(8) by striking ''in implementing this section, up to a maximum of $10,000,000 annually.'' in subsection (e), as redesignated, and inserting ''for grants to the States.''.

SEC. 12. COASTAL COMMUNITY PROGRAM.

The Act is amended by inserting after section 309 the following:

"SEC. 309A. COASTAL COMMUNITY PROGRAM.

''(a) COASTAL COMMUNITY GRANTS.—The Secretary may make grants to any coastal state that is eligible under subsection (b)—

''(1) to assist coastal communities in assessing and managing growth, public infrastructure, and open space needs in order to provide for sustainable growth, resource protection and community revitalization;

''(2) to provide management-oriented research and technical assistance in developing and implementing community-based growth management and resource protection strategies in qualified local entities as long as such strategies are consistent with the policies of this Act;

''(3) to fund demonstration projects which have high potential for improving coastal zone management at the local level;

''(4) to assist in the adoption of plans, strategies, policies, or procedures to support local community-based environmentally-protective solutions to the impacts and pressures on coastal uses and resources caused by development and sprawl that will—

''(A) revitalize previously developed areas;

''(B) undertake conservation activities and projects in undeveloped and environmentally sensitive areas;

''(C) emphasize water-dependent uses; and

''(D) protect coastal waters and habitats; and

''(5) to assist coastal communities to coordinate and implement approved coastal nonpoint pollution control strategies and measures that reduce the causes and impacts of polluted runoff on coastal waters and habitats.''.

''(b) ELIGIBILITY.—To be eligible for a grant under this section for a fiscal year, a coastal state shall—

''(1) have a management program approved under section 306; and

''(2) in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in subparagraphs (A) through (K) of section 303(2).

''(c) ALLOCATIONS; SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

''(1) ALLOCATION.—Grants under this section shall be allocated to coastal states as provided in section 306(c).

''(2) APPLICATION; MATCHING.—If a coastal state chooses to fund a project under this section, then—

''(A) it shall submit to the Secretary a combined application for grants under this section and section 306; and

''(B) it shall match the amount of the grant under this section on the basis of a total contribution of section 306, 306A, and this section so that, in aggregate, the match is 1:1.

''(d) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—

''(1) IN GENERAL.—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity amounts received by the state under this section.

''(2) ASSURANCES.—A coastal state shall ensure that amounts allocated by the state under paragraph (1) are used by the qualified local entity in furtherance of the state's approved management program, specifically furtherance of the coastal management objectives specified in section 303(2) and the policies of this Act.

''(e) ASSISTANCE.—The Secretary shall assist eligible coastal states and qualified local entities in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (a).''.

SEC. 13. TECHNICAL ASSISTANCE; RESOURCES ASSESSMENTS; INFORMATION SYSTEMS.

(a) IN GENERAL.—Section 310 (16 U.S.C. 1456c) is amended—

(1) by inserting ''(1)'' before ''The Secretary'' in subsection (a);

(2) by striking ''assistance'' in the first sentence in subsection (a) and inserting ''assistance, technology and methodology development, training and information transfer, resources assessment,'';

(3) by resetting the second and third sentences in subsection (a) as a new paragraph and inserting ''(2)'' before ''Each'';

(4) by striking ''and research activities'' in subsection (b)(1) and inserting ''research activities, and other support services and activities'';

(5) by adding at the end of subsection (b)(1) the following: ''The Secretary may conduct a program to develop and apply innovative coastal and estuarine environmental technology and methodology through a cooperative program, and to support the development, application, training and technical assistance, and transfer of effective coastal management practices. The Secretary may make extramural grants in carrying out the purpose of this subsection.'';

(6) by adding at the end of subsection (b)(3) the following: ''The Secretary shall establish regional advisory committees including representatives of the Governors of each state within the region, universities, colleges, coastal and marine laboratories, Sea Grant College programs within the region and representatives from the private and public sector with relevant expertise. The Secretary will report to the regional advisory committees on activities undertaken by the Secretary and other agencies pursuant to this section, and the regional advisory committees shall identify research, technical assistance and information needs and priorities. The regional advisory committees are not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).''; and

(7) by adding at the end the following:

''(c)(1) The Secretary shall consult with the regional advisory committees concerning the development of a coastal resources assessment and information program to support development and maintenance of integrated coastal resource assessments of state natural, cultural and economic attributes, and coastal information programs for the collection and dissemination of data and information, product development, and outreach based on the needs and priorities of coastal and ocean managers and user groups.

''(2) The Secretary shall assist coastal states in identifying and obtaining financial and technical assistance from other Federal agencies and may make grants to states in carrying out the purpose of this section and to provide ongoing support for state resource assessment and information programs.''.

(b) CONFORMING AMENDMENT.—The section heading for section 310 (16 U.S.C. 1456c) is amended to read as follows:

''SEC. 310. TECHNICAL ASSISTANCE, RESOURCES ASSESSMENTS, AND INFORMATION SYSTEMS.

SEC. 14. PERFORMANCE REVIEW.

Section 312(a) (16 U.S.C. 1458(a)) is amended—

(1) by striking ''continuing review of the performance'' and inserting ''periodic review, no less frequently than every 5 years, of the administration, implementation, and performance'';

(2) by striking ''management.'' and inserting ''management programs.'';

(3) by striking ''has implemented and enforced'' and inserting ''has effectively administered, implemented, and enforced'';

(4) by striking ''addressed the coastal management needs identified'' and inserting ''furthered the national coastal policies and objectives set forth''; and

(5) by inserting ''coordinated with National Estuarine Research Reserves in the state,'' after ''303(2)(A) through (K),''.

SEC. 15. WALTER B. JONES AWARDS.

Section 314 (16 U.S.C. 1460) is amended—

(1) by striking ''shall, using sums in the Coastal Zone Management Fund established under section 308'' in subsection (a) and inserting ''may, using sums available under this Act'';

(2) by striking ''field.'' in subsection (a) and inserting the following: ''field of coastal zone management. These awards, to be known as the 'Walter B. Jones Awards', may include—

''(1) cash awards in an amount not to exceed $5,000 each;

''(2) research grants; and

''(3) public ceremonies to acknowledge such awards.'';

(3) by striking ''shall elect annually—'' in subsection (b) and inserting ''may select annually if funds are available under subsection (a)—''; and

(4) by striking subsection (e).

SEC. 16. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

(a) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking ''consists of—'' and inserting ''is a network of areas protected by Federal, state, and community partnerships which promotes informed management of the Nation's estuarine and coastal areas through interconnected programs in resource stewardship, education and training, monitoring, research, and scientific understanding consisting of—''.

(b) Section 315(b)(2) ((16 U.S.C. 1461(b)(2)) is amended—

(1) by inserting ''for each coastal state or territory'' after ''research'' in subparagraph (A);

(2) by striking ''public awareness and'' in subparagraph (C) and inserting ''state coastal management, public awareness, and''; and

(3) by striking ''public education and interpretation; and''; in subparagraph (C) and inserting ''education, interpretation, training, and demonstration projects; and''.

(c) Section 315(c) (16 U.S.C. 1461(c)) is amended—

(1) by striking ''RESEARCH'' in the subsection caption and inserting ''RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP'';

(2) by striking ''conduct of research'' and inserting ''conduct of research, education, and resource stewardship'';

(3) by striking ''coordinated research'' in paragraph (1)) and inserting ''coordinated research, education, and resource stewardship'';

(4) by striking ''research'' after ''common'' in paragraph (2);

(5) by striking ''research programs'' in paragraph (2) and inserting ''research, education, and resource stewardship programs'';

(6) by striking ''research'' after ''uniform'' in paragraph (3);

(7) by striking ''data,'' in paragraph (3) and inserting ''information,'';

(8) by striking ''research'' after ''application of'' in paragraph (3);

(9) by striking ''research purposes;'' in paragraph (3) and inserting ''research, education, and resource stewardship purposes;'';

(10) by striking ''research efforts'' in paragraph (4) and inserting ''research, education, and resource stewardship efforts'';

(11) by striking ''research'' in paragraph (5) and inserting ''research, education, and resource stewardship''; and

(12) by striking ''research'' in the last sentence.

(d) Section 315(d) (16 U.S.C. 1461(d)) is amended—

(1) by striking ''ESTUARINE RESEARCH.—'' in the subsection caption and inserting ''ESTUARINE RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP.—'';

(2) by striking ''research purposes'' and inserting ''research, education, and resource stewardship purposes'';

(3) by striking paragraph (1) and inserting the following:

''(1) giving reasonable priority to research, education, and stewardship activities that use the System in conducting or supporting activities relating to estuaries;'';

(4) by striking ''research.'' in paragraph (2) and inserting ''research, education, and resource stewardship activities; and''; and

(5) by adding at the end thereof the following:

''(3) establishing partnerships with other Federal and state estuarine management programs to coordinate and collaborate on estuarine research.''.

(e) Section 315(e) (16 U.S.C. 1461(e)) is amended—

(1) by striking ''reserve,'' in paragraph (1)(A)(i) and inserting ''reserve; and'';

(2) by striking ''and constructing appropriate reserve facilities, or'' in paragraph (1)(A)(ii) and inserting ''including resource stewardship activities and constructing reserve facilities; and'';

(3) by striking paragraph (1)(A)(iii);

(4) by striking paragraph (1)(B) and inserting the following:

''(B) to any coastal state or public or private person for purposes of—

''(i) supporting research and monitoring associated with a national estuarine reserve that are consistent with the research guidelines developed under subsection (c); or

''(ii) conducting educational, interpretive, or training activities for a national estuarine reserve that are consistent with the education guidelines developed under subsection (c).'';

(5) by striking ''therein or $5,000,000, whichever amount is less.'' in paragraph (3)(A) and inserting ''therein. Non-Federal costs associated with the purchase of any lands and waters, or interests therein, which are incorporated into the boundaries of a reserve up to 5 years after the costs are incurred, may be used to match the Federal share.'';

(6) by striking ''and (iii)'' in paragraph (3)(B);

(7) by striking ''paragraph (1)(A)(iii)'' in paragraph (3)(B) and inserting ''paragraph (1)(B)'';

(8) by striking ''entire System.'' in paragraph (3)(B) and inserting ''System as a whole.''; and

(9) by adding at the end thereof the following:

''(4) The Secretary may—

''(A) enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with any nonprofit organization, authorizing the organization to solicit donations to carry out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section; and

''(B) accept donations of funds and services for use in carrying out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section.

Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States for the purpose of carrying out this section.''.

(f) Section 315(f)(1) (16 U.S.C. 1461(f)(1)) is amended by inserting ''coordination with other state programs established under sections 306 and 309A,'' after ''including''.

SEC. 17. COASTAL ZONE MANAGEMENT REPORTS.

Section 316 (16 U.S.C. 1462) is amended—

(1) by striking ''to the President for transmittal'' in subsection (a);

(2) by striking ''zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences;'' and inserting ''zone;'' in subsection (a)(10);

(3) by inserting ''education,'' after ''studies,'' in subsection (a)(12);

(4) by striking ''Secretary'' in the first sentence of subsection (c)(1) and inserting ''Secretary, in consultation with coastal states, and with the participation of affected Federal agencies,'';

(5) by striking the second sentence of subsection (c)(1) and inserting the following: ''The Secretary, in conducting such a review, shall coordinate with, and obtain the views of, appropriate Federal agencies.'';

(6) by striking ''shall promptly'' in subsection (c)(2) and inserting ''shall, within 4 years after the date of enactment of the Coastal Zone Enhancement Reauthorization Act of 2007,''; and

(7) by adding at the end of subsection (c)(2) the following: ''If sufficient funds and resources are not available to conduct such a review, the Secretary shall so notify the Congress.''.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) for grants under sections 306, 306A, and 309—

''(A) $90,500,000 for fiscal year 2008,

''(B) $94,000,000 for fiscal year 2009,

''(C) $98,000,000 for fiscal year 2010,

''(D) $102,000,000 for fiscal year 2011, and

''(E) $106,000,000 for fiscal year 2012;

''(2) for grants under section 309A—

''(A) $29,000,000 for fiscal year 2008,

''(B) $30,000,000 for fiscal year 2009,

''(C) $31,000,000 for fiscal year 2010,

''(D) $32,000,000 for fiscal year 2011, and

''(E) $32,000,000 for fiscal year 2012,

of which $10,000,000, or 35 percent, whichever is less, shall be for purposes set forth in section 309A(a)(5);

''(3) for grants under section 315—

''(A) $37,000,000 for fiscal year 2008,

''(B) $38,000,000 for fiscal year 2009,

''(C) $39,000,000 for fiscal year 2010,

''(D) $40,000,000 for fiscal year 2011, and

''(E) $41,000,000 for fiscal year 2012,

of which up to $15,000,000 may be used by the Secretary in each of fiscal years 2008 through 2012 for grants to fund construction and acquisition projects at estuarine reserves designated under section 315;

''(4) for costs associated with administering this title, $7,500,000 for fiscal year 2008, $7,750,000 for fiscal year 2009, $8,000,000 for fiscal year 2010, $8,250,000, for fiscal year 2011, and $8,500,000 for fiscal year 2012; and

''(5) for grants under section 310 to support State pilot projects to implement resource assessment and information programs, $6,000,000 for each of fiscal years 2008 and 20010.'';

(2) by striking ''306 or 309.'' in subsection (b) and inserting ''306.'';

(3) by striking ''during the fiscal year, or during the second fiscal year after the fiscal year, for which'' in subsection (c) and inserting ''within 3 years from when'';

(4) by striking ''under the section for such reverted amount was originally made available.'' in subsection (c) and inserting ''to states under this Act.''; and

(5) by adding at the end thereof the following:

''(d) PURCHASE OF OTHERWISE UNAVAILABLE FEDERAL PRODUCTS AND SERVICES.—Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

''(e) RESTRICTIONS ON USE OF AMOUNTS.—Except for funds appropriated under subsection (a)(4), amounts appropriated under this section shall not be available for administrative or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce. Amounts appropriated under subsection (a)(1) or (2) shall be available only for grants to States.''.

SEC. 19. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION.

(a) IN GENERAL.—Section 319 (16 U.S.C. 1465) is amended to read as follows:

''SEC. 319. APPEALS TO THE SECRETARY.

''(a) NOTICE.—Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

''(b) CLOSURE OF RECORD.—

''(1) IN GENERAL.—Not later than the end of the 270-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

''(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

''(3) EXCEPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), during the 270-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

''(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

''(ii) as the Secretary determines necessary to receive, on an expedited basis—

''(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

''(II) any clarifying information submitted by a party to the proceeding related to information already existing in the sole record.

''(B) APPLICABILITY.—The Secretary may only stay the 270-day period described in paragraph (1) once and for a period not to exceed 60 days.

''(c) DEADLINE FOR DECISION.—

''(1) IN GENERAL.—Not later than 90 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

''(2) SUBSEQUENT DECISION.—Not later than 45 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 90-day period, the Secretary shall issue a decision.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to appeals under subsection (c) or (d) of section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) filed after the date of enactment of this Act.

(c) SPECIAL RULE FOR APPEALS FILED ON OR BEFORE DATE OF ENACTMENT.—The Secretary of Commerce—

(1) shall close the administrative record for any appeal under subsection (c) or (d) of section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) that was filed on or before the date of enactment of this Act within 180 days after such date of enactment but not earlier than December 31, 2008;

(2) may not receive any additional filing with respect to such an appeal; and

(3) shall issue a decision on the appeal within 90 days after closing the administrative record.

SEC. 20. EFFECTS OF CLIMATE CHANGE ON COASTAL ZONE MANAGEMENT.

The Act (16 U.S.C. 1451 et seq.) is amended by adding at the end the following:

''SEC. 320. EFFECTS OF CLIMATE CHANGE ON COASTAL ZONE MANAGEMENT.

''In preparing and carrying out its management program, a coastal state may—

''(1) conduct assessments, mapping, modeling, and forecasting to understand the physical, environmental, and socio-economic impacts of sea level rise, changes in freshwater quality and quantity, ocean acidification, ocean warming, or other effects of global climate change on the coastal zone;

''(2) develop prevention, adaptation or response strategies to reduce vulnerability of coastal communities and resources to such impacts, changes, and effects; and

''(3) establish mechanisms to increase local awareness of such impacts, changes, and effects.''.

SEC. 21. COORDINATION WITH FEDERAL ENERGY REGULATORY COMMISSION.

Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Congress on the development of a memorandum of understanding with the Commissioner of the Federal Energy Regulatory Commission for a coordinated process for review of coastal energy activities that provides for—

(1) improved coordination among Federal, regional, State, and local agencies concerned with conducting reviews under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); and

(2) coordinated schedules for such reviews that ensures that, where appropriate, the reviews are performed concurrently.

By Mr. INOUYE (for himself, Mr. STEVENS, and Ms. CANTWELL):

S. 1580. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Coral Reef Conservation Amendments Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 3. FINDINGS AND PURPOSES.

Section 202 (16 U.S.C. 6401) is amended to read as follows:

''SEC. 202. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds that—

''(1) coral reefs contain high biological diversity and serve important ecosystem functions;

''(2) coral reef ecosystems provide economic and environmental benefits in the form of food, jobs, natural products, and pharmaceuticals;

''(3) coral reef ecosystems are the basis of thriving commercial and recreational fishing and tourism industries;

''(4) a combination of stressors, including climate change, has caused a rapid decline in the health of many coral reef ecosystems globally;

''(5) natural stressors on coral reef ecosystems are compounded by human impacts including pollution, overfishing, and physical damage; and

''(6) healthy coral reefs provide shoreline protection for coastal communities and resources.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

''(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

''(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

''(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

''(5) to provide financial resources for those programs and projects;

''(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

''(7) to provide mechanisms to prevent and minimize damage to coral reefs.''.

SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203(a) (16 U.S.C. 6402(a)) is amended to read as follows:

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2007, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Natural Resources and publish in the Federal Register a national coral reef action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).''.

SEC. 5. CORAL REEF CONSERVATION PROGRAM.

Section 204 (16 U.S.C. 6403) is amended—

(1) by striking ''Administrator'' each place it appears and inserting ''Secretary'';

(2) by striking subsection (a) and inserting the following:

''(a) GRANTS.—The Secretary, subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reef ecosystems (hereafter in this title referred to as 'coral conservation projects'), for proposals approved by the Secretary in accordance with this section.'';

(3) by striking subsection (c) and inserting the following:

''(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral conservation proposal to the Secretary under subsection (e).'';

(4) by striking ''GEOGRAPHIC AND BIOLOGICAL'' in the heading for subsection (d) and inserting ''PROJECT'';

(5) by striking paragraph (3) of subsection (d) and inserting the following:

''(3) Remaining funds shall be awarded for—

''(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

''(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support.'';

(6) by striking subsection (g) and inserting the following:

''(g) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

''(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;

''(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

''(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems or regulate the use and management of coral reef ecosystems;

''(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems and their biodiversity, including factors that cause coral disease and bleaching;

''(5) promoting and assisting the implementation of cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

''(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;

''(7) mapping the location, distribution, and biodiversity of coral reef ecosystems;

''(8) developing and implementing techniques to monitor and assess the status and condition of coral reef ecosystems and biodiversity;

''(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity;

''(10) responding to coral disease and bleaching events;

''(11) promoting activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorages; or

''(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.''; and

(7) by striking ''coral reefs'' in subsection (j) and inserting ''coral reef ecosystems''.

SEC. 6. CORAL REEF CONSERVATION FUND.

Section 205 (16 U.S.C. 6404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest-bearing account (referred to in section 218(a) as the 'Fund') established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this title and are consistent with the national coral reef action strategy under section 203.'';

(2) by striking ''Administrator'' in subsection (c) and inserting ''Secretary'';

(3) by striking ''the grant program'' in subsection (c) and inserting ''any grant program''; and

(4) by striking ''Administrator'' in subsection (d) and inserting ''Secretary''.

SEC. 7. AGREEMENTS.

The Act (16 U.S.C. 6401 et seq.) is amended by redesignating sections 206 through 210 as sections 207 through 211, respectively, and inserting after section 205 the following:

''SEC. 206. AGREEMENTS.

''(a) IN GENERAL.—The Secretary may execute and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this title.

''(b) USE OF OTHER AGENCIES' RESOURCES.—For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

''(c) AUTHORITY TO UTILIZE GRANT FUNDS.—

''(1) Except as provided in paragraph (2), the Secretary may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs where such funding furthers the purpose of this title.

''(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to grant funds to Federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

''(3) Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of appropriations.

''(4) Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account for the purpose for which the grant was awarded.''.

SEC. 8. EMERGENCY ASSISTANCE.

Section 207 (formerly 16 U.S.C. 6405), as redesignated, is amended to read as follows:

''SEC. 207. EMERGENCY ASSISTANCE.

''The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.''.

SEC. 9. NATIONAL PROGRAM.

Section 208 (formerly 16 U.S.C. 6406), as redesignated, is amended to read as follows:

''SEC. 208. NATIONAL PROGRAM.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including with local, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972.

''(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

''(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

''(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

''(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reef ecosystems to conserve living marine resources;

''(4) responding to incidents and events that threaten and damage coral reef ecosystems, including disease and bleaching;

''(5) conservation and management of coral reef ecosystems;

''(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public. with local, regional, or international programs and partners; and

''(7) activities designed to prevent or minimize damage to coral reef ecosystems, including those activities described in section 211 of this title.

''(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies shall provide for the long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities pursuant to this title. The Secretary may—

''(1) archive environmental data collected by Federal, State, local agencies and tribal organizations and federally funded research;

''(2) promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

''(3) develop standards, protocols and procedures for sharing Federal data with State and local government programs and the private sector or academia; and

''(4) develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

''(d) EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.—The Secretary shall establish an account (to be called the Emergency Response, Stabilization, and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. Amounts appropriated for the Account under section 218, and funds authorized by sections 212(d)(3)(B) and 213(f)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 212 and 213.''.

SEC. 10. COMMUNITY-BASED PLANNING GRANTS.

The Act (16 U.S.C. 6401 et seq.) is amended by further redesignating sections 209 through 211, as redesignated, as sections 210 through 212, respectively, and inserting after section 208 the following:

''SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

''(a) IN GENERAL.—The Secretary may make grants to entities who have received grants under section 204 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and scientific experts as high priorities for focused attention. The plans shall—

''(1) support attainment of 1 or more of the criteria described in section 204(g);

''(2) be developed at the community level;

''(3) utilize watershed-based approaches;

''(4) provide for coordination with Federal and State experts and managers; and

''(5) build upon local approaches or models, including traditional or island-based resource management concepts.

''(b) TERMS AND CONDITIONS.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, '75 percent' shall be substituted for '50 percent'.''.

SEC. 11. VESSEL GROUNDING INVENTORY.

The Act (16 U.S.C. 6401 et seq.) is further amended by redesignating sections 210 through 212, as redesignated, as sections 211 through 213, and inserting after section 209, as added by section 10, the following:

''SEC. 210. VESSEL GROUNDING INVENTORY.

''(a) IN GENERAL.—The Secretary may maintain an inventory of all vessel grounding incidents involving coral reefs, including a description of—

''(1) the impacts to affected coral reef ecosystems;

''(2) vessel and ownership information, if available;

''(3) the estimated cost of removal, mitigation, or restoration;

''(4) the response action taken by the owner, the Secretary, the Commandant of the Coast Guard, or other Federal or State agency representatives;

''(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

''(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

''(b) IDENTIFICATION OF AT-RISK REEFS.—The Secretary may—

''(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage;

''(2) identify appropriate measures, including the acquisition and placement of aids to navigation, moorings, fixed anchors and other devices, to reduce the likelihood of such impacts; and

''(3) develop a strategy and timetable to implement such measures, including cooperative actions with other government agencies and non-governmental partners.''.

SEC. 12. PROHIBITED ACTIVITIES.

The Act (16 U.S.C. 6401 et seq.) is amended by further redesignating sections 211 through 213, as redesignated, as sections 217 through 220, and inserting after section 210 the following:

''SEC. 211. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

''(a) PROVISIONS AS COMPLEMENTARY.—The provisions of this section are in addition to, and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

''(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

''(2) EXCEPTIONS.—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

''(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

''(B) was caused by an activity that is authorized by Federal or State law (including lawful discharges from vessels of graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel

groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

''(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

''(D) was caused by a Federal Government agency—

''(i) during—

''(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

''(II) an emergency that posed a threat to national security; or

''(III) an activity necessary for law enforcement or search and rescue; and

could not reasonably be avoided; or

''(E) was caused by an action taken to ensure the safety of the vessel or the lives of passengers or crew.

''(c) INTERFERENCE WITH ENFORCEMENT.—It is unlawful for any person to interfere with the enforcement of this title by—

''(1) refusing to permit any officer authorized to enforce this title to board a vessel (other than a vessel operated by the Department of Defense or United States Coast Guard) subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

''(2) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

''(3) submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title.

''(d) VIOLATIONS OF TITLE, PERMIT, OR REGULATION.—It is unlawful for any person to violate any provision of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

''(e) POSSESSION AND DISTRIBUTION.—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.''.

SEC. 13. DESTRUCTION OF CORAL REEFS.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 211, as added by section 12, the following:

''SEC. 212. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

''(a) LIABILITY.—

''(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsections (a) or (c) of section 211, or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

''(A) response costs and damages resulting from the destruction, loss, taking, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(C) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(2) LIABILITY IN REM.—

''(A) Any vessel used in an activity that is prohibited under subsection (a) or (c) of section 211, or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

''(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(iii) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(B) The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

''(3) DEFENSES.—A person or vessel is not liable under this subsection if that person or vessel establishes that the destruction, loss, taking, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person or master of the vessel acted with due care.

''(4) NO LIMIT TO LIABILITY.—Nothing in sections 30501 through 30512 or section 30706 of title 46, United States Code, shall limit liability to any person under this title.

''(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

''(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

''(2) DAMAGE ASSESSMENT.—

''(A) The Secretary shall assess damages (as defined in section 220(8)) to coral reefs and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

''(B) There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

''(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

''(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

''(2) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

''(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(B) the vessel is located, in the case of an action against a vessel;

''(C) the destruction, loss, or taking of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(D) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

''(d) USE OF RECOVERED AMOUNTS.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

''(1) be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;

''(2) be available for use by the Secretary without further appropriation and remain available until expended; and

''(3) be for use, as the Secretary considers appropriate—

''(A) to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) of this section for costs incurred in conducting the activity;

''(B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized emergency actions; and

''(C) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

''(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates. If the Secretary fails to complete such damage assessment and restoration plan within one year after discovery of the damage, then for the purposes of this subsection such assessment and plan shall be deemed to have been completed by the Secretary on the 366th day following discovery of the damage.

''(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.''.

SEC. 14. ENFORCEMENT.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 212, as added by section 13, the following:

''SEC. 213. ENFORCEMENT.

''(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this title.

''(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

''(1) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and cargo of such vessel;

''(2) seize wherever found any component of coral reef taken or retained in violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(3) seize any evidence of a violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(4) execute any warrant or other process issued by any court of competent jurisdiction;

''(5) exercise any other lawful authority; and

''(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 211.

''(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

''(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued hereunder, shall be liable to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

''(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this title, and who violates this title or any regulation or permit issued under this title, the Secretary may deny, suspend, amend, or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this title.

''(3) IMPOSITION OF CIVIL JUDICIAL PENALTIES.—Any person who violates any provision of this title, any regulation promulgated or permit issued thereunder, shall be subject to a civil judicial penalty not to exceed $250,000 for each such violation. Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

''(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

''(5) IN REM JURISDICTION.—A vessel used in violating this title, any regulation promulgated under this title, or any permit issued under this title, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

''(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review. Any person who fails to pay, on a timely basis, the amount of an assessment of a civil penalty shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

''(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to the Attorney General for further enforcement action.

''(8) JURISIDICTION.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law.

''(d) FORFEITURE.—

''(1) CRIMINAL FORFEITURE.—A person who is convicted of an offense in violation of this title shall forfeit to the United States—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

Pursuant to section 2461(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) other than subsection (d) thereof shall apply to criminal forfeitures under this section.

''(2) CIVIL FORFEITURE.—The property set forth below shall be forfeited to the United States in accordance with the provisions of chapter 46 of title 18, United States Code, and no property right shall exist in it:

''(A) Any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof).

''(B) Any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(3) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

''(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all coral reefs, or components thereof, found on board a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this title were taken, obtained, or retained in violation of this title or of a regulation promulgated under this title.

''(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation promulgated under this title and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

''(f) EXPENDITURES.—

''(1) Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—

''(A) be placed into an account;

''(B) be available for use by the Secretary without further appropriation; and

''(C) remain available until expended.

''(2) Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

''(3) Amounts received under this section as civil penalties under subsection (c) of this section and any amounts remaining after the operation of paragraph (2) of this subsection shall—

''(A) be used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

''(B) be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) or an account described in section 212(d)(1) of this title, to reimburse such account for amounts used for authorized emergency actions;

''(C) be used to conduct monitoring and enforcement activities;

''(D) be used to conduct research on techniques to stabilize and restore coral reefs;

''(E) be used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

''(F) be used to stabilize, restore or otherwise manage any other coral reef; or

''(G) be used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation promulgated under this title.

''(g) CRIMINAL ENFORCEMENT.—

''(1) Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 211(b) of this title shall be imprisoned for not more than 5 years and shall be fined not more than $500,000 for individuals or $1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than 10 years.

''(2) Any person (other than a foreign government or any entity of such government) who knowingly violates subsection (a) or (c) of section 211 shall be fined under title 18, United States Code, or imprisoned not more than 5 years or both.

''(3) The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. For the purpose of this subsection, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

''(h) SUBPENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

''(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

''(j) INJUNCTIVE RELIEF.—

''(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 212 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the Unites States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(2) Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this title, or any regulation or permit issued under this title, and the district courts shall have jurisdiction to grant such relief.

''(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

''(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with rule 4 of the Federal Rules of Civil Procedure.

''(m) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

''(1) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(2) the vessel is located, in the case of an action against a vessel;

''(3) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(4) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.''.

SEC. 15. PERMITS.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 213, as added by section 14, the following:

''SEC. 214. PERMITS.

''(a) IN GENERAL.—The Secretary may allow for the conduct of—

''(1) bona fide research, and

''(2) activities that would otherwise be prohibited by this title or regulations issued thereunder,

through issuance of coral reef conservation permits in accordance with regulations issued under this title.

''(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—The Secretary may not issue a permit for activities other than for bona fide research unless the Secretary finds—

''(1) the activity proposed to be conducted is compatible with one or more of the purposes in section 202(b) of this title;

''(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

''(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component thereof.

''(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary deems reasonable.

''(d) FEES.—

''(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Secretary may assess and collect fees as specified in this subsection.

''(2) AMOUNT.—Any fee assessed shall be equal to the sum of—

''(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

''(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

''(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section shall be collected and available for use only to the extent provided in advance in appropriations Acts and may be used by the Secretary for issuing and administering permits under this section.

''(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

''(A) accept in-kind contributions in lieu of a fee; or

''(B) waive or reduce the fee.

''(e) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities not prohibited by this title or regulations issued thereunder.''.

SEC. 16. REGIONAL, STATE, AND TERRITORIAL COORDINATION..

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 214, as added by section 15, the following:

''SEC. 215. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

''(a) REGIONAL COORDINATION.—The Secretary shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting.

''(b) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall, when appropriate, enter into a written agreement with any affected State regarding the manner in which response and restoration activities will be conducted within the affected State's waters.

''(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.''.

SEC. 17. REGULATIONS.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 215, as added by section 16, the following:

''SEC. 216. REGULATIONS.

''The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title. This title and any regulations promulgated under this title shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.''.

SEC. 18. EFFECTIVENESS REPORT.

Section 217 (formerly 16 U.S.C. 6407), as redesignated, is amended to read as follows:

''SEC. 217. EFFECTIVENESS REPORT.

''Not later than March 1, 2009, and every 3 years thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, including—

''(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

''(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

''(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels;''

''(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems; and

''(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs.''.

SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

Section 218 (formerly 16 U.S.C. 6408), as redesignated, is amended—

(1) by striking ''$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004,'' in subsection (a) and inserting ''$34,000,000 for fiscal year 2008, $36,000,000 for fiscal year 2009, $38,000,000 for fiscal year 2010, and $40,000,000 for each of fiscal years 2011 through 2014, of which no less than 30 percent per year (for each of fiscal years 2008 through 2014) shall be used for the grant program under section 204 and up to 10 percent per year shall be used for the Fund established under section 205(a),'';

(2) by striking ''$1,000,000'' in subsection (b) and inserting ''$2,000,000'';

(3) by striking subsection (c) and inserting the following:

''(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Secretary to carry out section 209 the sum of $8,000,000 for fiscal years 2007 through 2012, such sum to remain available until expended.''; and

(4) by striking subsection (d).

SEC. 20. JUDICIAL REVIEW.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 218, as amended by section 19, the following:

''SEC. 219. JUDICIAL REVIEW.

''(a) IN GENERAL.—Judicial review of any action taken by the Secretary under this title shall be in accordance with sections 701 through 706 of title 5, United States Code, except that—

''(1) review of any final agency action of the Secretary taken pursuant to sections 211(c)(1) and 211(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district within 30 days after the date such final agency action is taken; and

''(2) review of all other final agency actions of the Secretary under this title may be had only by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business which is directly affected by the action taken within 120 days after the date such final agency action is taken.

''(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

''(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.''.

SEC. 21. DEFINITIONS.

Section 220 (formerly 16 U.S.C. 6409), as redesignated, is amended to read as follows:

''SEC. 220. DEFINITIONS.

''In this title:

''(1) BIODIVERSITY.—The term 'biodiversity' means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species, and of ecosystems.

''(2) CONSERVATION.—The term 'conservation' means the use of methods and procedures necessary to preserve or sustain corals and associated species and habitat as resilient, diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management (such as assessment, conservation, protection, restoration, sustainable use, and management of habitat, mapping, habitat monitoring, assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), law enforcement, conflict resolution initiatives, and community outreach and education) that promote safe and ecologically sound navigation.

''(3) CORAL.—The term 'coral' means species of the phylum *Cnidaria*, including—

''(A) all species of the orders *Antipatharia* (black corals), *Scleractinia* (stony corals), *Gorgonacea* (horny corals), *Stolonifera* (organpipe corals and others), *Alcyonacea* (soft corals), and *Helioporacea* (blue coral) of the class *Anthozoa;* and

''(B) all species of the families *Milleporidea* (fire corals) and *Stylasteridae* (stylasterid hydrocorals) of the class *Hydrozoa*.

''(4) CORAL REEF.—The term 'coral reef' means limestone structures composed in whole or in part of living corals, as described in paragraph (3), their skeletal remains, or both, and including other corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(5) CORAL REEF COMPONENT.—The term 'coral reef component' means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(6) CORAL REEF ECOSYSTEM.—The term 'coral reef ecosystem' means the system of coral reefs and geographically associated species, habitats, and environment, including mangroves and seagrass habitats, and the processes that control its dynamics.

''(7) CORAL PRODUCTS.—The term 'coral products' means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

''(8) DAMAGES.—The term 'damages' includes—

''(A) compensation for—

''(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or component thereof; and

''(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or component thereof;

''(B) the reasonable cost of damage assessments under section 212;

''(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

''(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

''(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, and cultural resource;

''(F) the cost of legal actions under section 212, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

''(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

''(9) EMERGENCY ACTIONS.—The term 'emergency actions' means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the risk of such additional destruction, loss, or injury.

''(10) EXCLUSIVE ECONOMIC ZONE.—The term 'Exclusive Economic Zone' means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

''(11) PERSON.—The term 'person' means any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

''(12) RESPONSE COSTS.—The term 'response costs' means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 212.

''(13) SECRETARY.—The term 'Secretary' means—

''(A) for purposes of sections 201 through 210, sections 217 through 219, and the other paragraphs of this section, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration; and

''(B) for purposes of sections 211 through 219—

''(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (September 4, 1962)); or

''(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not described in clause (i).

''(14) SERVICE.—The term 'service' means functions, ecological or otherwise, performed by a coral reef or component thereof.

''(15) STATE.—The term 'State' means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

''(16) TERRITORIAL SEA.—The term 'Territorial Sea' means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.''.

By Mr. LAUTENBERG (for himself and Ms. CANTWELL):

S. 1581. A bill to establish an interagency committee to develop an ocean acidification research and monitoring plan and to establish an ocean acidification program within the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation that would establish a comprehensive Federal research plan and program to address ocean acidification, which poses a growing threat to the health of our oceans.

Our oceans help reduce global warming by absorbing carbon dioxide from the atmosphere. To date, about one-third of all human-generated carbon emissions have dissolved into the ocean. However, the increase in carbon dioxide lowers ocean pH, and causes the oceans to become more acidic. This increase in acidity is corrosive to marine shells and organisms that form the base of the food chain for many fish and marine mammals. These changes in ocean chemistry also threaten coral reef ecosystems, habitats so rich in biodiversity they are called he rain forests of the sea. Even a mild increase in ocean acidity could make these organisms more vulnerable to disease, pollution and other environmental stresses. If the acidic conditions increase significantly, marine shells could actually begin to dissolve.

Ocean acidification demands our immediate attention. Current projections of carbon dioxide emissions suggest that the acidity of our oceans is likely to accelerate significantly in the coming years. NOAA scientists have said that ocean acidity has increased 30 percent since the industrial revolution and they estimate by the end of this century the acidity of the oceans may increase 150 percent. They also project that current trends could result in a decrease in ocean pH to the lowest levels in 20 million years.

Ocean acidification threatens our marine ecosystems and could result in significant social and economic costs. The rich biodiversity of marine organisms is an important contribution to the national economy providing food, tourism, and aesthetic benefits, but they are vulnerable to human activity. Ocean acidification threatens fish and all calcifying organisms including corals, scallops, clams, crabs, lobsters, and plankton.

It is important to note the potential economic impacts of ocean acidification. Coastal and marine commercial fishing generates upwards of $30 billion per year and employs nearly 70,000 people. Many of these fisheries also rely upon healthy coral habitats. Increased ocean acidification reduces the ability of corals and shellfish to produce their skeletons. Globally, coral reefs are home to more than 4,000 kinds of fish, and generate $30 billion per year in fishing, tourism, and protection to coasts from storms. Scientists have estimated that, due to excess carbon dioxide in the oceans, corals may be unable to form their skeletons by mid-century, and could begin to dissolve by the end of this century. Destroying these ecosystems will have staggering environmental, social and economic consequences.

In addition, ocean acidification directly threatens numerous commercially and recreationally important fish and shellfish species from coast to coast. Carbon dioxide-rich waters have been shown to decrease the body weight of Pacific salmon and increase the mortality rate of Alaskan blue king crab. Over 50 percent of our commercial catch in the United States is shellfish. In New Jersey, sea scallops and clams are some of the State's most valuable fisheries, valued at $121 million. These and other important shellfish species are threatened by growing acidification.

Research on the processes and consequences of ocean acidification is still in its infancy. The urgency of developing interagency collaboration to address this far-reaching environmental problem is widely recognized in the scientific community. In January, the Administration Ocean Research Priorities Plan, ORPP, identified ocean acidification as a research priority. Consistent with the ORPP, my legislation will establish a comprehensive research and monitoring program within the National Oceanic and Atmospheric Administration, NOAA. This is critical for ocean management in the long-term because many questions on the effect of increasing atmospheric carbon dioxide on ocean chemistry and marine life remain unanswered.

My legislation also establishes an interagency committee to develop a comprehensive ocean acidification research and monitoring plan designed to improve the understanding of the environmental and economic impacts of increased ocean acidification. The plan will identify priority research areas and strengthen relevant programs within our federal agencies. The plan will also address commercially and recreationally important species, as well as vulnerable ecosystems including coral reefs and coastal and polar oceans threatened by acidification.

The rise of carbon dioxide in our atmosphere has been measured continuously since 1958. Known as the ''Keeling Curve'', these measurements are a cornerstone of our understanding of man-made increases in carbon dioxide causing global warming and ocean acidification. It is vital that we establish a program for long-term global measurements of ocean pH to understand the processes and consequences of ocean acidification. A key component in our bill directs federal agencies to establish a long-term monitoring program of pH levels in the ocean utilizing existing global ocean observing assets.

Congress has been hearing from our Nation experts on ocean acidification since 2004. Now is the time for national investment in a coordinated program of research and monitoring to improve understanding of ocean acidification, and strengthen the ability of marine resource managers to assess and prepare for the harmful impacts of ocean acidification on our marine resources.

I would like to thank Senator CANTWELL for her cosponsorship and support on this important issue. I look forward to working with my colleagues in the Senate to ensure passage of this legislation so that we can fill this vital research need and protect our valuable marine resources.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Ocean Acidification Research And Monitoring Act of 2007'' or the ''FOARAM Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The oceans help mitigate the effects of global warming by absorbing atmospheric carbon dioxide. About a third of anthropogenic carbon dioxide is currently absorbed by the ocean.

(2) The rapid increase in atmospheric carbon dioxide is overwhelming the natural ability of the oceans to cope with human-induced carbon dioxide emissions.

(3) The emission of carbon dioxide into the atmosphere is causing the oceans to become more acidic. The increase in acidity and changes in ocean chemistry are corrosive to marine shells and organisms that form the base of the food chain for many fish and marine mammals including the skeletons of corals which provide one of the richest habitats on earth.

(4) The rich biodiversity of marine organisms is an important contribution to the national economy and the change in ocean chemistry threatens our fisheries and marine environmental quality, and could result in significant social and economic costs.

(5) Existing Federal programs support research in related ocean chemistry, but gaps in funding, coordination, and outreach have impeded national progress in addressing ocean acidification.

(6) National investment in a coordinated program of research and monitoring would improve the understanding of ocean acidification effects on whole ecosystems, advance our knowledge of the socio-economic impacts of increased ocean acidification, and strengthen the ability of marine resource managers to assess and prepare for the harmful impacts of ocean acidification on our marine resources.

(b) PURPOSES.—The purposes of this Act are to provide for—

(1) development and coordination of a comprehensive interagency plan to monitor and conduct research on the processes and consequences of ocean acidification on marine organisms and ecosystems and to establish an ocean acidification program within the National Oceanic and Atmospheric Administration; and

(2) assessment and consideration of regional and national ecosystem and socio-economic impacts of increased ocean acidification, and integration into marine resource decisions.

SEC. 3. INTERAGENCY COMMITTEE ON OCEAN ACIDIFICATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established an Interagency Committee on Ocean Acidification.

(2) MEMBERSHIP.—The Committee shall be comprised of senior representatives from the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Aeronautics and Space Administration, the United States Geological Survey, the United States Fish and Wildlife Service, the Environmental Protection Agency, the Department of Energy, and such other Federal agencies as the Secretary considers appropriate.

(3) CHAIRMAN.—The Committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full Committee to address issues that may require more specialized expertise than is provided by existing subcommittees.

(b) PURPOSE.—The Committee shall oversee the planning, establishment, and coordination of a plan designed to improve the understanding of the role of increased ocean acidification on marine ecosystems.

(c) REPORTS TO CONGRESS.—

(1) STRATEGIC RESEARCH AND IMPLEMENTATION PLAN.—The Committee shall submit the strategic research and implementation plan established under section 4 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources.

(2) TRIENNIAL REPORT.—Not later than 2 years after the date of the enactment of this Act and every 3 years thereafter, the Committee shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources that includes—

(A) a summary of federally funded ocean acidification research and monitoring activities, including the budget for each of these activities; and

(B) an analysis of the progress made toward achieving the goals and priorities for the interagency research plan developed by the Committee under section 4 and recommendations for future activities.

SEC. 4. STRATEGIC RESEARCH AND IMPLEMENTATION PLAN.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Committee shall develop a strategic research and implementation plan for coordinated Federal activities. In developing the plan, the Committee shall consider and use reports and studies conducted by Federal agencies and departments, the National Research Council, the Ocean Research and Resources Advisory Panel, the Joint Subcommittee on Ocean, Science, and Technology of the National Science and Technology Council, the Joint Ocean Commission Initiative, and other expert scientific bodies.

(b) SCOPE.—The plan shall—

(1) provide for interdisciplinary research among the ocean sciences, and coordinated research and activities to improve understanding of ocean acidification that will affect marine ecosystems and to assess the potential and realized socio-economic impact of ocean acidification, including—

(A) effects of atmospheric carbon dioxide on ocean chemistry;

(B) biological impacts of ocean acidification, including research on—

(i) commercially and recreationally important species and ecologically important calcifiers that lie at the base of the food chain; and

(ii) physiological changes in response to ocean acidification;

(C) identification and assessment of ecosystems most at risk from projected changes in ocean chemistry including—

(i) coral reef ecosystems;

(ii) polar ecosystems; and

(iii) coastal ocean ecosystems;

(D) modeling the effects of pH including ecosystem forecasting;

(E) identifying feedback mechanisms resulting from the ocean chemistry changes and the subsequent decrease in calcification rates in organisms;

(F) socio-economic impacts of ocean acidification, including commercially and recreationally important fisheries;

(2) establish, for the 10-year period beginning in the year it is submitted, goals, priorities, and guidelines for coordinated activities that will—

(A) most effectively advance scientific understanding of the characteristics and impacts of ocean acidification;

(B) provide forecasts of changes in ocean acidification and the consequent impacts on marine ecosystems; and

(C) provide a basis for policy decisions to reduce and manage ocean acidification and its environmental impacts;

(3) provide an estimate of Federal funding requirements for research and monitoring activities; and

(4) identify and strengthen relevant programs and activities of the Federal agencies and departments that would contribute to accomplishing the goals of the plan and prevent unnecessary duplication of efforts, including making recommendations for the use of observing systems and technological research and development.

SEC. 5. NOAA OCEAN ACIDIFICATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and maintain an ocean acidification program within the National Oceanic and Atmospheric Administration to implement activities consistent with the strategic research and implementation plan developed by the Committee under section 4 that—

(1) includes—

(A) interdisciplinary research among the ocean sciences, and coordinated research and activities to improve understanding of ocean acidification;

(B) the establishment of a long-term monitoring program of pH levels in the ocean utilizing existing global ocean observing assets and adding instrumentation and sampling stations as appropriate to the aims of the research program;

(C) educational opportunities that encourage an interdisciplinary and international approach to exploring the impacts of ocean acidification;

(D) national public outreach activities to improve the understanding of ocean acidification and its impacts on marine resources; and

(E) coordination of ocean acidification monitoring and impacts research with other appropriate international ocean science bodies such as the International Oceanographic Commission, the International Council for the Exploration of the Sea, the North Pacific Marine Science Organization, and others;

(2) provides grants for critical research projects that explore the effects of ocean acidification on ecosystems and the socio-economic impacts of increased ocean acidification that are relevant to the goals and priorities of the strategic research plan; and

(3) incorporates a competitive merit-based grant process that may be conducted jointly with other participating agencies or under the National Oceanographic Partnership Program under section 7901 of title 10, United States Code.

(b) ADDITIONAL AUTHORITY.—In conducting the Program, the Secretary may enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act on such terms as the Secretary deems appropriate.

SEC. 6. DEFINITIONS.

In this Act:

(1) COMMITTEE.—The term ''Committee'' means the Interagency Committee on Ocean Acidification established by section 3(a).

(2) OCEAN ACIDIFICATION.—The term ''ocean acidification'' means the decrease in the pH of the Earth's oceans caused by the uptake of anthropogenic carbon dioxide from the atmosphere.

(3) PROGRAM.—The term ''Program'' means the National Oceanic and Atmospheric Administration Ocean Acidification Program established under section 5.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the National Oceanic and Atmospheric Administration $30,000,000 to carry out the purposes of this Act for each of fiscal years 2008 through 2012, and such sums as may be necessary for fiscal years after fiscal year 2012.

(b) ALLOCATION.—

(1) Of the amounts made available to carry out this Act for a fiscal year, the Secretary shall allocate at least 60 percent to other departments and agencies to carry out the priorities of the plan developed by the Committee.

(2) Of the amounts made available to carry out this Act for any fiscal year, the Secretary, and other departments and agencies to which amounts are allocated under paragraph (1), shall allocate at least 50 percent for competitive grants.

By Mr. INOUYE (for himself, Mr. STEVENS, Ms. CANTWELL, and Ms. SNOWE):

S. 1582. A bill to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hydrographic Services Improvement Act Amendments of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

The Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.) is amended—

(1) by redesignating sections 302 through 306 as sections 303 through 307, respectively; and

(2) by inserting after section 301 the following:

''SEC. 302. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds the following:

''(1) In 2007, the Nation celebrates the 200th anniversary of its oldest scientific agency, the Survey of the Coast, which was authorized by Congress and created by President Thomas Jefferson in 1807 to conduct surveys of the coast and provide nautical charts for safe passage through the Nation's ports and along its extensive coastline.

''(2) These mission requirements and capabilities, which today are located in the National Oceanic and Atmospheric Administration, evolved over time to include—

''(A) research, development, operations, products, and services associated with hydrographic, geodetic, shoreline, and baseline surveying;

''(B) cartography, mapping, and charting;

''(C) tides, currents, and water level observations;

''(D) maintenance of a national spatial reference system; and

''(E) associated products and services.

''(3) There is a need to maintain Federal expertise and capability in hydrographic data and services to support a safe and efficient marine transportation system for the enhancement and promotion of international trade and interstate commerce vital to the Nation's economic prosperity and for myriad other commercial and recreational activities.

''(4) The Nation's marine transportation system is becoming increasingly congested, the volume of international maritime commerce is expected to double within the next 20 years, and nearly half of the cargo transiting United States waters is oil, refined petroleum products, or other hazardous substances.

''(5) In addition to commerce, hydrographic data and services support other national needs for the Great Lakes and coastal waters, the territorial sea, the Exclusive Economic Zone, and the continental shelf of the United States, including—

''(A) emergency response;

''(B) homeland security;

''(C) marine resource conservation;

''(D) coastal resiliency to sea-level rise, coastal inundation, and other hazards;

''(E) ocean and coastal science advancement; and

''(F) improved and integrated ocean and coastal mapping and observations for an integrated ocean observing system.

''(6) The National Oceanic and Atmospheric Administration, in cooperation with other agencies and the States, serves as the Nation's leading civil authority for establishing and maintaining national standards and datums for hydrographic data and services.

''(7) The Director of the National Oceanic and Atmospheric Administration's Office of Coast Survey serves as the National Hydrographer and the primary United States representative to the international hydrographic community, including the International Hydrographic Organization.

''(8) The hydrographic expertise, data, and services of the National Oceanic and Atmospheric Administration provide the underlying and authoritative basis for baseline and boundary demarcation, including the establishment of marine and coastal territorial limits and jurisdiction, such as the Exclusive Economic Zone.

''(9) Research, development and application of new technologies will further increase efficiency, promote the Nation's competitiveness, provide social and economic benefits, enhance safety and environmental protection, and reduce risks.

''(b) PURPOSES.—The purposes of this Act are—

''(1) to augment the ability of the National Oceanic and Atmospheric Administration to fulfill its responsibilities under this and other authorities;

''(2) to provide more accurate and up-to-date hydrographic data and services in support of safe and efficient international trade and interstate commerce, including—

''(A) hydrographic surveys;

''(B) electronic navigational charts;

''(C) real-time tide, water level, and current information and forecasting;

''(D) shoreline surveys; and

''(E) geodesy and 3-dimensional positioning data;

''(3) to support homeland security, emergency response, ecosystem approaches to marine management, and coastal resiliency by providing hydrographic data and services with many other useful operational, scientific, engineering, and management applications, including—

''(A) storm surge, tsunami, coastal flooding, erosion, and pollution trajectory monitoring, predictions, and warnings;

''(B) marine and coastal geographic information systems;

''(C) habitat restoration;

''(D) long-term sea-level trends; and

''(E) more accurate environmental assessments and monitoring;

''(4) to promote improved integrated ocean and coastal mapping and observations through increased coordination and cooperation;

''(5) to provide for and support research and development in hydrographic data, services and related technologies to enhance the efficiency, accuracy and availability of hydrographic data and services and thereby promote the Nation's scientific and technological competitiveness; and

''(6) to provide national and international leadership for hydrographic and related services, sciences, and technologies.''.

SEC. 3. DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892), as redesignated by section 2, is amended—

(1) by amending paragraph (3) to read as follows:

''(3) HYDROGRAPHIC DATA.—The term ''hydrographic data'' means information acquired through hydrographic, bathymetric, or shoreline surveying; geodetic, geospatial, or geomagnetic measurements; tide, water level, and current observations, or other methods, that is used in providing hydrographic services.'';

(2) by striking paragraph (4)(A) and inserting the following:

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;''; and

(3) by striking paragraph (5) and inserting the following:

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 4. FUNCTIONS OF THE ADMINISTRATOR.

Section 304 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a), as redesignated by section 2, is amended—

(1) by striking ''the Act of 1947,'' in subsection (a) and inserting ''the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(2) by striking ''data;'' in subsection (a)1) and inserting ''data and provide hydrographic services;''; and

(3) by striking subsection (b) and inserting the following:

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations—

''(1) the Administrator may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) the Administrator shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency;

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Administrator may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, the Administrator may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining Mission Assignments as defined in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741);

''(5) the Administrator may create, support, and maintain such joint centers, and enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act; and

''(6) notwithstanding paragraph (5), the Administrator shall award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 1101 et seq.).''.

SEC. 5. QUALITY ASSURANCE PROGRAM.

Subsection (b) of section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b), as redesignated by section 2, is amended by striking ''303(a)(3)'' each place it appears and inserting ''304(a)(3)''.

SEC. 6. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c), as redesignated by section 2, is amended—

(1) by striking ''303'' in subsection (b)(1) and inserting ''304'';

(2) by striking subsection (c)(1)(A) and inserting ''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training,

are especially qualified in 1 or more of the disciplines and fields relating to hydrographic data and hydrographic services, and other disciplines as determined appropriate by the Administrator.'';

(3) by striking ''Secretary'' in subsections (c)(1)(C), (c)(3), and (e) and inserting ''Administrator''; and

(4) by striking subsection (d) and inserting the following:

''(d) COMPENSATION.—Voting members of the panel shall be reimbursed for actual and reasonable expenses, such as travel and per diem, incurred in the performance of such duties.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 307 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), as redesignated by section 2, is amended to read as follows:

''SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator sums as may be necessary for each of fiscal years 2008 through 2012 for the purposes of carrying out this Act.''.

By Mr. INOUYE (for himself and Mr. STEVENS) (by request):

S. 1583. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other coral conservation purposes; to the Committee on Commerce, Science, and Transportation.

Mr. President, I ask unanimous conset that the text of the bill be printed in the RECORD.

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

S. 1583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCES.

(a) This Act may be cited as the ''Coral Reef Ecosystem Conservation Amendments Act of 2007''.

(b) Except as otherwise expressly provided, whenever in this bill an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 2. REDESIGNATIONS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by redesignating—

(1) section 206 (16 U.S.C. 6405) as section 207;

(2) section 207 (16 U.S.C. 6406) as section 208;

(3) section 208 (16 U.S.C. 6407) as section 215;

(4) section 209 (16 U.S.C. 6408) as section 216; and

(5) section 210 (16 U.S.C. 6409) as section 217.

SEC. 3. FINDINGS AND PURPOSES.

Section 202 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401) is amended to read as follows:

''SEC. 202. FINDINGS AND PURPOSES.

''(a) The Congress finds that—

''(1) coral reefs contain high biological diversity and serve important ecosystem functions;

''(2) coral reef resources provide economic and environmental benefits in the form of food, jobs, natural products, and pharmaceuticals;

''(3) coral reefs are the basis of thriving commercial and recreational fishing and tourism industries;

''(4) a combination of stressors, including climate change, has caused a rapid decline in the health of many coral reef ecosystems globally;

''(5) natural stressors on coral reefs are compounded by human impacts including pollution, overfishing, and physical damage; and

''(6) healthy coral reefs provide shoreline protection for coastal communities and resources.

''(b) The purposes of this title are—

''(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

''(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

''(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

''(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

''(5) to provide financial resources for those programs and projects;

''(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

''(7) to provide mechanisms to address injuries to coral reefs.''.

SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203(a) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6402(a)) is amended to read as follows:

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Natural Resources of the House of Representatives and publish in the Federal Register a national coral reef action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary shall consult with the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).''.

SEC. 5. CORAL REEF CONSERVATION PROGRAM.

Section 204 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6403) is amended—

(1) throughout by striking ''Administrator'' and inserting ''Secretary'';

(2) by amending subsection (a) to read as follows:

''(a) GRANTS.—The Secretary, subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reef ecosystems (hereafter in this title referred to as 'coral conservation projects'), for proposals approved by the Secretary in accordance with this section.'';

(3) by amending subsection (c) to read as follows:

''(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit to the Secretary a coral conservation proposal under subsection (e).'';

(4) by striking subsection (d) and renumbering the subsequent sections as (d) through (i);

(5) in subparagraph (e)(2)(A), as redesignated, by striking ''Magnuson- Stevens'' and inserting ''Magnuson-Stevens'';

(6) by amending subsection (f), as redesignated, to read as follows:

''(f) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

''(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;

''(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

''(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems or regulate the use and management of coral reef ecosystems;

''(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems and their biodiversity, including factors that cause coral disease and bleaching;

''(5) promoting and assisting to implement cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

''(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;

''(7) mapping the location, distribution and biodiversity of coral reef ecosystems;

''(8) developing and implementing techniques to monitor and assess the status and condition of coral reef ecosystems and biodiversity;

''(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity;

''(10) responding to coral disease and bleaching events; or

''(11) promoting ecologically sound navigation and anchorages near coral reef ecosystems.''; and

(7) in subsection (i), as redesignated, by striking ''coral reefs'' and inserting ''coral reef ecosystems''.

SEC. 6. CORAL REEF CONSERVATION FUND.

Section 205 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6404) is amended—

(1) by amending subsection (a) to read as follows:

''(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest-bearing account, hereafter referred to as the Fund, established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef action strategy under section 203.'';

(2) in subsection (c) by striking ''Administrator'' and inserting ''Secretary'';

(3) in subsection (c) by striking ''the grant program'' and inserting ''any grant program''; and

(4) in subsection (d) by striking ''Administrator'' and inserting ''Secretary''.

SEC. 7. AGREEMENTS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 206 as follows:

''SEC. 206. AGREEMENTS.

''(a) The Secretary shall have the authority to enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act.

''(b) For purposes related to the conservation, preservation, protection, restoration or replacement of coral reefs or coral reef ecosystems and the enforcement of this Act, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency or instrumentality of the United States, or of any state, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

''(c) AUTHORITY TO UTILIZE GRANT FUNDS.—

''(1) Except as provided in paragraph (2), the Secretary is authorized to apply for, accept, and obligate research grant funding from any federal source operating competitive grant programs where such funding furthers the purpose of this Act.

''(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to grant funds to federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

''(3) Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of appropriations.

''(4) Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account that serves to accomplish the purpose for which the grant was awarded.''.

SEC. 8. EMERGENCY ASSISTANCE.

Section 207 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6405), as redesignated by section 2, is amended to read as follows:

''SEC. 207. EMERGENCY ASSISTANCE.

The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.''.

SEC. 9. NATIONAL PROGRAM.

Section 208 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6406), as redesignated by section 2, is amended to read as follows:

''SEC. 208. NATIONAL PROGRAM.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including with local, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972.

''(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

''(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

''(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

''(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reefs ecosystems to conserve living marine resources;

''(4) responding to incidents and events that threaten and damage coral reef ecosystems, including disease and bleaching;

''(5) cooperative conservation and management of coral reef ecosystems; and

''(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public. with local, regional, or international programs and partners.

''(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies, as appropriate, shall provide for long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities, pursuant to this Act. To implement this provision, the Secretary may—

(1) Archive environmental data collected by federal, State, local agencies and tribal organizations and federally funded research;

(2) Promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

(3) Develop standards, protocols and procedures for sharing federal data with State and local government programs and the private sector or academia; and

(4) Develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

''(d) EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.—The Secretary shall establish an account (to be called the Emergency Response, Stabilization and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by Public Law 101-515, 104 Stat. 2101 (1990) (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. There are authorized to be deposited into the Emergency Response, Stabilization and Restoration Account amounts which are authorized to be appropriated for such Account pursuant to section 216, and funds which are authorized by sections 210(d)(3)(B) and 211(f)(3)(B). Amounts in the Emergency Response, Stabilization and Restoration Account shall be available for use by the Secretary as specified in sections 210 and 211.''.

SEC. 10. PROHIBITED ACTIVITIES.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 209 as follows:

''SEC. 209. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

''The provisions in this section are in addition to, and shall not affect the operation of, other Federal, State or local laws or regulations providing protection to coral reefs. It is unlawful for any person to—

'(1) destroy, cause the loss of, or injure any coral reef or any component thereof, except—

''(A) if the destruction, loss, or injury was caused by the use of fishing gear; provided, however, that such gear is used in a manner not prohibited under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., or other Federal or State law;

''(B) if the destruction, loss, or injury was caused by an activity that is authorized by Federal or State law including, but not limited to, lawful discharges from vessels of graywater, cooling water, engine exhaust, ballast water and sewage from marine sanitation devices; provided, however, that such activity shall not be construed to include actions such as vessel groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

''(C) if the destruction, loss, or injury was the necessary result of bona fide marine scientific research; provided, however, that conduct of such research shall not be construed to include excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities; provided further, however, that marine scientific research activities approved by State or local permits qualify as bona fide marine scientific research;

''(D) if the destruction, loss, or injury—

''(i) was caused by a Federal Government agency during—

''(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment,

''(II) an emergency that posed a threat to national security, or

''(III) an activity necessary for law enforcement or search and rescue, and

''(ii) could not reasonably be avoided;

''(2) interfere with the enforcement of this Act by—

''(A) refusing to permit any officer authorized to enforce this Act to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this Act;

''(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this Act or any such authorized officer in the conduct of any search or inspection performed under this Act; or

''(C) submitting false information to the Secretary or any officer authorized to enforce this Act in connection with any search or inspection conducted under this Act.

''(3) violate any provision of this Act, any permit issued pursuant to this Act, or any regulation promulgated pursuant to this Act.''.

SEC. 11. DESTRUCTION OF CORAL REEFS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 210 as follows:

''SEC. 210. DESTRUCTION OR LOSS OF, OR INJURY TO, CORAL REEFS.

''(a) LIABILITY.—

''(1) LIABILITY TO THE UNITED STATES.—Except as provided insubsection (f), all persons who engage in an activity that is prohibited under sections 209(a) or 209(c), or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

''(A) response costs and damages resulting from the destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(C) interest on that amount calculated in the manner described under section 2705 of Title 33.

''(2) LIABILITY IN REM.—

''(A) Any vessel used in an activity that is prohibited under sections 209(a) or 209(c), or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

''(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(iii) interest on that amount calculated in the manner described under section 2705 of Title 33.

''(B) The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

''(3) DEFENSES.—A person is not liable under this subsection if that person establishes that the destruction, loss, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person acted with due care.

''(4) LIMITS TO LIABILITY.—Nothing in sections 30501 to 30512 or 30706 of Title 46 shall limit liability to any person under this Act.

''(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

''(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

''(2) DAMAGE ASSESSMENT.—

''(A) The Secretary shall assess damages to coral reefs in accordance with the damages definition in section 217 and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

''(B) There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

''(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described under section 2705 of Title 33. The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

''(2) VENUE IN CIVIL ACTIONS.—A civil action under this Act may be brought in the United States district court for any district in which—

''(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(B) the vessel is located, in the case of an action against a vessel;

''(C) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(D) where some or all of the coral reef(s) or componentsthereof that are the subject of the action are not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

''(d) USE OF RECOVERED AMOUNTS.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

''(1) as appropriate be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by Public Law 101–515, 104 Stat. 2101 (1990) (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment Fund created pursuant to Title I of Public Law 102–154, 105 Stat. 990 (1991);

''(2) be available for use by the Secretary without further appropriation and remain available until expended;

''(3) and shall be for use, as the Secretary considers appropriate, as follows:

''(A) to reimburse the Secretary or any other Federal or State agency that conducted activities under sections 210(a) and (b);

''(B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized emergency actions; and ''(C) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

''(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

''(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.''.

SEC. 12. ENFORCEMENT.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 211 as follows:

''SEC. 211. ENFORCEMENT.

''(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this Act.

''(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this Act may—

''(1) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this Act, any regulation promulgated under this Act, or any permit issued under this Act, and any equipment, stores, and cargo of such vessel;

''(2) seize wherever found any component of coral reef taken or retained in violation of this Act, any regulation promulgated under this Act, or any permit issued under this Act;

''(3) seize any evidence of a violation of this Act, any regulation promulgated under this Act, or any permit issued under this Act;

''(4) execute any warrant or other process issued by any court of competent jurisdiction;

''(5) exercise any other lawful authority; and

''(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 209.

''(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

''(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this Act or any regulation promulgated or permit issued thereunder, shall be liable to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

''(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this Act, and who violates this Act or any regulation or permit issued under this Act, the Secretary may deny, suspend, amend or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this Act.

(3) ''IMPOSITION OF CIVIL JUDICIAL PENALTIES.—Any person who violates any provision of this Act, any regulation promulgated or permit issued thereunder, shall be subject to a civil judicial penalty not to exceed $250,000 for each such violation. Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

''(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(5) IN REM JURISDICTION.—A vessel used in violating this Act, any regulation promulgated under this Act, or any permit issued under this Act, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

''(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review. Any person who fails to pay, on a timely basis, the amount of an assessment of a civil penalty shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

''(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to

the Attorney General for further enforcement action.

''(8) JURISIDICATION OF COURTS.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law.

(d) FORFEITURE.—

''(1) CRIMINAL FORFEITURE.—A person who is convicted of an offense in violation of this Act shall forfeit to the United States—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation. Pursuant to Title 28, Section 2461(c), the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) with the exception of subsection (d) of that section shall apply to criminal forfeitures under this section.

''(2) CIVIL FORFEITURE.—The property set forth below shall be forfeited to the United States in accordance with the provisions of Chapter 46 of Title 18, and no property right shall exist in it—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this Act, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this Act, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(3) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as applicable and not inconsistent with the provisions hereof. However, with respect to seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

''(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all coral reefs, or components thereof, found on board a vessel that is used or seized in connection with a violation of this Act or of any regulation promulgated under this Act were taken, obtained, or retained in violation of this Act or of a regulation promulgated under this Act.

''(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this Act or of any regulation promulgated under this Act and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

''(f) EXPENDITURES.—

''(1) Notwithstanding section 3302 of Title 31 or section 1861 of Title 16, United States Code, amounts received by the United States as civil penalties under section 211(c) of this bill, forfeitures of property under section 211(d), and costs imposed under section 211(e), shall—

''(A) be placed into an account;

''(B) be available for use by the Secretary without further appropriation; and

''(C) remain available until expended.

''(2) Amounts received under this section for forfeitures under section 211(d) and costs imposed under section 211(e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this Act or any regulation promulgated under this Act.

''(3) Amounts received under this section as civil penalties under section 211(c) of this bill and any amounts remaining after the operation of paragraph (2) shall be used as follows—

''(A) to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

''(B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) or an account referenced in section 210(d)(1) of this Act, to reimburse such account for amounts used for authorized emergency actions;

''(C) to conduct monitoring and enforcement activities;

''(D) to conduct research on techniques to stabilize and restore coral reefs;

''(E) to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

''(F) to stabilize, restore or otherwise manage any other coral reef; or

''(G) to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this Act or any regulation promulgated under this Act.

''(g) CRIMINAL ENFORCEMENT.—

''(1) Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 209(b) of this Act shall be imprisoned for not more than five years and shall be fined not more than $500,000 for individuals or $1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than ten years.

''(2) Any person (other than a foreign government or any entity of such government) who knowingly violates sections 209(a) or 209(c) shall be fined under Title 18 or imprisoned not more than five years or both.

''(3) The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. For the purpose of this subsection, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of Title 18, Section 3238.

''(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of Title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

''(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of Title 14, United States Code.

''(j) INJUNCTIVE RELIEF.—

''(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 210 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the Unites States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(2) Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this Act, or any regulation or permit issued under this Act, and the district courts shall have jurisdiction to grant such relief.

''(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this Act includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

''(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this Act, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with Rule 4 of the Federal Rules of Civil Procedure.

''(m) VENUE IN CIVIL ACTIONS.—A civil action under this Act may be brought in the United States district court for any district in which—

''(1) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(2) the vessel is located, in the case of an action against a vessel;

''(3) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(4) where some or all of the coral reef(s) or components thereof that are the subject of the action are not within the territory covered by any United States district court,

such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.''.

SEC. 13. PERMITS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 212 as follows:

''SEC. 212. PERMITS.

''(a) IN GENERAL.—The Secretary may allow for the conduct of activities that would otherwise be prohibited by this Act or regulations issued thereunder through, in accordance with such regulations, issuance of coral reef conservation permits.

''(b) FINDINGS.—No permit may be issued unless the Secretary finds—

''(1) the activity proposed to be conducted is compatible with one or more of the purposes in section 202(b) of this Act;

''(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

''(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component thereof.

''(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary deems reasonable.

''(d) FEES.—

''(1) ASSESSMENT AND COLLECTION.—Subject to any regulations issued under this Act, the Secretary may assess and collect fees as specified in this subsection.

''(2) AMOUNT.—Any fee assessed shall be equal to the sum of—

''(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

''(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

''(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section shall be collected and available for use only to the extent provided in advance in appropriations Acts and may be used by the Secretary for issuing and administering permits under this section.

''(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

''(A) accept in-kind contributions in lieu of a fee; or

''(B) waive or reduce the fee.

(e) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities not prohibited by this Act or regulations issued thereunder.''.

SEC. 14. COORDINATION WITH STATES AND TERRITORIES.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 213 as follows:

''SEC. 213. COORDINATION WITH STATES AND TERRITORIES.

''(a) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall, when appropriate, enter into a written agreement with any affected State regarding the manner in which response and restoration activities will be conducted within the affected State's waters.

''(b) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by sections 208(d) through 212 of this Act shall be updated to include enforcement of this Act where appropriate.''.

SEC. 15. REGULATIONS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 214 as follows:

''SEC. 214. REGULATIONS.

''The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this Act. This Act and any regulations promulgated under this Act shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.''.

SEC. 16. EFFECTIVENESS REPORT.

Section 215 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6407), as redesignated by section 2, is amended to read as follows:

''SEC. 215. EFFECTIVENESS REPORT.

''Not later than 2 years after the date on which the Secretary publishes the Report on U.S. Coral Reef Task Force Agency Activities 2002 to 2003 and every 2 years thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, under section 203, including a description of the funds obligated each fiscal year to advance coral reef ecosystem conservation. This report will cover the time period since the last report was submitted.''.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6408), as redesignated by section 2, is amended to read as follows:

''SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including for the Emergency Response, Stabilization and Restoration Account established under section 208(d), $25,797,000 in fiscal year 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012.

''(b) ADMINISTRATION.—Of the amounts appropriated under subsection (a), not more than 10 percent of the amounts appropriated, may be used for program administration or for overhead costs incurred by the National Oceanic and Atmospheric Administration or the Department of Commerce and assessed as an administrative charge.''.

SEC. 18. DEFINITIONS.

Section 217 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6409), as redesignated by section 2, is amended to read as follows:

''SEC. 217. DEFINITIONS.

''In this title:

''(1) BIODIVERSITY.—The term 'biodiversity' means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

(2) CONSERVATION.—The term 'conservation' means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

''(3) CORAL.—The term 'coral' means species of the phylum Cnidaria, including—

''(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyonacea (soft corals), and Helioporacea (blue coral), of the class Anthozoa; and

''(B) all species of the families Milleporidea (fire corals) and Stylasteridae (stylasterid hydrocorals) of the class Hydrozoa.

''(4) CORAL REEF.—Coral Reefs are defined as limestone structures composed in whole or in part of living zooxanthellate stony corals (Class Anthozoa, Order Scleractinia), as described in section 217(3), their skeletal remains, or both, and including other coral, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(5) CORAL REEF COMPONENT.—The term 'coral reef component' means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(6) CORAL REEF ECOSYSTEM.—The term 'coral reef ecosystem' means the system of coral reefs and geographically associated species and habitats, including but not limited to mangroves and seagrass habitats, their living marine resources, the people, the environment, and the processes that control its dynamics.

''(7) CORAL PRODUCTS.—The term 'coral products' means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

''(8) DAMAGES.—The term 'damages' includes—

''(A) compensation for—

''(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or component thereof; and

''(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or component thereof;

''(B) the reasonable cost of damage assessments under section 210;

''(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

''(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

''(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archeological, historical, and cultural resource;

''(F) the cost of legal actions under section 210, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

''(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

''(9) EMERGENCY ACTIONS.—The term 'emergency actions' means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the

risk of such additional destruction, loss, or injury.

''(10) EXCLUSIVE ECONOMIC ZONE.—The term 'Exclusive Economic Zone' means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

''(11) LOCAL ACTION STRATEGY.—The term 'Local Action Strategy' refers to a plan developed within each of the seven U.S. Coral Reef Task Force member states for collaborative action among federal, state, territory and non-governmental partners, which identifies priority actions needed to reduce key threats to valuable coral reef resources.

''(12) PERSON.—The term 'person' means any individual; private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic; private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

''(13) RESPONSE COSTS.—The term 'response costs' means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 210.

''(14) SECRETARY.—The term 'Secretary' means—

''(A) for purposes of sections 201 through 208 and sections 215 through 217, the Secretary of Commerce; and

''(B) for purposes of sections 209 through 214 and section 218—

''(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (Sept. 4, 1962)); or

''(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not governed by clause (B)(i).

''(15) SERVICE.—Within section 217(7), the term 'service' means function(s), ecological or otherwise, performed by a coral reef, or component thereof.

''(16) STATE.—The term 'State' means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

''(17) TERRITORIAL SEA.—The term 'Territorial Sea' means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.''.

SEC. 19. JUDICIAL REVIEW.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 218 as follows:

''SEC. 218. JUDICIAL REVIEW.

''(a) Judicial review of any action taken by the Secretary under this Act shall be in accordance with sections 701 through 706 of Title 5, except that—

''(1) review of any final agency action of the Secretary taken pursuant to sections 211(c)(1) and 211(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district; any such complaint must be filed within thirty days of the date such final agency action is taken; and

''(2) review of all other final agency actions of the Secretary under this Act may be had only by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the federal judicial district in which such person resides or transacts business which is directly affected by the action taken; such petition shall be filed within 120 days from the date such final agency action is taken.

''(b) Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.''.

SEC. 20. THE DEPARTMENT OF THE INTERIOR PROGRAM.

(a) DEFINITIONAL AMENDMENTS AND CLARIFICATIONS.—

(1) Section 8 of the Act of March 10, 1934 (16 U.S.C. 666b), commonly known as the Fish and Wildlife Coordination Act, is amended by inserting at the end thereof the words '', including coral reef ecosystems (as such term is defined in section 217(b) of the Coral Reef Conservation Act of 2000, as amended)'';

(2) With respect to the authorities under the Act of August 8, 1956 (16 U.S.C. 742a et. seq.), as amended, commonly known as the Fish and Wildlife Act of 1956; and under Public Law 95–616 (16 U.S.C. 742l), as amended, commonly known as the Fish and Wildlife Improvement Act of 1978, references in such Acts to ''wildlife'' or ''fish and wildlife'' shall be construed to include coral reef ecosystems (as such term is defined in section 217(b) of the Coral Reef Conservation Act of 2000, as amended).

(b) ASSISTANCE TO INSULAR AREAS.—Sec. 601 of Public Law 96–597 (48 U.S.C. 1469d), as amended, is amended by redesignating existing subsection (d) as (e), and by inserting:

''(d) CORAL REEFS.—The Secretary of the Interior is authorized to extend to the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands, and their agencies and instrumentalities, financial and technical assistance for the conservation of coral reef ecosystems (as such term is defined in the Coral Reef Conservation Act of 2000 [Pub. L. No. 106–562, 114 Stat. 2794 (2000)], as amended) under the jurisdiction of such governments.''.

(c) The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 219 as follows:

''SEC. 219. DEPARTMENT OF THE INTERIOR.

CORAL REEF CONSERVATION ASSISTANCE.—The Secretary of the Interior may provide technical and financial assistance to States, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the Virgin Islands, for management and conservation of coral reef ecosystems, including implementation of Local Action Strategies. The Secretary shall coordinate coral reef conservation activities under the Act of March 10, 1934 (16 U.S.C. 666b), as amended, commonly known as the Fish and Wildlife Coordination Act, Public Law 95–616 (16 U.S.C. 742l), as amended, commonly known as the Fish and Wildlife Improvement Act of 1978, Public Law 96-597 (48 U.S.C. 1469d), as amended, with those coral reef conservation activities of other agencies and partners, including those activities carried out through the U.S. Coral Reef Task Force.''.

By Mr. INOUYE (for himself and Mr. STEVENS) (by request):

S. 1584. A bill to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hydrographic Services Improvement Act Amendments of 2007''.

SEC. 2. REDESIGNATIONS.

The Hydrographic Services Improvement Act of 1998 is amended by redesignating sections 302 through 306 (33 U.S.C. 892d) as sections 303 through 307, respectively.

SEC. 3. ADDITION OF FINDINGS AND PURPOSES.

The Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.) is amended by inserting a new section 302 as follows:

''SEC. 302. FINDINGS AND PURPOSES

''(a) FINDINGS.—The Congress finds that—

''(1) in 2007, the Nation celebrates the 200th anniversary of its oldest scientific agency, the Survey of the Coast, which was authorized by Congress and created by President Thomas Jefferson in 1807 to conduct surveys of the coast and provide nautical charts for safe passage through the Nation's ports and along its extensive coastline;

''(2) these mission requirements and capabilities, which today are located in the National Oceanic and Atmospheric Administration, evolved over time to include research, development, operations, products, and services associated with hydrographic, geodetic, shoreline and baseline surveying; cartography, mapping, and charting; tides, currents, and water level observations; maintenance of a national spatial reference system, and associated products and services;

''(3) there is a need to maintain federal expertise and capability in hydrographic data and services to support a safe and efficient marine transportation system for the enhancement and promotion of international trade and interstate commerce vital to the Nation's economic prosperity and for myriad other commercial and recreational activities;

''(4) the Nation's marine transportation system is becoming increasingly congested, the volume of international maritime commerce is expected to double within the next 20 years, and nearly half of the cargo transiting U.S. waters is oil, refined petroleum products, or other hazardous substances;

''(5) in addition to commerce, hydrographic data and services support other national needs for the Great Lakes and coastal waters, the territorial sea, the Exclusive Economic Zone, and the continental shelf of the United States, including emergency response; homeland security; marine resource conservation; coastal resiliency to sea-level rise, coastal inundation, and other hazards; ocean and coastal science advancement; and improved and integrated ocean and coastal mapping and observations for an integrated ocean observing system;

''(6) the National Oceanic and Atmospheric Administration, in cooperation with other agencies and the States, serves as the Nation's leading civil authority for establishing and maintaining national standards and datums for hydrographic data and services;

''(7) the Director of the National Oceanic and Atmospheric Administration's Office of Coast Survey serves as the U.S. National Hydrographer and the primary U.S. representative to the international hydrographic community, including the International Hydrographic Organization;

''(8) the hydrographic expertise, data, and services of the National Oceanic and Atmospheric Administration provide the underlying and authoritative basis for baseline and boundary demarcation, including the establishment of marine and coastal territorial limits and jurisdiction, such as the Exclusive Economic Zone; and

''(9) research, development and application of new technologies will further increase efficiency, promote the Nation's competitiveness, provide social and economic benefits, enhance safety and environmental protection, and reduce risks.

''(b) PURPOSES.—The purposes of this Act are to—

''(1) augment the ability of the National Oceanic and Atmospheric Administration to fulfill its responsibilities under this and other authorities;

''(2) provide more accurate and up-to-date hydrographic data and services in support of safe and efficient international trade and interstate commerce, including hydrographic surveys; electronic navigational charts; real-time tide, water level, and current information and forecasting; shoreline surveys; and geodesy and three-dimensional positioning data;

''(3) support homeland security, emergency response, ecosystem approaches to marine management, and coastal resiliency by providing hydrographic data and services with many other useful operational, scientific, engineering, and management applications, including storm surge, tsunami, coastal flooding, erosion, and pollution trajectory monitoring, predictions, and warnings; marine and coastal geographic information systems; habitat restoration; long-term sea-level trends; and more accurate environmental assessments and monitoring;

''(4) promote improved integrated ocean and coastal mapping and observations through increased coordination and cooperation;

''(5) provide for and support research and development in hydrographic data, services and related technologies to enhance the efficiency, accuracy and availability of hydrographic data and services and thereby promote the Nation's scientific and technological competitiveness; and

''(6) provide national and international leadership for hydrographic and related services, sciences, and technologies.''.

SEC. 4. CHANGES IN DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892), as redesignated by section 2, is amended—

(1) by amending paragraph (3) to read as follows:

''(3) HYDROGRAPHIC DATA.—The term 'hydrographic data' means information acquired through hydrographic, bathymetric, or shoreline surveying; geodetic, geospatial, or geomagnetic measurements; tide, water level, and current observations, or other methods, that is used in providing hydrographic services.'';

(2) by amending paragraph (4)(A) to read as follows:

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;''; and

''(3) by amending paragraph (5) to read as follows:

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 5. CHANGES IN FUNCTIONS OF THE ADMINISTRATOR.

Section 304 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a), as redesignated by section 2, is amended—

(1) in subsection (a)—

(A) in the stem by striking ''To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947,'' and inserting ''To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(B) in paragraph (1) by striking ''data;'' and inserting ''data and provide hydrographic services;'';

(2) by amending subsection (b) to read as follows:

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations—

''(1) the Administrator may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) the Administrator shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency;

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Administrator may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, the Administrator may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining Mission Assignments as defined in section 741 of title 6, United States Code;

''(5) the Administrator shall have the authority to create, support and maintain such joint centers, and to enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act;

''(6) notwithstanding paragraph (5), the Administrator may award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 1101 et seq.).''.

SEC. 6. CHANGES TO QUALITY ASSURANCE PROGRAM.

Section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b), as redesignated by section 2, is amended in subsections (b)(1)(A) and (b)(2) by striking ''303(a)(3)'' and inserting ''304(a)(3)''.

SEC. 7. CHANGES IN HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c), as redesignated by section 2, is amended—

(1) in subsection (b)(1) by striking ''303'' and inserting ''304'';

(2) by amending subsection (c)(1)(A) to read as follows:

''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Joint Hydrographic Institute and no more than two employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, as defined in this Act, and other disciplines as determined appropriate by the Administrator.'';

(3) in subsections (c)(1)(C), (c)(3), and (e) by striking ''Secretary'' and inserting ''Administrator''; and

(4) by amending subsection (d) to read as follows:

''(d) COMPENSATION.—Voting members of the panel shall be reimbursed for actual and reasonable expenses, such as travel and per diem, incurred in the performance of such duties.''.

SEC. 8. CHANGES TO AUTHORIZATION OF APPROPRIATIONS.

Section 307 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), as redesignated by section 2, is amended to read as follows:

''There are authorized to be appropriated to the Administrator $168,771,000 in fiscal year 2008 and thereafter such sums as may be necessary for each of fiscal years 2009 through 2012 for the purposes of carrying out this Act.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 224—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ISRAELI-PALESTINIAN PEACE PROCESS

Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. DODD, Mr. HAGEL, Mr. BAUCUS, Mr. BYRD, Mr. SUNUNU, Mr. WHITEHOUSE, and Mr. VOINOVICH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 224

Whereas ending the violence and terror that have devastated the State of Israel, the West Bank, and Gaza since September 2000 is in the vital interests of the United States, Israel, and the Palestinian people;

Whereas the ongoing Israeli-Palestinian conflict strengthens extremists and opponents of peace throughout the region;

Whereas more than 7 years of violence, terror, and military engagement have demonstrated that armed force alone will not solve the Israeli-Palestinian dispute;

Whereas the vast majority of Israelis and Palestinians want to put an end to decades of confrontation and conflict and live in peaceful coexistence, mutual dignity, and security, based on a just, lasting, and comprehensive peace;

Whereas on May 24, 2006, addressing a Joint Session of the United States Congress, Prime Minister of Israel Ehud Olmert reiterated the Government of Israel's position that ''In a few years, [the Palestinians] could be living in a Palestinian state, side by side in peace and security with Israel, a Palestinian state which Israel and the international community would help thrive'';

Whereas, in his speech before the Palestinian Legislative Council on February 18, 2006, Palestinian Authority President Mahmoud Abbas said, ''We are confident that there is no military solution to the conflict. Negotiations between us as equal partners should put a long-due end to the cycle of violence . . . Let us live in two neighboring states'';

Whereas, in June 2002, the President of the United States presented his vision of ''two states, living side by side in peace and security'', and has since repeatedly reaffirmed this position;

Whereas a robust and high-level American diplomatic presence on the ground is critical to bringing Israelis and Palestinians together to make the tough decisions necessary to achieving a permanent resolution to the conflict;

Whereas June 2007 marks the 40th anniversary of the Six-Day War between Israel and a coalition of Arab states;

Whereas all parties should use the occasion of this anniversary to redouble their efforts to achieve peace; and

Whereas achieving Israeli-Palestinian peace could have significant positive impacts on security and stability in the region: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms its commitment to a true and lasting solution to the Israeli-Palestinian conflict, based on the establishment of 2 states, the State of Israel and Palestine, living side by side in peace and security, and with recognized borders;

(2) denounces the use of violence and terror and reaffirms its unwavering commitment to Israel's security;

(3) calls on President Bush to pursue a robust diplomatic effort to engage the State of Israel and the Palestinian Authority, begin negotiations, and make a 2-state settlement a top priority;

(4) urges President Bush to consider appointing as Special Envoy for Middle East Peace an individual who has held cabinet rank or someone equally qualified, with an extensive knowledge of foreign affairs generally and the Middle East region in particular;

(5) calls on the Hamas-led Palestinian Authority to recognize the State of Israel's right to exist, to renounce and end all terror and incitement, and to accept past agreements and obligations with the State of Israel;

(6) calls on moderate Arab states in the region to intensify their diplomatic efforts toward a 2-state solution and welcomes the Arab League Peace Initiative; and

(7) calls on Israeli and Palestinian leaders to embrace efforts to achieve peace and refrain from taking any actions that would prejudice the outcome of final status negotiations.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator LUGAR, Senator DODD, and Senator HAGEL to introduce a resolution calling for a lasting solution to the Israeli-Palestinian dispute.

Our resolution reaffirms the Senate's commitment to a true and lasting solution to the Israeli-Palestinian conflict, based on the establishment of two States, Israel and Palestine, living side by side in peace and security, and with recognized borders; denounces the use of violence and terror and reaffirms our unwavering commitment to Israel's security; calls on President Bush to pursue a robust diplomatic effort to engage the Israelis and Palestinians, reinvigorate negotiations, and make a two-state settlement a top priority; urges President Bush to consider appointing a high-level Special Envoy for Middle East Peace; calls on the Hamas-led Palestinian Authority to recognize Israel's right to exist, renounce and end all terror and incitement, and accept past agreements and obligations with Israel; calls on moderate Arab states in the region to intensify their diplomatic efforts toward a two-state solution and welcomes the Arab League Peace Initiative, and; calls on Israeli and Palestinian leaders to embrace efforts to achieve peace and refrain from taking any actions that would prejudice the outcome of final status negotiations.

Senator BAUCUS, Senator BYRD, Senator WHITEHOUSE and Senator SUNUNU have also joined us as original cosponsors.

We are this week marking the the 40th anniversary of the start of the Six-Day War between Israel and a coalition of Arab states which lasted from June 5 to June 10, 1967. Israel's stunning triumph in that conflict, when its very existence was at stake, sent a powerful and unambiguous message to its neighbors and the international community that the existence of a Jewish homeland in the Middle East was a fact that could not be denied.

Since then, Israel, with the support and active engagement of the United States, has signed peace agreements with two of its adversaries from that war, first with Egypt in 1979 and then with Jordan in 1994.

Both treaties greatly enhanced Israel's security and brought hope to its people.

Yet a comprehensive Israeli-Palestinian peace agreement has remained elusive, resulting in the loss of numerous innocent lives and destroying the hopes and dreams of Israelis and Palestinians alike.

Since September 2000 and the start of the second Intifada, violence and terror have engulfed the region and devastated the prospects for peace.

It has become quite clear to me that the current impasse is not sustainable. There is no military solution to this conflict. The lack of any movement in the peace process only emboldens the opponents of peace, strengthens the hands of the extremists, and puts the vital interests of Israel, the Palestinian people, and the United States at risk.

Yet the vast majority of Israelis and Palestinians have made it clear that they want to end this conflict and live side by side in peaceful coexistence, mutual dignity, and security.

We owe it to them and ourselves to do everything in our power to make this vision a reality.

Indeed, a just resolution of the Israeli-Palestinian dispute and a comprehensive Arab-Israeli peace agreement should be our top priorities in the region.

They will open the door to new opportunities, enabling us to tackle other seemingly intractable challenges in the region: the civil war in Iraq, the influence of Syria and Hezbollah in Lebanon, and Iran's uranium enrichment program.

As the Iraq Study Group report argued, ''The United States will not be able to achieve its goals in the Middle East unless the United States deals directly with the Arab-Israeli conflict.''

We cannot achieve these goals by sitting on the sidelines or sending low-level envoys to the region.

We need a vigorous and sustained high level American presence on the ground in the Middle East to make this happen.

I know that Secretary of State Rice is personally committed to bringing both sides together so they will take on the tough issues and find the right solutions, and she has my full support.

She has already made four trips to the region and I hope she will return again soon.

President Bush should also become engaged in this process and consider appointing a Special Envoy for Middle East peace who has extensive experience dealing with this issue and has served in a high-level government capacity.

We all know what a final peace agreement will look like. The drafters of the Geneva accord showed us that with courage and determination, the tough decisions can be made that will bring peace and prosperity to both sides.

While it is critical that the United States take a leadership role on this issue, it is also critical that moderate voices in the Arab world be a voice for peace.

That is why the Arab League Peace Initiative is important. It is an example where Arab leaders have stepped forward Hamas must also step forward and fulfill the demands of the international community by recognizing Israel's right to exist, renouncing and end all terror and incitement, and accepting past agreements between Israel and the Palestinian Authority.

Now is as good a time as ever to work for peace. There will always be excuses for those who don't want peace. But it is incumbent on those who wish for peace to work through the difficult issues.

As a United States Senator, I have stood by Israel and the Israeli people and will continue to do so. We will not waiver in our efforts to ensure their safety, stability, and prosperity. Achieving a just and lasting peace in the Middle East is the cornerstone of that endeavor.

I urge my colleagues to support this resolution.

SENATE RESOLUTION 225—DESIGNATING THE MONTH OF AUGUST 2007 AS ''NATIONAL MEDICINE ABUSE AWARENESS MONTH''

Mr. BIDEN (for himself and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 225

Whereas over-the-counter and prescription medicines are extremely safe, effective, and potentially lifesaving when used properly, but the abuse and recreational use of these medicines can be extremely dangerous and produce serious side effects;

Whereas 6,400,000 individuals who are age 12 or older reported using prescription medicines non-medically in a recently sampled month, and abuse of prescription medications such as pain relievers, tranquilizers, stimulants, and sedatives is second only to marijuana, the number 1 illegal drug of abuse in the United States;

Whereas, recent studies indicate that 1 in 10 youth ages 12 through 17, or 2,400,000 children, has intentionally abused cough medicine to get high from its dextromethorphan ingredient, and 1 in 5 young adults (4,500,000) has used prescription medicines non-medically;

Whereas, according to research from the Partnership for a Drug-Free America, more than ⅓ of teens mistakenly believe that taking prescription drugs, even if not prescribed by a doctor, is much safer than using street drugs;

Whereas teens' and parents' lack of understanding of the potential harms of these powerful medicines makes it more critical than ever to raise public awareness about the dangers of their misuse;

Whereas, when prescription drugs are misused, they are most often obtained through friends and relatives, but are also obtained through rogue Internet pharmacies;

Whereas parents should be aware that the Internet gives teens access to websites that promote medicine misuse;

Whereas National Medicine Abuse Awareness Month promotes the message that over-the-counter and prescription medicines are to be taken only as labeled or prescribed, and when used recreationally or in large doses can have serious and life-threatening consequences;

Whereas National Medicine Abuse Awareness Month will encourage parents to educate themselves about this problem and talk to their teens about all types of substance abuse;

Whereas observance of National Medicine Abuse Awareness Month should be encouraged at the national, State, and local levels to increase awareness of the rising misuse of medicines;

Whereas some groups, such as the Consumer Healthcare Products Association and the Community Anti-Drug Coalition of America, have taken important proactive steps like creating educational toolkits, such as ''A Dose of Prevention: Stopping Cough Medicine Abuse Before it Starts'', which includes guides to educate parents, teachers, law enforcement officials, doctors and healthcare professionals, and retailers about the potential harms of cough and cold medicines and over-the-counter drug abuse;

Whereas the nonprofit Partnership for a Drug-Free America and its community alliance and affiliate partners have undertaken a nationwide prevention campaign utilizing research-based educational advertisements, public relations and news media, and the Internet to inform parents about the negative teen behavior of intentional abuse of medicines so that parents are empowered to effectively communicate the facts of this dangerous trend with their teens and to take necessary steps to safeguard prescription and over-the-counter medicines in their homes; and

Whereas educating the public on the dangers of medicine abuse and promoting prevention is a critical component of what must be a multi-pronged effort to curb this disturbing rise in over-the-counter and cough medicine misuse: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of August 2007 as ''National Medicine Abuse Awareness Month''; and

(2) urges communities to carry out appropriate programs and activities to educate parents and youth of the potential dangers associated with medicine abuse.

Mr. BIDEN. Mr. President, I rise today to introduce a resolution marking August 2007 as National Medicine Abuse Awareness Month. The intentional misuse of prescription and over-the-counter drugs has reached troubling levels. This resolution takes an important step in raising teens' and parents' awareness of the problem.

While recent studies indicate that the use of illegal drugs has declined somewhat over the past 5 years, the excessive use of legally available drugs has skyrocketed during the same period. The figures speak for themselves: 1 in 5 teens has misused prescription drugs, and more people age 12 or older have recently started misusing prescription pain relievers than smoking marijuana.

The numbers are also troubling for abuse of over-the-counter cough and cold medicines. While over-the-counter and prescription medicines are safe, effective, and potentially lifesaving when used properly, the abuse and recreational use of these medicines can be lethal. Recent studies indicate that 1 in 10 young people aged 12 through 17, or 2.4 million kids, have intentionally abused cough medicine to get high off of its active ingredient, Dextromethorphan. This trend is dangerous, and it must stop.

The problem is multifaceted, but one critical element of the solution is clear: educating teens and parents about the grave dangers of medicine abuse.

The way I see it, the problem of non-medical use of prescription and over-the-counter drugs can be chalked up to two key factors. First, too many teens are under the impression that ''legal'' drugs are safe anytime, in any dose, and even without a prescription or doctor supervision. They are gravely mistaken. Excessive prescription drug use can lead to dependency, overdose, and even death, if not prescribed and monitored by a physician.

Second, these drugs are cheap and easy to obtain. A bottle of cough syrup costs a few dollars and a prescription drug can be taken from a medicine cabinet for free. A February 2007 report released by the Office of National Drug Control Policy reveals that a shocking 47 percent of youth interviewed said they got their prescription drugs for free from a relative or friend. The last thing a parent wants is to become his or her child's ''dealer.'' But that is precisely what happens when they leave medications lying around at home. Hence, these two factors, a false perception of the dangers and a cheap, readily accessible high, have put our teens in danger, and we must act to protect them.

National Medicine Abuse Awareness Month takes an important step to raise public awareness about the dangers that misuse of these drugs pose by promoting the message that over-the-counter and prescription medicines must be taken only as labeled or prescribed, and that when used recreationally or in large doses they can have serious and life-threatening consequences. It reminds parents to educate themselves about this problem and talk to their children about all types of substance abuse, and it encourages national, State, and local officials to increase awareness of this disturbing trend.

I have worked and continue to work in consultation with the Consumer Health Care Products Association and the Community Anti-Drug Coalition of America, to reverse this trend, and I applaud the important steps that these groups have taken. Among other initiatives, they have created educational toolkits, such as A Dose of Prevention: Stopping Cough Medicine Abuse Before It Starts, which include guides to educate parents, teachers, law enforcement officials, doctors and healthcare professionals, and retailers about the potential harms of cough and cold medicines and over-the-counter drug abuse.

I also commend the nonprofit Partnership for Drug-Free America and its community alliance and affiliate partners for undertaking a nationwide prevention campaign. Their campaign utilizes research-based educational advertisements, public relations, news media and the Internet to inform parents about the prevalence of intentional abuse of medicines among teens, empowering parents to effectively communicate the facts of this dangerous trend to their children and to take necessary steps to keep prescription and over-the-counter medicines safely in their homes.

Prevention is a key component of the solution, and education is a key component of prevention. We've got to do our best to raise awareness on this matter, and reverse the worrisome trend of increasing over-the-counter and prescription drug misuse. This resolution takes an important step towards achieving that goal.

SENATE RESOLUTION 226—RECOGNIZING THE MONTH OF NOVEMBER AS ''NATIONAL HOMELESS YOUTH AWARENESS MONTH''

Mr. LAUTENBERG (for himself, Mr. MARTINEZ, Mr. MENENDEZ, Mrs. MURRAY, Mr. BROWN, Mr. INOUYE, Mr. OBAMA, Mr. LIEBERMAN, Mr. SALAZAR, Mr. BAYH, Mr. FEINGOLD, Mr. CASEY, Mr. NELSON of Florida, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 226

Whereas between 1,300,000 and 2,800,000 children and teens are homeless in the

United States each year, with many staying on the streets or in emergency shelters;

Whereas families with children are the fastest growing segment of the homeless population and now make up approximately ⅓ of that population;

Whereas homeless youth are typically too poor to secure basic needs and are unable to access adequate medical or mental health care;

Whereas each day 13 homeless youth die due to physical assault, illness, or suicide;

Whereas many youth become homeless due to a lack of financial and housing resources as they exit juvenile corrections and foster care;

Whereas 25 percent of foster youth experienced homelessness within 2 to 4 years after exiting foster care;

Whereas homeless youth are most often expelled from their homes by their guardians after physical, sexual, or emotional abuse or separated from their parents through death or divorce without adequate resources; and

Whereas awareness of the tragedy of youth homelessness and its causes must be heightened so that greater support for effective programs involving businesses, families, law enforcement agencies, schools, and community and faith-based organizations, aimed at helping youth remain off the streets becomes a national priority: Now, therefore, be it

Resolved, That the Senate—

(1) supports the values and efforts of businesses, organizations, and volunteers dedicated to meeting the needs of homeless children and teens;

(2) applauds the initiatives of businesses, organizations, and volunteers that employ time and resources to build awareness of the homeless youth problem, its causes, and potential solutions, and work to prevent homelessness among children and teens; and

(3) should recognize the month of November as ''National Homeless Youth Awareness Month'' and encourages these businesses, organizations, and volunteers to continue to intensify their efforts during the month of November.

SENATE RESOLUTION 227—CONGRATULATING THE JOHNS HOPKINS UNIVERSITY BLUE JAYS FOR WINNING THE 2007 NCAA DIVISION I MEN'S LACROSSE CHAMPIONSHIP

Mr. CARDIN (for himself and Ms. MIKULSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 227

Whereas, on May 28, 2007, before a crowd of nearly 50,000, the Johns Hopkins University Blue Jays of Baltimore, Maryland, won the 2007 National Collegiate Athletic Association (NCAA) Division I Men's Lacrosse Championship, defeating the Duke University Blue Devils by a score of 12-11 at M&T Bank Stadium in Baltimore, Maryland;

Whereas the Johns Hopkins University Blue Jays, in the 2007 season, had an overall record of 13 wins and 4 losses, and won their last 9 consecutive games to end the season;

Whereas the Johns Hopkins University Blue Jays have won their 9th NCAA Division I Men's Lacrosse Championship;

Whereas the Johns Hopkins University Blue Jays reached the championship game for the 2nd time in 3 years and for the 17th time in school history;

Whereas Jesse Schwartzman was awarded the Tournament Most Outstanding Player award for the 2nd time;

Whereas Jake Byrne, Paul Rabil, Stephen Peyser, and Eric Zerrlaut joined Schwartzman on the All-Tournament Team;

Whereas the 2007 NCAA Championship lacrosse team members are Jamison Koesterer, Jesse Schwartzman, Andrew Miller, Garrett Stanwick, Michael Gvozden, Matt Bocklet, Ben O'Neill, Paul Rabil, Steven Boyle, George Castle, Stephen Peyser, Josh Peck, Michael Doneger, Michael Kimmel, Eric Zerrlaut, Drew Dabrowski, Austin Walker, Brian Christopher, Conor Cassidy, Brendan Skakandi, Nolan Matthews, Kevin Huntley, Jake Byrne, Mark Bryan, Tom Duerr, Chris Boland, Nick Donoghue, Dave Spaulding, Will Jawish, Val Washington, Michael Evans, Zach Tedeschi, Erik Stilley, Andrew Jaffe, Andrew Posil, John Franklin, Lorenzo Heholt, Kyle Miller, Max Chautin, Michael Powers, Matt Drenan, Sam DeVore, Nathan Matthews, Greg Harrington, Eric Dang, Max Levine, and Michael Murray; and

Whereas the 2007 NCAA Championship lacrosse team coaches are Dave Pietramala, Bill Dwan, Bobby Benson, and Dave Allan: Now, therefore, be it

Resolved, That the Senate congratulates the Johns Hopkins University men's lacrosse team for winning the 2007 NCAA Division I Men's Lacrosse Championship.

SENATE RESOLUTION 228—CONGRATULATING THE BROWN UNIVERSITY WOMEN'S CREW TEAM FOR WINNING THE 2007 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S ROWING CHAMPIONSHIP

Mr. REED (for himself and Mr. WHITEHOUSE) submitted the following resolution; which was considered and agreed to:

S. RES. 228

Whereas, on Sunday, May 27, 2007, the Brown University women's crew team won the 2007 National Collegiate Athletic Association (NCAA) Division I Women's Rowing Championship in Oak Ridge, Tennessee;

Whereas the Brown University women's crew team was 1 of only 2 teams that qualified for the grand final in varsity eights, junior varsity eights, and varsity fours;

Whereas the Brown University women's crew team has won 5 NCAA championships in the last 9 years, in 1999, 2000, 2002, 2004, and 2007, as well as finishing 2nd twice and 3rd twice during that period;

Whereas the Brown University women's crew team is the winningest crew program in NCAA history; and

Whereas the Brown University varsity women's crew team had a record of 5-1 during the regular season, and both the 2nd varsity and novice teams were undefeated for the season: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Brown University women's crew team for being champions on and off the water and for their victory in the 2007 National Collegiate Athletic Association (NCAA) Division I Women's Rowing Championship;

(2) recognizes the achievements of the rowers, coaches John and Phoebe Murphy, and the students and alumni whose dedication and hard work helped the Brown University women's crew team win the NCAA championship; and

(3) respectfully requests the Secretary of the Senate to transmit a copy of this resolution for appropriate display to Artemis Joukowsky, Chancellor Emeritus of Brown University.

SENATE RESOLUTION 229—HONORING WILLIAM CLIFTON FRANCE

Mr. NELSON of Florida (for himself and Mr. MARTINEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 229

Whereas William Clifton France, NASCAR patriarch and visionary, was born on April 4, 1933, in Washington, D.C.;

Whereas Mr. France grew up in the formative years of stock car racing, living and learning every detail of the sport from his own experiences and those of his father, William Henry Getty France, known as ''Big Bill'' because of his 6-foot-5 stature, who was the founder and first president of NASCAR;

Whereas, in 1972, William Clifton France replaced his father and became the second president of the world's largest auto-racing sanctioning body;

Whereas, during the 28-year tenure of Mr. France as president, and later chairman and chief executive officer, of NASCAR, NASCAR grew from a sport with regional appeal to draw more than 75,000,000 fans yearly and become the second-most popular sport on television in the United States;

Whereas Mr. France worked in every role in stock car racing, from flagging events to scoring, promoting, serving as a steward, and even racing a few times in the 1950s;

Whereas, before being named president of NASCAR, Mr. France served for 6 years as vice president of the organization;

Whereas, in addition to his NASCAR duties, Mr. France served as chairman of the board of International Speedway Corporation, which oversees Daytona International Speedway, Darlington Raceway, Talladega Superspeedway, and other racing facilities around the country, and served as a director of the National Motorsports Council of ACCUS-FIA; and

Whereas Mr. France was a visionary and served the motorsports industry with great distinction: Now, therefore, be it

Resolved, That the Senate extends its condolences to Mrs. Betty Jane France, Lesa France Kennedy, Brian France, and the entire France Family.

SENATE CONCURRENT RESOLUTION 37—EXPRESSING THE SENSE OF CONGRESS ON FEDERALISM IN IRAQ

Mr. BIDEN (for himself, Mr. BROWNBACK, Mrs. BOXER, Mr. SMITH, Mr. NELSON of Florida, and Mrs. HUTCHISON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 37

Whereas Iraq continues to experience a self-sustaining cycle of sectarian violence;

Whereas the ongoing sectarian violence presents a threat to regional and world peace, and the long-term security interests of the United States are best served by an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors;

Whereas Iraqis must reach a comprehensive and sustainable political settlement in order to achieve stability, and the failure of the Iraqis to reach such a settlement is a primary cause of increasing violence in Iraq;

Whereas the Key Judgments of the January 2007 National Intelligence Estimate entitled ''Prospects for Iraq's Stability: A Challenging Road Ahead'' state, ''A number of

identifiable developments could help to reverse the negative trends driving Iraq's current trajectory. They include: Broader Sunni acceptance of the current political structure and federalism to begin to reduce one of the major sources of Iraq's instability... Significant concessions by Shia and Kurds to create space for Sunni acceptance of federalism'';

Whereas Article One of the Constitution of Iraq declares Iraq to be a ''single, independent federal state;''

Whereas Section Five of the Constitution of Iraq declares that the ''federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, and local administrations'' and enumerates the expansive powers of regions and the limited powers of the central government and establishes the mechanisms for the creation of new federal regions;

Whereas the federal system created by the Constitution of Iraq would give Iraqis local control over their police and certain laws, including those related to employment, education, religion, and marriage;

Whereas the Constitution of Iraq recognizes the administrative role of the Kurdistan Regional Government in 3 northern Iraqi provinces, known also as the Kurdistan Region;

Whereas the Kurdistan region, recognized by the Constitution of Iraq, is largely stable and peaceful;

Whereas the Iraqi Parliament approved a federalism law on October 11th, 2006, which establishes procedures for the creation of new federal regions and will go into effect 18 months after approval;

Whereas Iraqis recognize Baghdad as the capital of Iraq, and the Constitution of Iraq stipulates that Baghdad may not merge with any federal region;

Whereas, despite their differences, Iraq's sectarian and ethnic groups support the unity and territorial integrity of Iraq; and

Whereas Iraqi Prime Minister Nouri al-Maliki stated on November 27, 2006, ''The crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the United States should actively support a political settlement among Iraq's major factions based upon the provisions of the Constitution of Iraq that create a federal system of government and allow for the creation of federal regions;

(2) the active support referenced in paragraph (1) above should include—

(A) calling on the international community, including countries with troops in Iraq, the permanent 5 members of the United Nations Security Council, members of the Gulf Cooperation Council, and Iraq's neighbors—

(i) to support an Iraqi political settlement based on federalism;

(ii) to acknowledge the sovereignty and territorial integrity of Iraq; and

(iii) to fulfill commitments for the urgent delivery of significant assistance and debt relief to Iraq, especially those made by the member states of the Gulf Cooperation Council;

(B) further calling on Iraq's neighbors to pledge not to intervene in or destabilize Iraq and to agree to related verification mechanisms; and

(C) convening a conference for Iraqis to reach an agreement on a comprehensive political settlement based on the creation of federal regions within a united Iraq;

(3) the United States should urge the Government of Iraq to quickly agree upon and implement a law providing for the equitable distribution of oil revenues, which is a critical component of a comprehensive political settlement based upon federalism; and

(4) the steps described in paragraphs (1), (2), and (3) above could lead to an Iraq that is stable, not a haven for terrorists, and not a threat to its neighbors.

Mr. BIDEN. Mr. President, today, Senators BROWNBACK, BOXER, SMITH, BILL NELSON and I are introducing a bipartisan resolution. It states clearly what so many of us agree on, the need for a political settlement in Iraq. But then it offers what virtually no one has put forward: a policy to actually secure that political settlement.

We propose that the United States actively support a political settlement among Iraqis based on the provisions of Iraq's constitution that call for creating federal system of government, with strong regions and a limited central government.

And we urge the administration to bring in the international community, including the permanent members of the U.N. Security Council and Iraq's neighbors, to support a settlement based on federalism and to convene a conference with Iraqis to help them reach that settlement.

Each of us recognizes this reality: when a country is caught in a cycle of self-sustaining sectarian violence as Iraq is today, there are only four ways to end it:

First, a bloodletting that leaves one side victorious or both sides exhausted. In the case of Iraq, that could take years . . . years we do not have and should not accept.

Second, an open-ended foreign occupation that America cannot sustain.

Third, the return of a strongman, who is not on the horizon. Even if he were, it would be a tragic irony to replace one dictator with another.

Or *fourth*, a political agreement to form a decentralized, federal system that separates the warring factions and gives them control over the fabric of their daily lives, including the police, jobs, education, marriage and religion.

It's a model that worked in Bosnia. It offers the possibility, but not the guarantee, of a soft landing Iraq.

The Bush administration has another vision for Iraq. But the entire premise of its policy is fundamentally and fatally flawed. It believes Iraqis will rally behind a strong central government that keeps the country together and protects the rights of all citizens equally.

But there is no trust within the central government, trust of the government by the people, and no capacity by the government to deliver services and security. And there is no evidence that we can build that trust and capacity soon.

Simply put, Iraq cannot be run from the center, absent a dictator or foreign occupation. If we want the country to hold together and find stability, we have to make federalism work. If we don't, there will be no political accommodation at the center.

Violent resistance will increase. The sectarian cycle of revenge will spiral out of control. The result will be at best the violent break up of Iraq into multiple states—at worst the total fragmentation of the country.

This resolution is part of a comprehensive strategy I have proposed to bring our troops home, to leave behind a stable Iraq and to protect our soldiers so long as a single one of them remains in Iraq.

I believe that is the best way to end the war in Iraq responsibly.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1476. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mr. CONRAD and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 1477. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1438 submitted by Mr. SESSIONS and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1478. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1332 submitted by Mr. SANDERS (for himself and Mr. GRASSLEY) and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1268 submitted by Mr. BINGAMAN and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1480. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1481. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1482. Ms. CANTWELL (for herself and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1483. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1484. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1485. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1342 submitted by Mr. LEVIN (for himself and Ms. MIKULSKI) and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1486. Mr. LEVIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 1443 submitted by Mr. LEVIN and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1487. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1488. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1489. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1490. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1491. Mr. COBURN submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 14, expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people; which was ordered to lie on the table.

SA 1492. Mr. REID proposed an amendment to amendment SA 1235 proposed by Mr. SESSIONS to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes.

SA 1493. Mr. REID proposed an amendment to amendment SA 1199 proposed by Mr. DODD (for himself and Mr. MENENDEZ) to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra.

SA 1494. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 1235 proposed by Mr. SESSIONS to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1495. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1496. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1497. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 1323 submitted by Mr. SESSIONS (for himself, Mr. ISAKSON, and Mr. CHAMBLISS) and intended to be proposed to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1498. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

SA 1499. Mr. KYL (for himself, Ms. CANTWELL, Ms. COLLINS, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1348, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1476. Mr. CONRAD submitted an amendment intended to be proposed to amendment SA 1251 submitted by Mr. CONRAD and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PEACE GARDEN PASS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the ''Peace Garden Pass'') to allow citizens of the United States described in subsection (b) to travel to the International Peace Garden on the borders of the State of North Dakota and Manitoba, Canada (and to be readmitted into the United States).

(2) MAINTAINING BORDER SECURITY.—The Secretary shall take any appropriate measures to ensure that the Peace Garden Pass does not weaken border security or otherwise pose a threat to national security, including—

(A) including biographic data on the Peace Garden Pass; and

(B) using databases to verify the identity and other relevant information of holders of the Peace Garden Pass upon re-entry into the United States.

(b) ADMITTANCE.—The Peace Garden Pass shall be issued for the sole purpose of traveling to the International Peace Garden from the United States and returning from the International Peace Garden to the United States without having been granted entry into Canada.

(c) CHARACTERISTICS OF THE PEACE GARDEN PASS.—The Peace Garden Pass shall be—

(1) machine-readable;

(2) tamper-proof; and

(3) not valid for certification of citizenship for any other purpose other than admission into the United States from the Peace Garden

(d) IDENTIFICATION.—The Secretary shall—

(1) determine what form of identification (other than a passport or passport card) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(e) LIMITATION.—The Peace Garden Pass shall not grant entry into Canada.

(f) DURATION.—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(g) COST.—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 1477. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1438 submitted by Mr. SESSIONS and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 1, after the last line, insert the following:

(__) SOCIAL SECURITY CARDS.—

(1) INCLUSION OF BIOMETRIC DATA.—Notwithstanding section 305(a)(2) of this Act, section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended to read as follows:

''(G) The Commissioner of Social Security shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. Beginning not later than 2 years after the date of the enactment of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, all social security cards issued under this subparagraph shall be fraud-resistant, tamper-resistant, and wear-resistant, and shall include biometric data.''.

(2) BIOMETRICS FEASIBILITY REPORT.—Notwithstanding the second paragraph (3) in section 305(a), the Commissioner of Social Security is not required to submit to Congress a report on the utility, costs, and feasibility of including a photograph and other biometric information on the social security card.

(3) REISSUANCE OF SOCIAL SECURITY CARDS.—Not later than 3 years after the date of the enactment of this Act, the Commissioner of Social Security replace any social security cards that do not meet the standards described in section 205(c)(2)(G) of the Social Security Act, as amended by paragraph (1) of this subsection, with social security cards that meet such standards.

(4) EMPLOYEE VERIFICATION.—Beginning on the date that is 3 years after the date of the enactment of this Act, a social security card may not be used for employee verification purposes unless such card meets the standards described in section 205(c)(2)(G) of the Social Security Act, as amended by paragraph (1) of this subsection.

(5) SOCIAL SECURITY CARDS FOR NONIMMIGRANTS.—Social security cards issued to an individual who is not a citizen or legal permanent resident of the United States shall prominently display an expiration date, which shall be the date on which the work eligibility of such individual expires.

SA 1478. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 1332 submitted by Mr. SANDERS (for himself and Mr. GRASSLEY) and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 2, after line 17, add the following:

(d) EXCEPTION.—Subsections (a) and (b) shall not apply if the employer attests, under penalty of perjury, that the mass layoff did not result in the employment loss (as defined in section 2(a)(6) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101(a)(6))) of any United States worker at the same location and from the specific position that is to be filled by the nonimmigrant who is the subject of the visa petition.

SA 1479. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 1268 submitted by Mr. BINGAMAN and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

''(D) under section 101(a)(15)(Y)(ii), may not exceed—

''(i) 100,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 300,000 for any fiscal year.'';

(2) by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively;

(3) by inserting after paragraph (1) the following:

''(2) MARKET-BASED ADJUSTMENT.—With respect to the numerical limitation set in subparagraph (A)(ii) and (D)(ii) of paragraph (1)—

''(A) if the total number of visas allocated for that fiscal year are issued during the first 6 months that fiscal year, an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(B) if the total number of visas allocated for that fiscal year are issued before the end of that fiscal year, the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

''(C) with the exception of the first subsequent fiscal year to the fiscal year in which

the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.'';

(4) in paragraph (10), as redesignated by paragraph (2) of this section, by amending subparagraph (A) to read as follows:

''(A) Subject to subparagraphs (B) and (C), an alien who has been already been counted toward the numerical limitations under paragraph (1)(D) during any 1 of the 3 fiscal years immediately preceding the fiscal year of the approved start date of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) shall not be counted toward the limitations under clauses (i) and (ii) of paragraph (1)(D) for the fiscal year in which the petition is approved. Such alien shall be considered a returning worker.''; and

(5) in paragraph (11), as redesignated by paragraph (2) of this section—

(A) by inserting ''(A)'' after ''(11)''; and

(B) by adding at the end the following:

''(B) The numerical limitations under paragraph (1)(D) shall be allocated for each fiscal year to ensure that the total number of aliens subject to such numerical limits who enter the United States pursuant to a visa or are accorded nonimmigrant status under section 101(a)(15)(Y)(ii) during the first 6 months of such fiscal year is not greater than 50 percent of the total number of such visas available for that fiscal year.''.

SEC. 410. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, may, as a condition of authorizing the grant of nonimmigrant visas for Y nonimmigrants who are citizens or nationals of any foreign country, negotiate with each such country to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—It is the sense of Congress that each agreement negotiated under subsection (a) shall require the participating home country to—

SA 1480. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 607 and insert the following:

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsections:

''(d)(1) Except as provided in paragraph (2)—

''(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).

''(e) Not later than 180 days after the date of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary of Homeland Security shall enter into an agreement with the Commissioner of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of coverage under subsection (d).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 1481. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 224, line 19, strike the period and insert '', or''.

On page 224, between lines 19 and 20, insert the following:

''(vi) a document described in paragraph (7).''.

On page 228, between lines 22 and 23, insert the following:

''(7) DOCUMENT EVIDENCING MEMBERSHIP OR ENROLLMENT IN, OR AFFILIATION WITH, A FEDERALLY-RECOGNIZED INDIAN TRIBE.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B)(vi), a document described in this paragraph is a document that the Secretary recognizes by regulation evidences membership or enrollment in, or affiliation with, a federally-recgonized Indian tribe.

''(B) PROMULGATION OF REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations to recognize such documents.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as abrogating or diminishing the rights and privileges of tribal members under the Jay Treaty, done at London November 19, 1794.''.

SA 1482. Ms. CANTWELL (for herself and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 238, strike line 13, and all that follows through line 24 on page 250 and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

SEC. 419. H–1B STREAMLINING AND SIMPLIFICATION.

(a) H–1B AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(b) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 50,000—

''(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity; or

''(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

(c) PROVISION OF W–2 FORMS.—Section 214(g)(5) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(5)), as renumbered by section 405, is amended to read as follows:

''(5) In the case of a nonimmigrant described in section 1101(a)(15)(H)(i)(b) of this title—

''(A) the period of authorized admission as such a nonimmigrant may not exceed six years; [Provided that, this provision shall not apply to such a nonimmigrant who has

filed a petition for an immigrant visa under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in one-year increments until such time as a final decision is made on the alien's lawful permanent residence];

''(B) if the alien is granted an initial period of admission less than six years, any subsequent application for an extension of stay for such alien must include the Form W–2 Wage and Tax Statement filed by the employer for such employee, and such other form or information relating to such employment as the Secretary of Homeland Security may in his discretion specify, with respect to such nonimmigrant alien employee for the period of admission granted to the alien; and

''(C) notwithstanding section 6103 of title 26, United States Code, or any other law, the Commissioner of Internal Revenue or the Commissioner of the Social Security Administration shall upon request of the Secretary confirm whether the Form W–2 Wage and Tax Statement filed by the employer under clause (i) matches a Form W–2 Wage and Tax Statement filed with the Internal Revenue Service or the Social Security Administration, as the case may be.''.

(d) EXTENSION OF H–1B STATUS FOR MERIT–BASED ADJUSTMENT APPLICANTS.—

(1) Section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) is amended by inserting before the period: ''; Provided that, this provision shall not apply to such a nonimmigrant who has filed a petition for an immigrant visa accompanied by a qualifying employer recommendation under section 203(b)(1), if 365 days or more have elapsed since filing and it has not been denied, in which case the Secretary of Homeland Security may extend the stay of an alien in one-year increments until such time as a final decision is made on the alien's lawful permanent residence.''.

(2) Sections 106(a) and 106(b) of the American Competitiveness in the Twenty-First Century Act of 2000—Immigration Services and Infrastructure Improvements Act of 2000, Public Law 106–313, are hereby repealed.

SEC. 420. H–1B EMPLOYER REQUIREMENTS.

(a) APPLICATION OF NONDISPLACEMENT AND GOOD FAITH RECRUITMENT REQUIREMENTS TO ALL H–1B EMPLOYERS.—

(1) AMENDMENTS.—Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E)—

(I) in clause (i), by striking ''(E)(i) In the case of an application described in clause (ii), the'' and inserting ''(E) The''; and

(II) by striking clause (ii);

(ii) in subparagraph (F), by striking ''In the case of'' and all that follows through ''where—'' and inserting the following: ''The employer will not place the nonimmigrant with another employer if—''; and

(iii) in subparagraph (G), by striking ''In the case of an application described in subparagraph (E)(ii), subject'' and inserting ''Subject'';

(B) in paragraph (2)—

(i) in subparagraph (E), by striking ''If an H–1B-dependent employer'' and inserting ''If an employer that employs H–1B nonimmigrants''; and

(ii) in subparagraph (F), by striking ''The preceding sentence shall apply to an employer regardless of whether or not the employer is an H–1B-dependent employer.''; and

(C) by striking paragraph (3).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to applications filed on or after the date of the enactment of this Act.

(b) NONDISPLACEMENT REQUIREMENT.—

(1) EXTENDING TIME PERIOD FOR NONDISPLACEMENT.—Section 212(n) of such Act, as amended by subsection (a), is further amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking ''90 days'' each place it appears and inserting ''180 days'';

(ii) in subparagraph (F)(ii), by striking ''90 days'' each place it appears and inserting ''180 days''; and

(B) in paragraph (2)(C)(iii), by striking ''90 days'' each place it appears and inserting ''180 days''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall apply to applications filed on or after the date of the enactment of this Act; and

(B) shall not apply to displacements for periods occurring more than 90 days before such date.

(c) H–1B NONIMMIGRANTS NOT ADMITTED FOR JOBS ADVERTISED OR OFFERED ONLY TO H–1B NONIMMIGRANTS.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(1) by inserting after subparagraph (G) the following:

''(H)(i) The employer has not advertised the available jobs specified in the application in an advertisement that states or indicates that—

''(I) the job or jobs are only available to persons who are or who may become H–1B nonimmigrants; or

''(II) persons who are or who may become H–1B nonimmigrants shall receive priority or a preference in the hiring process.

''(ii) The employer has not only recruited persons who are, or who may become, H–1B nonimmigrants to fill the job or jobs.''; and

(2) in the undesignated paragraph at the end, by striking ''The employer'' and inserting the following:

''(K) The employer''.

(d) LIMIT ON PERCENTAGE OF H–1B EMPLOYEES.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(1), the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H-1B nonimmigrants and nonimmigrants described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(A) by amending subparagraph (A) to read as follows:

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

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

(f) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph

to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

SEC. 421. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K) of the Immigration and Nationality Act, as redesignated by section 2(d)(2), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after ''D.C.'';

(2) by inserting '', clear indicators of fraud, misrepresentation of material fact,'' after ''completeness'';

(3) by striking ''or obviously inaccurate'' and inserting '', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate'';

(4) by striking ''within 7 days of'' and inserting ''not later than 14 days after''; and

(5) by adding at the end the following: ''If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing under paragraph (2)''.

(b) INVESTIGATIONS BY DEPARTMENT OF LABOR.—Section 212(n)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking ''12 months'' and inserting ''24 months''; and

(B) by striking ''The Secretary shall conduct'' and all that follows and inserting ''Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.'';

(2) in subparagraph (C)(i)—

(A) by striking `'' condition of paragraph (1)(B), (1)(E), or (1)(F)'' and inserting ''a condition under subparagraph (B), (C)(i), (E), (F), (H), (I), or (J) of paragraph (1)''; and

(B) by striking ''(1)(C)'' and inserting ''(1)(C)(ii)'';

(3) in subparagraph (G)—

(A) in clause (i), by striking ''if the Secretary'' and all that follows and inserting ''with regard to the employer's compliance with the requirements of this subsection.'';

(B) in clause (ii), by striking ''and whose identity'' and all that follows through ''failure or failures.'' and inserting ''the Secretary of Labor may conduct an investigation into the employers compliance with the requirements of this subsection.'';

(C) in clause (iii), by striking the last sentence;

(D) by striking clauses (iv) and (v);

(E) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(F) in clause (iv), as redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months'' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(G) by amending clause (v), as redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.'';

(H) in clause (vi), as redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(I) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under subparagraph (C).''; and

(4) by striking subparagraph (H).

(c) INFORMATION SHARING BETWEEN DEPARTMENT OF LABOR AND DEPARTMENT OF HOMELAND SECURITY.—Section 212(n)(2) of such Act, as amended by this section, is further amended by inserting after subparagraph (G) the following:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by H–1B employers as part of the adjudication process that indicates that the employer is not complying with H–1B visa program requirements. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

(d) AUDITS.—Section 212(n)(2)(A) of such Act, as amended by this section, is further amended by adding at the end the following: ''The Secretary may conduct surveys of the degree to which employers comply with the requirements under this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ H-1B nonimmigrants during the applicable calendar year.''

(e) PENALTIES.—Section 212(n)(2)(C) of such Act, as amended by this section, is further amended—

(1) in clause (i)(I), by striking ''$1,000'' and inserting ''$2,000'';

(2) in clause (ii)(I), by striking ''$5,000'' and inserting ''$10,000''; and

(3) in clause (vi)(III), by striking ''$1,000'' and inserting ''$2,000''.

(f) INFORMATION PROVIDED TO H–1B NONIMMIGRANTS UPON VISA ISSUANCE.—Section 212(n) of such Act, as amended by this section, is further amended by inserting after paragraph (2) the following:

''(3)(A) Upon issuing an H–1B visa to an applicant outside the United States, the issuing office shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer obligations and workers' rights.

''(B) Upon the issuance of an H–1B visa to an alien inside the United States, the officer of the Department of Homeland Security shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer's obligations and workers' rights.''.

SEC. 422. L–1 VISA FRAUD AND ABUSE PROTECTIONS.

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case of an alien spouse admitted under section 101(a)(15)(L), who'' and inserting ''Except as provided in subparagraph (H), if an alien spouse admitted under section 101(a)(15)(L)''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for up to 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the preceding 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the preceding 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a petition

subsequently filed on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(iv) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify a company or facility's existence in the United States and abroad.''.

(b) INVESTIGATIONS AND AUDITS BY DEPARTMENT OF HOMELAND SECURITY.—

(1) DEPARTMENT OF HOMELAND SECURITY INVESTIGATIONS.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(I)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary of Homeland Security receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5.

''(iii) The Secretary of Homeland Security shall establish a procedure for any person desiring to provide to the Secretary of Homeland Security information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary of Homeland Security and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary of Homeland Security receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary of Homeland Security shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary of Homeland Security, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary of Homeland Security, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under section 214(c)(2)(J).''.

(2) AUDITS.—Section 214(c)(2)(I) of such Act, as added by paragraph (1), is amended by adding at the end the following:

''(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.''.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting ''(L),'' after ''(H),''.

(c) PENALTIES.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(J)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

''(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

''(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the employer shall be liable to employees harmed for lost wages and benefits.''.

(d) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

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

(e) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

On page 260, line 39, strike ''and''.

On page 260, after line 44, insert the following:

(iii) up to 40,000 shall be for aliens who met the specifications set forth in section 203(b)(1)(as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 85,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 56,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 28,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 14,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

On page 265, between lines 15 and 16, insert the following:

''(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification.

''(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.''.

(2)(A) Section 214(g) of the Immigration and Nationality Act is amended by adding at the end the following new paragraph:

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to or at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.''.

(B) The amendment made by subparagraph (A) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act.

On page 266, line 4, insert ''The beneficiary of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

SA 1483. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TREATMENT OF CERTAIN NATIONALS OF IRAQ.

(a) REQUIREMENT FOR REHEARING OF CERTAIN CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CONDITIONS.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—The Attorney General shall accept and grant a motion filed not later than 6 months after the date of the enactment of this paragraph for rehearing before an immigration judge of an application for asylum or withholding of removal if the alien—

''(A) is a religious minority from Iraq whose claim was denied by an immigration judge in whole or in part on the basis of changed country conditions on or after March 1, 2003; and

''(B) has remained in the United States as of the date of the enactment of this paragraph.''.

(b) CONSIDERATION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.—Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that—

(A) for a period of at least one year beginning after March 1, 2003, he or she served the United States Government inside Iraq as an employee, volunteer, contractor, or employee of a contractor of the United States Government; or

(B) he or she is a member of a religious minority group in Iraq; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

SA 1484. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 711. ADJUSTMENT OF STATE IMPACT ASSISTANCE FEES.

Notwithstanding section 218A(e)(3)(B) of the Immigration and Nationality Act, as added by section 402, or section 601(e)(6)(C), an alien making an application for a Y–1 nonimmigrant visa or an alien making an initial application for Z–1 nonimmigrant status shall pay, at the time the alien files the application, a State impact assistance fee of $750 and an additional $100 fee for each dependent accompanying or following to join the alien.

SA 1485. Mr. LEVIN submitted an amendment intended to be proposed to amendment SA 1342 submitted by Mr. LEVIN (for himself and Ms. MIKULSKI) and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 174, line 4, insert ''For seasonal businesses, such a waiver shall not be necessary if the average unemployment rate in the county was less than 7 percent for the period in the preceding year when the Y nonimmigrant would have been employed.'' after ''section (b).''.

SA 1486. Mr. LEVIN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 1443 submitted by Mr. LEVIN and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TREATMENT OF CERTAIN NATIONALS OF IRAQ.

(a) REQUIREMENT FOR REHEARING OF CERTAIN CLAIMS DENIED ON BASIS OF CHANGED COUNTRY CONDITIONS.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—The Attorney General shall accept and grant a motion filed not later than 6 months after the date of the enactment of this paragraph for rehearing before an immigration judge of an application for asylum or withholding of removal if the alien—

''(A) is a religious minority from Iraq whose claim was denied by an immigration judge in whole or in part on the basis of changed country conditions on or after March 1, 2003; and

''(B) has remained in the United States as of the date of the enactment of this paragraph.''.

(b) CONSIDERATION OF CERTAIN NATIONALS FROM IRAQ AS PRIORITY 2 REFUGEES.—Subject to the numerical limitations established pursuant to section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the Secretary of State or a designee of the Secretary shall present to the Secretary of Homeland Security, and the Secretary of Homeland Security or a designee of the Secretary shall adjudicate, any application for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) submitted by an applicant who—

(1) is a national of Iraq;

(2) is able to demonstrate that he or she is a member of a religious minority group in Iraq; and

(3) is able to demonstrate that he or she left Iraq before January 1, 2007, and has resided outside Iraq since that time.

SA 1487. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 606 and 607 and insert the following:

SEC. 606. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Z nonimmigrant status or any probationary benefits based upon application for such status.

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsections:

''(d)(1) Except as provided in paragraph (2)—

''(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2). ''(e) Not later than 180 days after the date of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary of Homeland Security shall enter into an agreement with the Commission of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of coverage under subsection (d), however, this provision shall not be construed to establish an effective date for purposes of this section.''

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of enactment of this Act.

SA 1488. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

''(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 1489. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

In section 602(a), strike paragraph (6).

In section 214A(h) of the Immigration and Nationality Act, as added by section 622(b), strike paragraphs (1) and (2).

SA 1490. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 606 and 607 and insert the following:

SEC. 606. ENUMERATION OF SOCIAL SECURITY NUMBER.

The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security Administration, shall implement a system to allow for the prompt enumeration of a Social Security number after the Secretary of Homeland Security has granted an alien Z nonimmigrant status or any probationary benefits based upon application for such status.

The effective date of this section shall be one day after the date of enactment.

SEC. 607. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION OR FOR ANY PERIOD WITHOUT WORK AUTHORIZATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsections:

''(d)(1) Except as provided in paragraph (2)—

''(A) no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned; and

''(B) no quarter of coverage shall be credited for purposes of this section for any calendar year, with respect to an individual who is not a natural-born United States citizen, unless the Commissioner of Social Security determines, on the basis of information provided to the Commissioner in accordance with an agreement entered into under subsection (e) or otherwise, that the individual was authorized to be employed in the United States during such quarter.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).

''(e) Not later than 180 days after the date of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, the Secretary of Homeland Security shall enter into an agreement with the Commission of Social Security to provide such information as the Commissioner determines necessary to carry out the limitations on crediting quarters of cover under subsection, (d), however, this provision shall not be construed to establish an effective date for purposes of this section.''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of enactment of this Act.

SA 1491. Mr. COBURN submitted an amendment intended to be proposed by him to the joint resolution S.J. Res. 14, expressing the sense of the Senate that Attorney General Alberto Gonzales no longer holds the confidence of the Senate and of the American people; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NO CONFIDENCE IN CONGRESS.

(a) FINDINGS.—The Senate finds the following:

(1) The national debt of the United States of America now exceeds $8,500,000,000,000.

(2) Each United States citizen's share of this debt exceeds $29,000.

(3) Every cent that the United States Government borrows and adds to this debt is money stolen from future generations of Americans and from important programs, including Social Security and Medicare on

which our senior citizens depend for their retirement security.

(4) The power of the purse belongs to Congress.

(5) Congress authorizes and appropriates all Federal discretionary spending and creates new mandatory spending programs.

(6) For too long, Congress has simply borrowed more and more money to pay for new spending, while Americans want Congress to live within its means, using the same set of common sense rules and restraints Americans face everyday; because in the real world, families cannot follow Congress's example and must make difficult decisions and set priorities on how to spend their limited financial resources.

(7) Last year, the interest costs of the Federal debt the Government must pay to those who buy U.S. Treasury bonds were about 8 percent of the total Federal budget. In total, the Federal government spent $226,000,000,000 on interest costs alone last year.

(8) According to the Government Accountability Office, interest costs will consume 25 percent of the entire Federal budget by 2035. By way of comparison, the Department of Education's share of Federal spending in 2005 was approximately 3 percent of all Federal spending. The Department of Health and Human Services was responsible for approximately 23 percent of all Federal spending. Spending by the Social Security Administration was responsible for about 20 percent of all Federal spending. Spending on Medicare was about 12 percent of all Federal spending. Spending in 2005 by the Department of Defense, in the midst of 2 wars in Iraq and Afghanistan and a global war against terrorism, comprised about 19 percent of all Federal spending. Thus, if we do not change our current spending habits, the Government Accountability Office estimates that as a percentage of Federal spending, interest costs in 2035 will be larger than defense costs today, Social Security costs today, Medicare costs today, and education costs today.

(9) Congress has raided the Social Security and Medicare Trust Funds for decades to hide the true size of the annual budget deficit. This practice has undermined the solvency of these programs and threatens both the retirement security of today's workers and the economic opportunities of future generations of Americans.

(10) It is irresponsible for Congress to create or expand Government programs that will result in borrowing from Social Security, Medicare, foreign nations, or future generations of Americans without reductions in spending elsewhere within the Federal budget.

(11) Last month, Congress approved a $2,900,000,000,000 budget resolution that includes $23,000,000,000 more in spending than was requested by the President.

(12) Congress has repeatedly demonstrated its inability to prioritize spending. The Senate has approved the authorization of hundreds of billions of dollars in new spending this year alone while repeatedly rejecting amendments to cut wasteful spending.

(13) The Senate has twice this year rejected amendments stating that Congress has a moral obligation to offset the cost of new Government programs and initiatives.

(14) Among the projects that Congress has authorized spending for this year include a new visitors center in Louisiana and beach enhancement in southern California. When posed with the question to first house displaced Louisiana storm survivors before spending money to construct the visitors center, the Senate overwhelming voted to construct the visitors center. When given the option to first protect the millions of citizens who live in the Sacramento area from floods before adding sand to a southern California beach, the Senate overwhelming voted for sandy beaches.

(15) Congress's inability to prioritize spending may be best epitomized by the Senate's vote to build a controversial bridge in Alaska. When given the choice to spend nearly half a billion dollars to repair the Twin Spans Bridge in New Orleans damaged by Hurricane Katrina or to construct a new bridge nearly as long as the Golden Gate Bridge and higher than the Brooklyn Bridge to an island with 50 residents in Alaska, the Senate voted overwhelming in favor of the new Alaska bridge.

(16) The cost of Congressional pork projects, known as earmarks, has more than doubled from $19,500,000,000 in 1996 to more than $47,400,000,000 in 2005. Earmarks have been linked to a number of recent Congressional investigations and convicted lobbyist Jack Abramoff boasted that earmarks were a form of political currency doled out from what he called the earmark ''favor factory''. In December of last year, the public was promised by the newly elected majority that ''We will place a moratorium on all earmarks until a reformed process is put in place'' and that ''We will work to restore an accountable, above-board, transparent process for funding decisions and put an end to the abuses that have harmed the credibility of Congress''. Yet, the Senate has already approved hundreds of earmarks this year while failing to adopt earmark reform rules changes. The House adopted earmark rule changes but the appropriations committee has said it will circumvent these reforms by adding earmarks after bills are passed behind closed doors when bills can no longer be amended or debated.

(17) This lack of ability to prioritize Federal spending underscores the ''borrow and spend'' binge behavior of Congress that has contributed to the national debt which exceeds $8,500,000,000,000.

(18) Polls have repeatedly found that Americans overwhelming oppose new spending and bigger Government. A February 2007 poll released by Democracy Corps found that 80 percent of likely voters disapprove of the Federal Government's handling of spending. Of all of the issues polled, the Government's handling of spending scored the highest rate of voter disapproval, more than health care (71 percent disapproval), energy (64 percent disapproval), or the environment (59 percent disapproval). One specific poll question asked respondents which of 2 statements they agreed with: ''I want Congress to first invest in areas like health care, education, and energy, even if it means spending additional money'' or ''I want Congress to first focus on cutting wasteful spending and making government more accountable.'' Fifty-eight percent of respondents agreed with the statement about cutting wasteful spending, while only 36 percent agreed with spending additional money first. When asked who they trusted more on the issue of spending, only 18 percent picked Congress. A December 2006 Gallup Poll found that 61 percent of Americans thought ''big government'' was the biggest threat to the country's future. This included 56 percent of Democrats and 63 percent of Republicans.

(19) Congress has ignored the public's views on spending which may explain its declining approval ratings in several different independent polls released in the last month. Only 35 percent of respondents of a poll released by the Associated Press approve of the way Congress is handling its job, down 5 points since April. In the study released by Fox News, 32 percent of respondents approve of the job Congress is doing, down 3 points in a month. In a poll by Gallup released by USA Today, the approval rating for Congress stands at 29 percent, down 4 points since early April.

(b) NO CONFIDENCE.—It is the sense of the Senate that Congress neither has the will nor the desire to cut frivolous, excessive, or wasteful spending and therefore the American people should have no confidence in the ability of Congress or its members to balance the budget or protect the long term financial solvency of Social Security, Medicare, or the Nation itself.

SA 1492. Mr. REID proposed an amendment to amendment SA 1235 proposed by Mr. SESSIONS to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the end of the amendment add the following:

Notwithstanding any other provision of this act the following shall take effect for the Z Nonimmigration category:

(b) ESTABLISHMENT OF Z NONIMMIGRANT CATEGORY.—

(1) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 401(a), is further amended by adding at the end the following:

''(Z) subject to title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, an alien who—

''(i)(I) has maintained a continuous physical presence in the United States since the date that is 4 years before the date of the enactment of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007;

''(II) is employed, and seeks to continue performing labor, services, or education; and

''(III) the Secretary of Homeland Security determines has sufficient ties to a community in the United States, based on—

''(aa) whether the applicant has immediate relatives (as defined in section 201(b)(2)(A)) residing in the United States;

''(bb) the amount of cumulative time the applicant has lived in the United States;

''(cc) whether the applicant owns property in the United States;

''(dd) whether the applicant owns a business in the United States;

''(ee) the extent to which the applicant knows the English language;

''(ff) the applicant's work history in the United States;

''(gg) whether the applicant attended school (either primary, secondary, college, post-graduate) in the United States;

''(hh) the extent to which the applicant has a history of paying Federal and State income taxes;

''(ii) whether the applicant has been convicted of criminal activity in the United States; and

''(jj) whether the applicant has certifies his or her intention to ultimately become a United States citizen;

''(ii)(I) is the spouse or parent (65 years of age or older) of an alien described in clause (i);

''(II) was, during the 2-year period ending on the date on which the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien who was subsequently classified as a Z nonimmigrant under this section, or is eligible for such classification, if—

''(aa) the termination of the relationship with such spouse was connected to domestic violence; and

''(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent who is a Z nonimmigrant; or

''(III) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph and was born to, or legally adopted by, a parent described in clause (i).''.

(2) RULEMAKING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations, in accordance with the procedures set forth in sections 555, 556, and 557 of title 5, United States Code, which establish the precise system that the Secretary will use to make a determination under section 101(a)(15)(Z)(ii) of the Immigration and Nationality Act, as added by paragraph (1).

SA 1493. Mr. REID proposed an amendment to amendment SA 1199 proposed by Mr. DODD (for himself and Mr. MENENDEZ) to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REQUIREMENT.

(a) IN GENERAL.—A petition by an employer for any visa authorizing employment in the United States may not be approved until the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(b) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to such Act after a visa described in subsection (a) has been approved, such visa shall expire on the date that is 60 days after the date on which such notice is provided.

(c) EXEMPTION.—An employer shall be exempt from the requirements under this section if the employer provides written certification, under penalty of perjury, that the total number of the employer's employees in the United States will not be reduced as a result of a mass layoff.

SA 1494. Mr. DOMENICI submitted an amendment intended to be proposed to amendment SA 1235 proposed by Mr. SESSIONS to the amendment SA 1150 proposed by Mr. REID (for Mr. KENNEDY (for himself and Mr. SPECTER)) to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. ___. INCREASE IN FEDERAL JUDGESHIPS IN DISTRICTS WITH LARGE NUMBERS OF CRIMINAL IMMIGRATION CASES.

(a) FINDINGS.—Based on the recommendations made by the 2007 Judicial Conference and the statistical data provided by the 2006 Federal Court Management Statistics (issued by the Administrative Office of the United States Courts), the Congress finds the following:

(1) Federal courts along the southwest border of the United States have a greater percentage of their criminal caseload affected by immigration cases than other Federal courts.

(2) The percentage of criminal immigration cases in most southwest border district courts totals more than 49 percent of the total criminal caseloads of those districts.

(3) The current number of judges authorized for those courts is inadequate to handle the current caseload.

(4) Such an increase in the caseload of criminal immigration filings requires a corresponding increase in the number of Federal judgeships.

(5) The 2007 Judicial Conference recommended the addition of judgeships to meet this growing burden.

(6) The Congress should authorize the additional district court judges necessary to carry out the 2007 recommendations of the Judicial Conference for district courts in which the criminal immigration filings represented more than 49 percent of all criminal filings for the 12-month period ending September 30, 2006.

(b) PURPOSE.—The purpose of this section is to increase the number of Federal judgeships, in accordance with the recommendations of the 2007 Judicial Conference, in district courts that have an extraordinarily high criminal immigration caseload.

(c) ADDITIONAL DISTRICT COURT JUDGESHIPS.—

(1) PERMANENT JUDGESHIPS.—

(A) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(i) 4 additional district judges for the district of Arizona;

(ii) 1 additional district judge for the district of New Mexico;

(iii) 2 additional district judges for the southern district of Texas; and

(iv) 1 additional district judge for the western district of Texas.

(B) CONFORMING AMENDMENTS.—In order that the table contained in section 133(a) of title 28, United States Code, reflect the number of additional judges authorized under paragraph (1), such table is amended—

(i) by striking the item relating to Arizona and inserting the following:

''Arizona ..... 16'';

(ii) by striking the item relating New Mexico and inserting the following:

''New Mexico ..... 7''; and

(iii) by striking the item relating to Texas and inserting the following:

''Texas:

Northern	12
Southern	21
Eastern	7
Western	14''.

(2) TEMPORARY JUDGESHIPS.—

(A) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(i) 1 additional district judge for the district of Arizona; and

(ii) 1 additional district judge for the district of New Mexico.

(B) VACANCY.—For each of the judicial districts named in this paragraph, the first vacancy arising on the district court 10 years or more after a judge is first confirmed to fill the temporary district judgeship created in that district by this paragraph shall not be filled.

(d) FUNDING.—To carry out this section, the Director of the Administrative Office of the United States Courts shall, for each of fiscal years 2008 through 2012, allocate $2,000,000 from the Administrative Office of the United States Courts Salary & Expenses (Administrative Expenses) account.

SA 1495. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place:

Notwithstanding any provisions of this act, it is amended as follows:

SECTION 1. EFFECTIVE DATE TRIGGERS AND BORDER ENFORCEMENT.

''(6) Visa exit tracking system: The Department of Homeland Security has established and deployed a system capable of recording the departure of aliens admitted under section 101(a)(15)(Y) of the Immigration and Nationality Act, at designated ports of entry or designated U.S. Consulates abroad.

(d) The Secretary of the Department of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien who was admitted to the United States under section 101(a)(15)(H)(ii) (as amended by Title IV); section 101(a)(15)(Y); or section 101(a)(15)(B) (admitted under the terms and conditions of section 214(s)) of the ACT, and who has exceeded the alien's authorized period of admission or otherwise violated any terms of the nonimmigrant classification in which the alien was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to national security, homeland security, or public safety.

(a) Section 215 of the Immigration and Nationality Act, (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (h);

(2) by moving redesignated subsection (h), as redesignated by paragraph (1) to the end;

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g); and

(4) by inserting after subsection (b) the following:

''(c) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES.—

The Secretary shall require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status

(d) COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS.—

(1) The Secretary shall require aliens who were admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)), section 101(a)(15)(H)(ii), or section 101(a)(15)(Y) to record their departure at a designated port of entry or at a designated United States consulate abroad.

(2) Aliens who do not record their departure as required in paragraph (1) shall be entered into the database as overstays within 48 hours of the expiration of their period of authorized admission.

(3) The information in this database shall be made available to state and local law enforcement pursuant to the provisions of section 240D.''

''(D) knowingly exceeds by 60 days or more the period of the alien's admission or parole into the United States.''

''(b) SPECIAL EFFECTIVE DATE.—Subsection (a)(1)(D) of section 275 of the Immigration and Nationality Act, as amended by this Act,

shall apply to all aliens admitted or paroled after the enactment of this Act.''

SEC. 3. WORKPLACE ENFORCEMENT.

At the appropriate place in Title III, insert the following:

''14 days prior to employment eligibility expiration, employers shall provide, in writing, notification to aliens of the expiration of the alien's employment eligibility.''

Strike section 401(d)

(1) In subparagraph (3)

(A) To redesignate paragraphs (C), (D) and (E) as paragraphs (D), (E), and (F), respectively;

(B) To add a new paragraph (C) to read as follows:

''(C) An Exit Tracking Fee, in an amount set by Secretary at a level that will ensure recovery of the full costs of providing the Y nonimmigrant visa exit system described in section 1(a)(6) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and any additional costs associated with the administration of the fees collected''; and

(C) To add a new paragraph (G) to read as follows:

''(G) DEPOSIT AND DISPOSITION OF DEPARTURE FEE.—The funds described in subparagraph (C) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in 218A(e)(3)(C).''

''or Y nonimmigrant status if the alien is

(A) (i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

(ii) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien

(B) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(C) an alien—

(i) for whom there are reasonable grounds for believing that the alien has committed a serious criminal offense as described in section 101(h) of the Act outside the United States before arriving in the United States; or

(ii) for whom there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

(D) has been convicted of—

(i) a felony, including but not limited to: first degree murder; kidnapping; bank robbery; sexual exploitation, and other abuse of children; selling or buying of children; activities relating to children involving sexual exploitation of a minor; activities relating to material constituting or containing child pornography, or illegal transportation of a minor; or domestic violence, a crime of stalking, or a crime of child agues, child neglect, or child abandonment

(ii) an aggravated felony as defined at section 101 (a)(43) of the Act;

(iii) 3 or more misdemeanors under Federal or State law; or

(iv) a serious criminal offense as described in section 101(h) of the Act

(3) by amending paragraph (3), as redesignated by paragraph (2) of this section, to read as follows:

''(3) The numerical limitations of paragraph (1)—

''(A) shall apply to principal aliens and not to the spouses or children of such aliens; and

''(B) shall not apply to aliens seeking nonimmigrant status under section 101(a)(15)(Y)(i) for a fiscal year who have been granted nonimmigrant status under such section during a previous fiscal year.''; and

''(3) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—Not later five years after the date of enactment, submit a report to the President and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

(ii) the prevailing competitive wage level for the occupational classification in the area of employment;

(D) the impact of Y nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and (G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

(d) H—1b AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(ii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(e) Ensuring Access to Skilled Workers in Specialty Occupations.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101 (a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 50,000

(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) (20 U.S.C. 1001 (a)), or a related or affiliated nonprofit entity;

or (ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101 (a)(15)(H)(i)(b) in a number that is equal to or at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101 (a)(15)(H)(i)(b) in any fiscal year

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act

SECTION 5. IMMIGRATION BENEFITS.

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(1) (as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

''(G) Any employer desiring and intending to employ within the United States an alien

qualified under (A) may file a petition with the Secretary of Homeland Security for such classification.

''(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.''.

''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

SECTION 6. NON-IMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS.

''(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

''(1) IN GENERAL.—The Secretary may approve the issuance of documentation of status, as described in subsection (j), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

''(2) EVIDENCE OF CONTINUOUS PHYSICAL PRESENCE, EMPLOYMENT, OR EDUCATION.—

''(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

''(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under Section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall—

''(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

''(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of:

''(a) presence or employment required under this section, or

''(b) a requirement for any other benefit under the immigration laws.

''(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (i) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(i) bank records;

''(ii) business records;

''(iii) employer records;

''(iv) records of a labor union or day labor center;

''(v) remittance records;

''(vi) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

''(a) the name, address, and telephone number of the affiant;

''(b) the nature and duration of the relationship between the affiant and the alien; and

''(c) other verification or information.

''(D) ADDITIONAL DOCUMENTS.—The Secretary may—

''(i) designate additional documents to evidence the required period of presence, employment, or study; and

''(ii) set by notice in the Federal Register such terms and conditions and minimum standards for affidavits described in (C)(VI) as are necessary, when such affidavits are reviewed in combination with the other documentation as described in (A) or (C), to reliably demonstrate and provide for verification of the identity of any affiant or verification of the physical presence, identity, or employment information averred to by the affiant, or to otherwise prevent fraudulent submissions.''.

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

''(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer, employee or contractor of such agency or bureau, may—

''(1) use the information furnished by an applicant under section 601 [and 602] of the [—] or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, any subsequent application to extend such status under section 601 of such Act, or to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act;

''(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

''(3) permit anyone other than the officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

''(b) EXCEPTIONS TO CONFIDENTIALITY.—

''(1) Subsection (a) shall not apply with respect to—

''(A) an alien whose application has been denied, terminated or rescinded based on the Secretary's finding that the alien—

''(i) is inadmissible under or subject to reinstatement of a removal order pursuant to sections 212(a)(2), (3), (6)(C)(i) (with respect to information furnished by an applicant under section 601 or 602 of the [—]), or (6)(E) of the Act of the Act; or

''(ii) is deportable under or subject to reinstatement of sections a removal order pursuant to section 237(a)(1)(E), (1)(G), (2), or (4) of the Act of the Act;

''(iii) was physically removed and is subject to reinstatement pursuant to section 241 (a)(5).

''(B) an alien whose application for Z nonimmigrant status has been denied, terminated, or rescinded under section 601 (d)(1)(F);

''(C) an alien whom the Secretary determines has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

''(D) an alien whom the Secretary determines has, in connection with his application under sections 601 or 602, engaged in fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document;

''(E) an alien who has knowingly and voluntarily waived in writing the confidentiality provisions in subsection (a); or

''(F) an order from a court of competent jurisdiction.

''(2) Nothing in this subsection shall require the Secretary to commence removal proceedings against an alien whose application has been denied, terminated, or rescinded based on the Secretary's finding that the alien is inadmissible or deportable.

''(c) AUTHORIZED DISCLOSURES.—Information furnished on or derived from an application described in subsection (a) may be disclosed to—

''(1) a law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution; or

''(2) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

''(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate information furnished as part of any application filed under sections 601 and 602, of [—] , any application to extend such status under section 601 (k) of such Act, or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

''(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602 of [—], then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for Z nonimmigrant status pursuant to sections 601 or 602 to make a determination on any petition or application.

''(g) PENALTIES.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

''(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an application filed under sections 601 or 602, for Z nonimmigrant status filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

SEC. 608. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in Section 601 (e)(6)(B) and Section 602(a)(1)(C)(v) through an installment payment plan.

(b) Any penalties received under this title with respect to an application for Z–1 nonimmigrant status shall be used in the following order of priority:

(1) the first $4.4 billion of such penalties shall be deposited into the general fund as repayment of funds transferred into the Immigration Enforcement Account under section 286(z)(1).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

Add a new subsection (z) to section 286 of Immigration and Nationality Act as follows:

''(z) IMMIGRATION ENFORCEMENT ACCOUNT.—

''(1) TRANSFERS INTO THE IMMIGRATION ENFORCEMENT ACCOUNT.—Immediately upon enactment, the following amount shall be transferred from the general fund to the Immigration Enforcement Account, $4,400,000,000.

''(2) APPROPRIATIONS.—

''(A) There are hereby appropriated such sums that are provided under subsection 1 to remain available until five years after enactment.

''(B) These sums shall be used to meet the trigger requirements set forth in title I, section 1.

''(C) To the extent funds are not exhausted pursuant to (b), they shall be used by the Secretary of Homeland Security on one or more of the following:

''(i) Fencing and Infrastructure;

''(ii) Towers;

''(iii) Detention beds;

''(iv) Employment Eligibility Verification System;

''(v) Implementation of programs authorized in titles IV and VI; and

''(vi) Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

SA 1496. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert Nothwithstanding any provisions of this act, it is amended as follows:

SECTION 1.—EFFECTIVE DATE TRIGGERS AND BORDER ENFORCEMENT.

''(6) Visa exit tracking system: The Department of Homeland Security has established and deployed a system capable of recording the departure of aliens admitted under section 101(a)(15)(Y) of the Immigration and Nationality Act, at designated ports of entry or designated U.S. Consulates abroad.

(d) The Secretary of the Department of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien who was admitted to the United States under Section 101(a)(15)(H)(ii) (as amended by Title IV); Section 101(a)(15)(Y); or Section 101(a)(15)(B) (admitted under the terms and conditions of Section 214(s)) of the ACT, and who has exceeded the alien's authorized period of admission or otherwise violated any terms of the nonimmigrant classification in which the alien was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to national security, homeland security, or public safety.

(a)—Section 215 of the Immigration and Nationality Act, (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (h);

(2) by moving redesignated subsection (h), as redesignated by paragraph (1) to the end;

''(c) Collection of Biometric Data From Aliens Entering and Departing the United States—

The Secretary shall require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status

(d) Collection of Departure Data From Certain Nonimmigrants—

(1) The Secretary shall require aliens who were admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)), section 101(a)(15)(H)(ii), or section 101(a)(15)(Y) to record their departure at a designated port of entry or at a designated United States consulate abroad.

(2) Aliens who do not record their departure as required in paragraph (1) shall be entered into the database as overstays within 48 hours of the expiration of their period of authorized admission.

(3) The information in this database shall be made .available to state and local law enforcement pursuant to the provisions of section 240D.''

SEC. 2. INTERIOR ENFORCEMENT.

''(D) knowingly exceeds by 60 days or more the period of the alien's admission or parole into the United States.''

''(b) Special Effective Date—Subsection (a)(1)(D) of section 275 of the Immigration and Nationality Act as amended by this Act, shall apply to all aliens admitted or paroled after the enactment of this Act.''

SEC. 3. WORKPLACE ENFORCEMENT.

At the appropriate place in Title III, insert the following: ''14 days prior to employment eligibility expiration, employers shall provide, in writing, notification to aliens of the expiration of the alien's employment eligibility.''

SECTION 4. NEW TEMPORARY WORKER PROGRAM STRIKE SECTION 401(d)

On p. 147: paragraph 18(e), as created by the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, is amended as follows:

(1) In subparagraph (3)

(A) To redesignate paragraphs (C),(D) and (E) as paragraphs (D),(E), and (F), respectively;

(B) To add a new paragraph (C) to read as follows:

''(C) An Exit Tracking Fee, in an amount set by Secretary at a level that will ensure recovery of the full costs of providing the Y nonimmigrant visa exit system described in section 1(a)(6) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and any additional costs associated with the administration of the fees collected''; and

(C) To add a new paragraph (G) to read as follows:

''(G) Deposit and Disposition of Departure Fee—The funds described in subparagraph (C) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in 218A(e)(3)(C).''

''or Y nonimmigrant status if the alien is

(A)(i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

(ii) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien

(B) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(C) an alien—

(i) for whom there are reasonable grounds for believing that the alien has committed a serious criminal offense as described in section 101(h) of the Act outside the United States before arriving in the United States; or

(ii) for whom there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

(D) has been convicted of—

(i) a felony, including but not limited to: first degree murder; kidnapping; bank robbery; sexual exploitation, and other abuse of children; selling or buying of children; activities relating to children involving sexual exploitation of a minor; activities relating to material constituting or containing child pornography, or illegal transportation of a minor; or domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment

(ii) an aggravated felony as defined at section 101 (a)(43) of the Act;

(iii) 3 or more misdemeanors under Federal or State law; or

(iv) a serious criminal offense as described in section 101(h) of the Act

(3) by amending paragraph (3), as redesignated by paragraph (2) of this section, to read as follows:

''(3) The numerical limitations of paragraph (1)—

''(A) shall apply to principal aliens and not to the spouses or children of such aliens; and

''(B) shall not apply to aliens seeking nonimmigrant status under section 101(a)(15)(Y)(i) for a fiscal year who have been granted nonimmigrant status under such section during a previous fiscal year.''; and

''(3) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—Not later than five years after the date of enactment, submit a report to the President and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

(ii) the prevailing competitive wage level for the occupational classification in the area of employment;

(D) the impact of Y nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and

(G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

Beginning on page 238, strike line 13, and all that follows through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

(d) H–1B AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101 (a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(e) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101 (a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 50,000

(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) (20 U.S.C. 1001(a)), or a related or affiliated nonprofit entity; or

(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001 (a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amendmend to add the following:

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to or at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act.

Section 5. Immigration Benefits

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(1) (as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

''(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification.

''(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.''.

''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 10I(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

''(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of documentation of status, as described in subsection (j), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

(2) EVIDENCE OF CONTINUOUS PHYSICAL PRESENCE, EMPLOYMENT, OR EDUCATION.—

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under Section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall——

(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the doumentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of:

(a) presence or employment required under this section, or

(b) a requirement for any other benefit under the immigration laws.

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (i) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

(I) bank records;

(II) business records;

(III) employer records;

(IV) records of a labor union or day labor center;

(V) remittance records;

(VI) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(aa) the name, address, and telephone number of the affiant;

(bb) the nature and duration of the relationship between the affiant and the alien; and

(cc) other verification or information.

(D) ADDTIONAL DOCUMENTS—The Secretary may—

(i) designate additional documents to evidence the required period of presence, employment, or study; and

(ii) set by notice in the Federal Register such terms and conditions and minimum standards for affidavits described in (C)(VI) as are necessary, when such affidavits are reviewed in combination with the other documentation as described in (A) or (C), to reliably demonstrate and provide for verification of the identity of any affiant or verification of the physical presence, identity, or employment information averred to by the affiant, or to otherwise prevent fraudulent submissions.''

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

''(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer, employee or contractor of such agency or bureau, may—

''(1) use the information furnished by an applicant under section 601 [and 602] of the [—] or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, any subsequent application to extend such status under section 601 of such Act, or to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act;

''(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

''(3) permit anyone other than the officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

''(b) EXCEPTIONS TO CONFIDENTIALITY.—

''(I) Subsection (a) shall not apply with respect to—

''(A) an alien whose application has been denied, terminated or rescinded based on the Secretary's finding that the alien—

''(i) is inadmissible under or subject to reinstatement of a removal order pursuant to sections 212(a)(2), (3), (6)(C)(i) (with respect to information furnished by an applicant under section 601 or 602 of the [—]), or (6)(E) of the Act of the Act; or

''(ii) is deportable under or subject to reinstatement of sections a removal order pursuant to section 237(a)(I)(E), (I)(G), (2), or (4) of the Act of the Act;

(iii) was physically removed and is subject to reinstatement pursuant to section 241 (a)(5).

''(B) an alien whose application for Z nonimmigrant status has been denied, terminated, or rescinded under section 601(d)(1)(F);

''(C) an alien whom the Secretary determines has ordered, incit assisted, or otherwise participated in the persecution of any person on account of race, I relgon, nationality, membership in a particular social group, or political opinion;

''(D) an alien whom the Secretary determines has, in connection with his application under sections 601 or 02, engaged in fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document;

''(E) an alien who has knowingly and voluntarily waived in writing the confidentiality provisions in subsection (a); or

''(F) an order from a court of competent jurisdiction.

''(2) Nothing in this subsection shall require the Secretary to commence removal proceedings against an alien whose application has been denied, terminated, or rescinded based on the Secretary's finding that the alien is inadmissible or deportable.

(c) Authorized Disclosures.—Information furnished on or derived from an application described in subsection (a) may be disclosed to—

(I) a law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(e) Auditing and Evaluation of Information.—The Secretary may audit and evaluate infonnation furnished as part of any application filed under sections 601 and 602, of [—] , any application to extend such status under section 601 (k) of such Act, or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602 of such Act, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

''(f) Use of Information in Petitions and Applications Subsequent to Adjustment of Status.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602 of [—], then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for Z nonimmigrant status pursuant to sections 601 or 602 to make a determination on any petition or application.

''(g) Penalties.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

''(h) Construction.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections 601 or 602, for Z nonimmigrant status filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

SEC. 608. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in Section 601(e)(6)(B) and Section 602(a)(I)(C)(v) through an installment payment plan.

(b) Any penalties received under this title with respect to an application for Z-1 nonimmigrant status shall be used in the following order of priority:

(1) the first $4.4 billion of such penalties shall be deposited into the general fund as repayment of funds transferred into the Immigration Enforcement Account under section 286(z)(I).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

Add a new subsection (z) to section 286 of Immigration and Nationality Act as follows:

''(z) Immigration Enforcement Account.—

''(1) Transfers into the immigration enforcement account.—Immediately upon enactment the following amount shall be transferred from the general fund to the Immigration Enforcement Account, $4,400,000,000.

''(2) Appropriations.

''(A) There are hereby appropriated such sums that are provided under subsection 1 to remain available until five years after enactment.

''(B) These sums shall be used to meet the trigger requirements set forth in title I, section 1.

''(C) To the extent funds are not exhausted pursuant to (b), they shall be used by the Secretary of Homeland Security on one or more of the following:

''(i) Fencing and Infrastructure;

''(ii) Towers;

''(iii) Detention beds;

''(iv) Employment Eligibility Verification System;

''(v) Implementation of programs authorized in titles IV and VI; and

''(vi) Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

(d) Limit on Percentage of H–1B Employees.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(1), the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H-1B nonimmigrants and nonimmigrants described in section 101(a)(15)(L).''.

(e) Wage Determination.—

(1) Change in minimum wages.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(A) by amending subparagraph (A) to read as follows:

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

(2) Effective date.—The amendments made by this subsection shall apply to applications filed on or after the date of the enactment of this Act.

(f) Prohibition of Outplacement.—

(1) In general.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. If the Secretary has not decided whether to grant or deny a waiver 45 days after the waiver application is filed, the waiver shall be deemed an attestation. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) Application.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) Posting Available Positions.—

(1) Posting available positions.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) Department of labor website.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the

Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

(d) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

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

(e) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

(e) DOCUMENTATION REQUIREMENT;—SECTION 212(N)(1) (8 U.S.C. 1182(N)), AS AMENDED BY THIS SECTION, IS FURTHER AMENDED—

(1) in subparagraph (A), by adding at the end the following:

''(iii) will provide to the H–1B nonimmigrant—

''(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

''(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.''; and

(f) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

SA 1497. Mr. KENNEDY submitted an amendment intended to be proposed to amendment SA 1323 submitted by Mr. SESSIONS (for himself, Mr. ISAKSON, and Mr. CHAMBLISS) and intended to be proposed to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, strike line 16 and insert the following:

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 221A. MANDATORY DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Notwithstanding any provision under section 604, except as otherwise provided in this section, no Federal agency or bureau, or any officer or employee of such agency or bureau, may—

(1) use the information furnished by the applicant under title VI or the fact that the applicant applied for status for any purpose other than to make a determination on the application, any subsequent application to extend such status, or to adjust status to that of an alien lawfully admitted for permanent residences under this Act;

(2) make any publication through which the information furnished by any particular applicant can be identified; or

(3) permit anyone other than the sworn officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

(b) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under section 601 and 602, and any other information derived from such furnished information, to—

(1) a law enforcement entity, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity;

(2) a law enforcement entity, intelligence agency, national security agency, or component of the Department of Homeland Security in connection with a duly authorized investigation of a civil violation, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity; or

(3) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(c) APPLICABILITY.—The limitations described under subsection (a) shall remain in effect until the alien—

(1) makes a request under section 603(b)(1);

(2) is determined to be ineligible due to a criminal conviction under section 603(b)(2);

(3) is determined by the Secretary of Homeland Security to have ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(4) is determined by the Secretary to have, in connection with the alien's application under title VI, engaged in fraud or willful misrepresentation, concealed of a material fact or knowingly offered a false statement; or

(5) is an alien for whom the Secretary has adjusted the alien's status to that of an alien lawfully admitted for permanent residence pursuant to the provisions of title VI, and who any time thereafter submits an application or petition.

(d) SUBSEQUENT DISCLOSURES OR USE.—

(1) DISCLOSURE OF CRIMINAL INFORMATION.—Notwithstanding any other provision of this section, information concerning any activity

described in paragraph (2), (3), or (4) of subsection (c) may be used or released for immigration enforcement and law enforcement purposes.

(2) SAVINGS PROVISION.—Nothing in this section may be construed to require the Secretary to initiate proceedings under section 240.

(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary of Homeland Security may audit and evaluate information furnished as part of any application filed under sections 601 and 602, any application to extend such status under section 601(k), or any application to adjust status to that of an alien lawfully admitted for permanent residence under section 602, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to section 602, then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for status pursuant to sections 601 or 602 to make a determination on any petition or application.

(g) CRIMINAL PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

(h) CONSTRUCTION.—Nothing in this section may be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an applications filed under sections 601 or 602, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(i) REFERENCES.—References in this section to section 601 or 602 are references to sections 601 and 602 of this Act and the amendments made by those sections.

SEC. 221B. H-1B STREAMLINING AND SIMPLIFICATION.

(a) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 30,000—

''(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity; or

''(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

(b) CLARIFYING THE IMMIGRANT INTENT PROVISION.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)), as amended by section 419(c) of this Act, is further amended—

(1) by inserting ''(other than a nonimmigrant described in subparagraph (L) or (V) of section 101(a)(15), and other than a nonimmigrant described in any provision of section 101(a)(15)(H)(i) (except subclause (b1) of such section)'' after ''Every alien''; and

(2) by striking ''under the immigration laws'' and inserting ''under section 101(a)(15)''.

SEC. 221C. H–1B EMPLOYER REQUIREMENTS.

(a) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of the Immigration and Nationality Act, as amended by section 420, is further amended—

(A) by amending subparagraph (A) to read as follows:

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

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

(b) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of the Immigration and Nationality Act, as amended by subsection (a) and section 420, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(c) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of the Immigration and Nationality Act, as amended by this section and section 420, is further amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section and section 420, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

SEC. 221D. H–1B GOVERNMENT AUTHORITY AND REQUIREMENTS.

(a) SAFEGUARDS AGAINST FRAUD AND MISREPRESENTATION IN APPLICATION REVIEW PROCESS.—Section 212(n)(1)(K) of the Immigration and Nationality Act, as redesignated by section 2(d)(2), is amended—

(1) by inserting ''and through the Department of Labor's website, without charge.'' after ''D.C.'';

(2) by inserting '', clear indicators of fraud, misrepresentation of material fact,'' after ''completeness'';

(3) by striking ''or obviously inaccurate'' and inserting '', presents clear indicators of fraud or misrepresentation of material fact, or is obviously inaccurate'';

(4) by striking ''within 7 days of'' and inserting ''not later than 14 days after''; and

(5) by adding at the end the following: ''If the Secretary's review of an application identifies clear indicators of fraud or misrepresentation of material fact, the Secretary may conduct an investigation and hearing under paragraph (2)''.

(b) INVESTIGATIONS BY DEPARTMENT OF LABOR.—Section 212(n)(2) of such Act is amended—

(1) in subparagraph (A)—

(A) by striking ''12 months'' and inserting ''24 months''; and

(B) by striking ''The Secretary shall conduct'' and all that follows and inserting ''Upon the receipt of such a complaint, the Secretary may initiate an investigation to determine if such a failure or misrepresentation has occurred.'';

(2) in subparagraph (C)(i)—

(A) by striking '' condition of paragraph (1)(B), (1)(E), or (1)(F)'' and inserting ''a condition under subparagraph (B), (C)(i), (E), (F), (H), (I), or (J) of paragraph (1)''; and

(B) by striking ''(1)(C)'' and inserting ''(1)(C)(ii)'';

(3) in subparagraph (G)—

(A) in clause (i), by striking ''if the Secretary'' and all that follows and inserting ''with regard to the employer's compliance with the requirements of this subsection.'';

(B) in clause (ii), by striking ''and whose identity'' and all that follows through ''failure or failures.'' and inserting ''the Secretary of Labor may conduct an investigation into the employers compliance with the requirements of this subsection.'';

(C) in clause (iii), by striking the last sentence;

(D) by striking clauses (iv) and (v);

(E) by redesignating clauses (vi), (vii), and (viii) as clauses (iv), (v), and (vi), respectively;

(F) in clause (iv), as redesignated, by striking ''meet a condition described in clause (ii), unless the Secretary of Labor receives the information not later than 12 months'' and inserting ''comply with the requirements under this subsection, unless the Secretary of Labor receives the information not later than 24 months'';

(G) by amending clause (v), as redesignated, to read as follows:

''(v) The Secretary of Labor shall provide notice to an employer of the intent to conduct an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that such compliance would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. A determination by the Secretary under this clause shall not be subject to judicial review.''.

(H) in clause (vi), as redesignated, by striking ''An investigation'' and all that follows through ''the determination.'' and inserting ''If the Secretary of Labor, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination.''; and

(I) by adding at the end the following:

''(vii) If the Secretary of Labor, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under subparagraph (C).''; and

(4) by striking subparagraph (H).

(c) INFORMATION SHARING BETWEEN DEPARTMENT OF LABOR AND DEPARTMENT OF HOMELAND SECURITY.—Section 212(n)(2) of such Act, as amended by this section, is further amended by inserting after subparagraph (G) the following:

''(H) The Director of United States Citizenship and Immigration Services shall provide the Secretary of Labor with any information contained in the materials submitted by H–1B employers as part of the adjudication process that indicates that the employer is not complying with H–1B visa program requirements. The Secretary may initiate and conduct an investigation and hearing under this paragraph after receiving information of noncompliance under this subparagraph.''.

(d) AUDITS.—Section 212(n)(2)(A) of such Act, as amended by this section, is further amended by adding at the end the following: ''The Secretary may conduct surveys of the degree to which employers comply with the requirements under this subsection and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ H–1B nonimmigrants during the applicable calendar year.''

(e) PENALTIES.—Section 212(n)(2)(C) of such Act, as amended by this section, is further amended—

(1) in clause (i)(I), by striking ''$1,000'' and inserting ''$2,000'';

(2) in clause (ii)(I), by striking ''$5,000'' and inserting ''$10,000''; and

(3) in clause (vi)(III), by striking ''$1,000'' and inserting ''$2,000''.

(f) INFORMATION PROVIDED TO H–1B NONIMMIGRANTS UPON VISA ISSUANCE.—Section 212(n) of such Act, as amended by this section and section 420, is further amended by inserting after paragraph (2) the following:

''(3)(A) Upon issuing an H–1B visa to an applicant outside the United States, the issuing office shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer obligations and workers' rights.

''(B) Upon the issuance of an H–1B visa to an alien inside the United States, the officer of the Department of Homeland Security shall provide the applicant with—

''(i) a brochure outlining the employer's obligations and the employee's rights under Federal law, including labor and wage protections; and

''(ii) the contact information for Federal agencies that can offer more information or assistance in clarifying employer's obligations and workers' rights.''.

SEC. 221E. L-1 VISA FRAUD AND ABUSE PROTECTIONS.

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case of an alien spouse admitted under section 101(a)(15)(L), who'' and inserting ''Except as provided in subparagraph (H), if an alien spouse admitted under section 101(a)(15)(L)''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for up to 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits an application to the Secretary of Homeland Security that contains—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements under section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i)(I);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the preceding 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the preceding 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii), and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a petition subsequently filed on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(iv) For purposes of determining the eligibility of an alien for classification under section 101(a)(15)(L), the Secretary of Homeland Security shall work cooperatively with the Secretary of State to verify a company or facility's existence in the United States and abroad.''.

(b) INVESTIGATIONS AND AUDITS BY DEPARTMENT OF HOMELAND SECURITY.—

(1) DEPARTMENT OF HOMELAND SECURITY INVESTIGATIONS.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(I)(i) The Secretary of Homeland Security may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(L) with regard to

the employer's compliance with the requirements of this subsection.

''(ii) If the Secretary of Homeland Security receives specific credible information from a source who is likely to have knowledge of an employer's practices, employment conditions, or compliance with the requirements under this subsection, the Secretary may conduct an investigation into the employer's compliance with the requirements of this subsection. The Secretary may withhold the identity of the source from the employer, and the source's identity shall not be subject to disclosure under section 552 of title 5.

''(iii) The Secretary of Homeland Security shall establish a procedure for any person desiring to provide to the Secretary of Homeland Security information described in clause (ii) that may be used, in whole or in part, as the basis for the commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary of Homeland Security and completed by or on behalf of the person.

''(iv) No investigation described in clause (ii) (or hearing described in clause (vi) based on such investigation) may be conducted with respect to information about a failure to comply with the requirements under this subsection, unless the Secretary of Homeland Security receives the information not later than 24 months after the date of the alleged failure.

''(v) Before commencing an investigation of an employer under clause (i) or (ii), the Secretary of Homeland Security shall provide notice to the employer of the intent to conduct such investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to investigate or secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

''(vi) If the Secretary of Homeland Security, after an investigation under clause (i) or (ii), determines that a reasonable basis exists to make a finding that the employer has failed to comply with the requirements under this subsection, the Secretary shall provide interested parties with notice of such determination and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, not later than 120 days after the date of such determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 120 days after the date of the hearing.

''(vii) If the Secretary of Homeland Security, after a hearing, finds a reasonable basis to believe that the employer has violated the requirements under this subsection, the Secretary may impose a penalty under section 214(c)(2)(J).''.

(2) AUDITS.—Section 214(c)(2)(I) of such Act, as added by paragraph (1), is amended by adding at the end the following:

''(viii) The Secretary of Homeland Security may conduct surveys of the degree to which employers comply with the requirements under this section and may conduct annual compliance audits of employers that employ H–1B nonimmigrants. The Secretary shall conduct annual compliance audits of not less than 1 percent of the employers that employ nonimmigrants described in section 101(a)(15)(L) during the applicable calendar year.''.

(3) REPORTING REQUIREMENT.—Section 214(c)(8) of such Act is amended by inserting ''(L),'' after ''(H),''.

(c) PENALTIES.—Section 214(c)(2) of such Act, as amended by this section, is further amended by adding at the end the following:

''(J)(i) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $2,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 1 year, approve a petition for that employer to employ 1 or more aliens as such nonimmigrants.

''(ii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (F), (G), (H), (I), or (K) or a misrepresentation of material fact in a petition to employ 1 or more aliens as nonimmigrants described in section 101(a)(15)(L)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the Secretary of Homeland Security may not, during a period of at least 2 years, approve a petition filed for that employer to employ 1 or more aliens as such nonimmigrants.

''(iii) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a willful failure by an employer to meet a condition under subparagraph (L)(i)—

''(I) the Secretary of Homeland Security may impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation) as the Secretary determines to be appropriate; and

''(II) the employer shall be liable to employees harmed for lost wages and benefits.''.

(d) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

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

(e) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added

by paragraph (1) of this subsection, are issued.

SEC. 221F. PROMPT REMOVAL PROCEEDINGS.

It is the sense of Congress that the Secretary of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien admitted into the United States under sections 101(a)(15)(H)(ii) (as amended by title IV), section 101(a)(15)(Y), or section 101(a)(15)(B) (admitted under the terms and conditions of section 214(s)) of the Immigration and Nationality Act, and who exceeds the alien's period of authorized admission or otherwise violates any terms of the nonimmigrant classification in which the aline was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to the national security, homeland security, or public safety.

SEC. 221G. EXIT TRACKING FEES.

Subsection (e)(3) of section 218A of the Immigration and Nationality Act, as added by section 402, is amended by adding at the end the following:

''(F) EXIT TRACKING FEE.—An alien entering the United States on a Y nonimmigrant visa shall pay, upon entry, an exit tracking fee in an amount set by Secretary at a level that will ensure recovery of the full costs of the Y nonimmigrant visa exit system described in section 1(a)(6) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, and any additional costs associated with the administration of the fees collected.

''(G) DEPOSIT AND DISPOSITION OF DEPARTURE FEE.—The funds described in subparagraph (F) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in such subparagraph.''.

SEC. 221H. Z NONIMMIGRANTS.

(a) AFFIDAVIT REQUIREMENTS.—Notwithstanding section 601(i)(2)(D)(ii), the Secretary of Homeland Security may set by notice in the Federal Register such terms, conditions, and minimum standards for affidavits described in subparagraph (C)(VI) of section 601(i)(2) as are necessary, when such affidavits are reviewed in combination with the other documentation as described in subparagraph (A) or (C) of such section, to reliably demonstrate and provide for verification of the identity of any affiant or verification of the physical presence, identity, or employment information averred to by the affiant, or to otherwise prevent fraudulent submissions.

(b) CONTENT OF APPLICATIONS.—Notwithstanding section 601(g)(3)(B), the Secretary shall utilize fingerprints and other biometric data provided by the alien and any other appropriate information to conduct appropriate background checks of such alien to search for criminal, national security, or other law enforcement actions that would render the alien ineligible for classification under such section.

(c) TREATMENT OF APPLICANTS.—Notwithstanding section 601(h)(2), no probationary benefits shall be issued to an alien under section 601 until the alien has passed all appropriate background checks or the end of the next business day, whichever is sooner unless the Secretary determines, in the Secretary's discretion, that there are articulable reasons to suspect that the alien may be a danger to the security of the United States or to the public safety. If the Secretary determines that the alien may be a danger to the security of the United States or to the public safety, the Secretary shall endeavor to determine the eligibility of the alien for Z nonimmigrant status as expeditiously as possible.

(d) ELECTRONIC SYSTEM FOR PREREGISTRATION OF APPLICANTS FOR Z AND Z–A NONIMMIGRANT STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security may establish a voluntary online registration process allowing applicants for Z and Z–A nonimmigrant status to provide, in advance of submitting the application described in section 601(f), such biographical information and other information as the Secretary shall prescribe—

(A) for the purpose of providing applicants with an appointment to provide fingerprints and other biometric data at a facility of the Department of Homeland Security;

(B) to initiate background checks based on such information; and

(C) for other purposes consistent with this Act.

(2) USE.—Use of information recorded in the databse shall be governed by the procedures set forth in section 604.

SEC. 221I. COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security shall require an alien who was admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)) of the Immigration and Nationality Act, section 101(a)(15)(H)(ii) of such Act, or section 101(a)(15)(Y) of such Act to record the alien's departure at a designated port of entry or at a designated United States consulate abroad.

(b) FAILURE TO RECORD DEPARTURE.—An alien who does not record the alien's departure as required by subsection (a) shall be entered into a database of the Department of Homeland Security as having overstayed the alien's period of authorized admission not later than 48 hours after the expiration of the alien's period of authorized admission.

(c) INFORMATION SHARING WITH LAW ENFORCEMENT AGENCIES.—The information in the database described in subsection (b) shall be made available to State and local law enforcement agencies pursuant to the provisions of section 240D of such Act.

SEC. 221J. ENFORCEMENT PERSONNEL.

Notwithstanding section 101(a)(2), the Secretary of Homeland Security shall hire personnel as follows:

(1) SMUGGLING INVESTIGATORS AND ICE PERSONNEL.—

(A) SMUGGLING PERSONNEL.—During each of the fiscal years 2008 through 2012, the Secretary of Homeland Security shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(B) INCREASE IN FULL-TIME UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL.—

(i) IN GENERAL.—In each of the fiscal years 2008 through 2011, the Secretary of Homeland Security shall increase by not less than 1,250 the number of positions for full-time active duty forensic auditors, intelligence research specialists, agents, officers, and investigators in the United States Immigration and Customs Enforcement to carry out the removal of aliens who are not admissible to, or are subject to removal from, the United States, to investigate immigration fraud, and to enforce workplace violations.

(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subparagraph.

(2) CONFORMING AMENDMENT.—Section 5203 of the Intelligence Reform and Terrorism Protection Act of 2004 (Public Law 108–458; 118 Stat. 3734) is repealed.

SEC. 221K. PERSONNEL OF DHS.

Notwithstanding section 310(a)(1), in each of the two years beginning on the date of the enactment of this Act, the appropriations necessary to hire not less than 2500 a year the number of personnel of the Department of Homeland Security assigned exclusively or principally to an office or offices dedicated to monitoring and enforcing compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c), including compliance with the requirements of the EEVS. These personnel shall perform the compliance and monitoring activities set out in clauses (i) through (xiii) of such section.

SEC. 221L. DEPARTURE REGISTRATION.

Notwithstanding any other provision of this Act or any amendment made by this Act:

(1) IN GENERAL.—An alien who is a Y nonimmigrant whose period of authorized admission has expired under subsection (i), or whose period of authorized admission terminates under subsection (j), shall register the departure of such alien at a designated port of departure in a manner to be prescribed by the Secretary of Homeland Security.

(2) EFFECT OF FAILURE TO DEPART.—In the event an alien described in paragraph (1) fails to depart the United States or to register such departure as required by subsection (j)(3), the Secretary of Homeland Security shall take immediate action to determine the location of the alien and, if the alien is located in the United States, to remove the alien from the United States.

(3) INVALIDATION OF DOCUMENTATION.—Any documentation issued by the Secretary of Homeland Security under subsection (m) to an alien described in paragraph (1) shall be invalid for any purpose except the departure of the alien on and after the date on which the period of authorized admission of such alien terminates.

(4) RECORDING.—The Secretary shall ensure that the invalidation of such documentation is recorded in the employment eligibility verification system described in section 301.

(5) NOTIFICATION.—Fourteen days prior to employment eligibility expiration employers shall provide, in writing, notification to aliens of the expiration of the aliens's employment eligibility.

(6) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—The Y Visa Program shall continue irrespective of any references to sunset. Not later five years after the date of enactment, submit a report resident and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

(ii) the prevailing competitive wage level for the occupational classification in the area of employment;

(D) the impact of Y nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and

(G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

(b) DOCUMENTATION REQUIREMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)), as amended by this section, is further amended—

(1) in subparagraph (A), by adding at the end the following:

''(iii) will provide to the H–1B nonimmigrant—

''(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

''(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.''; and

(c) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

SA 1498. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1348, to provide comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

Notwithstanding any other provisions of this Act the following sections shall be deemed to be amended as follows:

SECTION 1. EFFECTIVE DATE TRIGGERS AND BORDER ENFORCEMENT.

(6) Visa exit tracking system: The Department of Homeland Security has established and deployed a system capable of recording the departure of aliens admitted under section 101(a)(15)(Y) of the Immigration and Nationality Act, at designated ports of entry or designated U.S. Consulates abroad.

On page 3, line 38 insert the following:

(d) The Secretary of the Department of Homeland Security shall promptly identify, investigate, and initiate removal proceedings against every alien who was admitted to the United States under Section 101(a)(15)(H)(ii) (as amended by Title IV); Section 101(a)(15)(Y); or Section 101(a)(15)(B) (admitted under the terms and conditions of Section 214(s)) of the Act, and who has exceeded the alien's authorized period of admission or otherwise violated any terms of the nonimmigrant classification in which the alien was admitted. In conducting such removals, the Secretary shall give priority to aliens who may pose a threat to national security, homeland security, or public safety.

On page 7, strike section 111(a) in its entirety and replace with:

(a) Section 215 of the Immigration and Nationality Act, (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (h);

(2) by moving redesignated subsection (h), as redesignated by paragraph (1) to the end;

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g); and

(4) by inserting after subsection (b) the following:

''(c) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES—

The Secretary shall require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status.

(d) COLLECTION OF DEPARTURE DATA FROM CERTAIN NONIMMIGRANTS—

(1) The Secretary shall require aliens who were admitted to the United States under section 101(a)(15)(B) (under the terms and conditions of section 214(s)), section 101(a)(15)(H)(ii), or section 101(a)(15)(Y) to record their departure at a designated port of entry or at a designated United States consulate abroad.

(2) Aliens who do not record their departure as required in paragraph (1) shall be entered into the database as overstays within 48 hours of the expiration of their period of authorized admission.

(3) The information in this database shall be made available to state and local law enforcement pursuant to the provisions of section 240D.''

SEC. 3. WORKPLACE ENFORCEMENT.

At the appropriate place in Title III, insert the following:

''14 days prior to employment eligibility expiration, employers shall provide, in writing, notification to aliens of the expiration of the alien's employment eligibility.''

SEC. 4 NEW TEMPORARY WORKER PROGRAM.

Strike section 401 (d).

On p. 147, paragraph 218A(e), as created by the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007, is amended as follows:

(1)In subparagraph (3)

(A) To redesignate paragraphs (C), (D) and (E) as paragraphs (D), (E), and (F), respectively;

(B) To add a new paragraph (C) to read as follows:

''(C) An Exit Tracking Fee, in an amount set by Secretary at a level that will ensure recovery of the full costs of providing the Y nonimmigrant visa exit system described in section l(a)(6) of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 and any additional costs associated with the administration of the fees collected''; and

(C) To add a new paragraph (O) to read as follows:

''(G) Deposit and Disposition of Departure Fee.—The funds described in subparagraph (C) shall be deposited and remain available as the Secretary may prescribe to carry out the purposes as described in 218A{e)(3)(C).''

On page 151, strike line 30 and 31 and insert the following:

''or Y nonimmigrant status if the alien is

(A)(i) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

(ii) Nothing in this paragraph shall require the Secretary to commence removal proceedings against an alien

(B) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(C) an alien—

(i) for whom there are reasonable grounds for believing that the alien has committed a serious criminal offense as described in section 101(h) of the Act outside the United States before arriving in the United States; or

(ii) for whom there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

(D) has been convicted of—

(i) a felony, including but not limited to: first degree murder; kidnapping; bank robbery; sexual exploitation, and other abuse of children; selling or buying of children; activities relating to children involving sexual exploitation of a minor; activities relating to material constituting or containing child pornography, or illegal transportation of a minor; or domestic violence, a crime of stalking, or a crime of child agues, child neglect, or child abandonment

(ii) an aggravated felony as defined at section 101 (a){43) of the Act;

(iii) 3 or more misdemeanors under Federal or State law; or

(iv) a serious criminal offense as described in section lOl(h) of the Act

On page 224, between lines 29 and 30, and insert the following:

(3) by amending paragraph (3), as redesignated by paragraph (2) of this section, to read as follows:

''(3) The numerical limitations of paragraph (1)—

(A) shall apply to principal aliens and not to the spouses or children of such aliens; and

''(B) shall not apply to aliens seeking nonimmigrant status under section 101(a)(15)(Y)(i) for a fiscal year who have been granted nonimmigrant status under such section during a previous fiscal year.''; and

On page 229, add a section 412(b)(3) to read as follows:

''(3) SPECIAL FIVE YEAR REPORT ON THE TEMPORARY WORKER PROGRAM.—Not later five years after the date of enactment, submit a report to the President and Congress that contains findings of fact and makes recommendations regarding—

''(A) the extent to which employers have complied with the requirements set forth in section 218B(b)(1) of the Act to recruit United States workers through newspaper advertising, posting on the Internet, and posting at the place of employment for a period of more than ten weeks before seeking to employ a Y nonimmigrant;

(B) the frequency with which reasonable additional recruitment efforts during or beyond the established recruitment period would likely have identified a qualified United States worker who was able, ready, and willing to fill the job;

(C) the extent to which employers have complied with the requirement set forth in section 218B(c)(1)(B) of the Act to pay Y nonimmigrants the greater of—

(i) the actual wage level paid to United States workers with similar experience and qualifications for the specific employment in question, or

(ii) the prevailing competitive wage level for the occupational classification in the area of employment;

(D) the impact ofY nonimmigrants on the wages and working conditions of United States workers;

(E) whether the birth rate among citizens and permanent residents of the United States is sufficient to generate enough United States workers to fill all of the jobs produced by the United States economy;

(F) the frequency with which Y nonimmigrants have overstayed their period of authorized admission as established by section 218A(i) of the Act, and the effectiveness of the Department of Homeland Security in identifying, locating, and removing Y nonimmigrants who overstay their visas; and

(G) the effectiveness of the state impact fee requirements set forth in sections 218A(e)(3)(B) and 218B(a)(3) of the Act in combination with the family support and family medical insurance requirements set forth in section 218A(e)(8) of the Act in reducing the cost to states and localities of providing emergency health services to individuals who are not United States citizens.

Beginning on page 238, strike line 13, and all that follows through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

(d) H–1b AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—(1) in paragraph (l)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101 (a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(e) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(B) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to or at least 15 percent of the number of such full-time employees, may file no more than 1,000 petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year.''.

(2) APPLICABILITY.— The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act.

SEC. 5. IMMIGRATION BENEFITS.

On page 260, line 39, strike ''and''.

On page 260, after line 44, insert the following:

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(1)(as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

On page 265, between lines 15 and 16, insert the following:

''(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification.

''(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.''.

On page 266, line 4, insert ''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

SEC. 6. NONIMMIGRANTS IN THE UNITED STATES PREVIOUSLY IN UNLAWFUL STATUS.

On page 291, strike lines 40 and all that follows through page 293, line 22, and insert the following:

''(i) ADJUDICATION OF APPLICATION FILED BY ALIEN.—

(1) IN GENERAL.—The Secretary may approve the issuance of documentation of status, as described in subsection (j), to an applicant for a Z nonimmigrant visa who satisfies the requirements of this section.

(2) EVIDENCE OF CONTINUOUS PHYSICAL PRESENCE, EMPLOYMENT, OR EDUCATION.—

(A) PRESUMPTIVE DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status may presumptively establish satisfaction of each required period of presence, employment, or study by submitting records to the Secretary that demonstrate such presence, employment, or study, and that the Secretary verifies have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(B) VERIFICATION.—Each Federal agency, and each State or local government agency, as a condition of receipt of any funds under Section 286(x), shall within 90 days of enactment ensure that procedures are in place under which such agency shall—

(i) consistent with all otherwise applicable laws, including but not limited to laws governing privacy, provide documentation to an alien upon request to satisfy the documentary requirements of this paragraph; or

(ii) notwithstanding any other provision of law, including section 6103 of title 26, United States Code, provide verification to the Secretary of documentation offered by an alien as evidence of:

(a) presence or employment required under this section, or

(b) a requirement for any other benefit under the immigration laws.

(C) OTHER DOCUMENTS.—A Z nonimmigrant or an applicant for Z nonimmigrant status who is unable to submit a document described in subparagraph (i) may establish satisfaction of each required period of presence, employment, or study by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

(I) bank records;

(II) business records;

(III) employer records;

(IV) records of a labor union or day labor center;

(V) remittance records;

(VI) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, that contain—

(a) the name, address, and telephone number of the affiant;

(b) the nature and duration of the relationship between the affiant and the alien; and

(c) other verification or information.

(D) ADDITIONAL DOCUMENTS.—The Secretary may—

(i) designate additional documents to evidence the required period of presence, employment, or study; and

On page 312, strike Section 604 and insert the following:

SEC. 604. MANDATORY DISCLOSURE OF INFORMATION.

''(a) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer, employee or contractor of such agency or bureau, may—

''(1) use the information furnished by an applicant under Title 6 or the fact that the applicant applied for such Z status for any purpose other than to make a determination on the application, any subsequent application to extend such status under Title 6 of such Act, or to adjust status to that of an alien lawfully admitted for permanent residence under Title 6 of such Act;

''(2) make or release any publication through which the information furnished by any particular applicant can be identified; or

''(3) permit anyone other than the officers, employees or contractors of such agency, bureau, or approved entity, as approved by the Secretary of Homeland Security, to examine individual applications that have been filed.

''(b) EXCEPTIONS TO CONFIDENTIALITY.—

''(1) Subsection (a) shall not apply with respect to—

''(A) an alien whose application has been denied, terminated or revokscinded based on the Secretary's finding that the alien—

''(i) is inadmissible under or subject to reinstatement of a removal order pursuant to sections 212(a)(2), (3), (6)(C)(i) (with respect to information furnished by an applicant under title 6 of the Act; or

''(ii) is deportable under or subject to reinstatement of sections a removal order pursuant to section 237(a)(1)(E), (1)(G), (2), or (4) of the Act;

(iii) was physically removed and is subject to reinstatement pursuant to section 241 (a)(5).

''(B) an alien whose application for Z nonimmigrant status has been denied, terminated, or revoked rescinded under this title;

''(C) an alien whom the Secretary determines has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

''(D) an alien whom the Secretary determines has, in connection with his application under title 6, engaged in fraud or willful misrepresentation, concealment of a material fact, or knowingly offered a false statement, representation or document;

''(E) an alien who has knowingly and voluntarily waived in writing the confidentiality provisions in subsection (a); or

''(F) an order from a court of competent jurisdiction.

''(2) Nothing in this subsection shall require the Secretary to commence removal proceedings against an alien whose application has been denied, terminated, or revoked rescinded based on the Secretary's finding that the alien is inadmissible or deportable.

''(c) AUTHORIZED DISCLOSURES.—Information furnished on or derived from an application described in subsection (a) maybe disclosed to—

(1) a law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution or a national security investigation or prosecution; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

''(e) AUDITING AND EVALUATION OF INFORMATION.—The Secretary may audit and evaluate information furnished as part of any application filed under sections title 6 of [—], any application to extend such status under title 6 of such Act, or any application to adjust status to that of an alien lawfully admitted for permanent residence under title 6 of such Act, for purposes of identifying fraud or fraud schemes, and may use any evidence detected by means of audits and evaluations for purposes of investigating, prosecuting or referring for prosecution, denying, or terminating immigration benefits.

''(f) USE OF INFORMATION IN PETITIONS AND APPLICATIONS SUBSEQUENT TO ADJUSTMENT OF STATUS.—If the Secretary has adjusted an alien's status to that of an alien lawfully admitted for permanent residence pursuant to title 6, then at any time thereafter the Secretary may use the information furnished by the alien in the application for adjustment of status or in the applications for Z nonimmigrant status pursuant to title 6 make a determination on any petition or application.

''(g) PENALTIES.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

''(h) CONSTRUCTION.—Nothing in this section shall be construed to limit the use, or release, for immigration enforcement purposes of information contained in files or records of the Secretary or Attorney General pertaining to an application filed under title 6 for Z nonimmigrant status filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

On p. 317, strike section 608 and replace with the following:

SEC. 608. PAYMENT OF PENALTIES AND USE OF PENALTIES COLLECTED.

(a) The Secretary shall by regulation establish procedures allowing for the payment of 80 percent of the penalties described in Section 601(e)(6)(B) and Section 602(a)(1)(C)(v) through an installment payment plan.

(b) Any penalties received under this title with respect to an application for Z–1 nonimmigrant status shall be used in the following order of priority:

(1) the first $4.4 billion of such penalties shall be deposited into the general fund as repayment of funds transferred into the Immigration Enforcement Account under section 286(z)(I).

(2) penalties in excess of $4.4 billion shall be deposited and remain available as otherwise provided under this act.

Add a new subsection (z) to section 286 of Immigration and Nationality Act as follows:

''(z) IMMIGRATION ENFORCEMENT ACCOUNT.—

''(1) TRANSFERS INTO THE IMMIGRATION ENFORCEMENT ACCOUNT.—Immediately upon enactment, the following amount shall be transferred from the general fund to the Immigration Enforcement Account, $4,400,000,000.

''(2) Appropriations

''(A) There are hereby appropriated such sums that are provided under subsection 1 to remain available until five years after enactment.

''(B) These sums shall be used to meet the trigger requirements set forth in title I, section 1.

''(C) To the extent funds are not exhausted pursuant to (b), they shall be used by the Secretary of Homeland Security on one or more of the following:

''(i) Fencing and Infrastructure;

''(ii) Towers;

''(Hi) Detention beds;

''(iv) Employment Eligibility Verification System;

''(v) Implementation of programs authorized in titles IV and VI; and

''(vi) Other federal border and interior enforcement requirements to ensure the integrity of programs authorized in titles IV and VI.

(d) LIMIT ON PERCENTAGE OF H–1B EMPLOYEES.—Section 212(n)(1) of such Act, as amended by this section, is further amended by inserting after subparagraph (H), as added by subsection (d)(1), the following:

''(I) If the employer employs not less than 50 employees in the United States, not more than 50 percent of such employees are H–1B nonimmigrants and nonimmigrants described in section 101(a)(15)(L).''.

(e) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Section 212(n)(1) of such Act, as amended by this section, is further amended—

(A) by amending subparagraph (A) to read as follows:

''(A) The employer—

''(i) is offering and will offer, during the period of authorized employment, to aliens admitted or provided status as an H–1B nonimmigrant, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(I) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(II) the median average wage for all workers in the occupational classification in the area of employment; or

''(III) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(ii) will provide working conditions for such a nonimmigrant that will not adversely affect the working conditions of workers similarly employed.''; and

(B) in subparagraph (D), by inserting ''the wage determination methodology used under subparagraph (A)(i),'' after ''shall contain''.

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

(f) PROHIBITION OF OUTPLACEMENT.—

(1) IN GENERAL.—Section 212(n) of such Act, as amended by this section, is further amended—

(A) in paragraph (1), by amending subparagraph (F) to read as follows:

''(F) The employer shall not place, outsource, lease, or otherwise contract for the placement of an H–1B nonimmigrant with another employer unless the employer of the alien has received a waiver under paragraph (2)(E).''; and

(B) in paragraph (2), by amending subparagraph (E) to read as follows:

''(E) The Secretary of Labor shall promulgate rules, after notice and a period for comment, for an employer of an H–1B nonimmigrant to apply for a waiver of the prohibition in paragraph (1)(F). The decision whether to grant or deny a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. If the Secretary has not decided whether to grant or deny a waiver 45 days after the waiver application is filed, the waiver shall be deemed an attestation. In order to receive a waiver under this subparagraph, the burden shall be on the employer seeking the waiver to establish that—

''(i) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(ii) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(iii) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(iv) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed.''.

(2) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(n)(2)(E) of such Act, as amended by paragraph (1)(B) of this subsection, are issued.

(g) POSTING AVAILABLE POSITIONS.—

(1) POSTING AVAILABLE POSITIONS.—Section 212(n)(1)(C) of such Act is amended—

(A) by redesignating clause (ii) as subclause (II);

(B) by striking ''(i) has provided'' and inserting the following:

''(ii)(I) has provided''; and

(C) by inserting before clause (ii), as redesignated by subparagraph (B), the following:

''(i) has posted a detailed description of each position for which a nonimmigrant is sought on the website described in paragraph (6) of this subsection for at least 30 calendar days, which description shall include the wages and other terms and conditions of employment, the minimum education, training, experience and other requirements for the position, and the process for applying for the position; and''.

(2) DEPARTMENT OF LABOR WEBSITE.—Section 212(n) of such Act, as amended by this section, is further amended by adding at the end the following:

''(6)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary of Labor shall establish a searchable website for posting positions as required by paragraph (1)(C). This website shall be publicly accessible without charge.

''(B) The Secretary may charge a nominal filing fee to employers who post positions on the website established under this paragraph to cover expenses for establishing and administering the website.

''(C) The Secretary may work with private companies and nonprofit organizations in the development and operation of the website established under this paragraph.

''(D) The Secretary may promulgate rules, after notice and a period for comment, to carry out the requirements of this paragraph.''.

(3) APPLICATION.—The amendments made by paragraph (1) shall apply to an application filed 30 days or more after the date that the website required by section 212(n)(6) of such Act, as added by paragraph (2) of this subsection, is created.

(d) WAGE DETERMINATION.—

(1) CHANGE IN MINIMUM WAGES.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(K)(i) An employer that employs a nonimmigrant described in section 101(a)(15)(L) shall—

''(I) offer such nonimmigrant, during the period of authorized employment, wages, based on the best information available at the time the application is filed, which are not less than the highest of—

''(aa) the locally determined prevailing wage level for the occupational classification in the area of employment;

''(bb) the median average wage for all workers in the occupational classification in the area of employment; or

''(cc) the median wage for skill level 2 in the occupational classification found in the most recent Occupational Employment Statistics survey; and

''(II) provide working conditions for such nonimmigrant that will not adversely affect the working conditions of workers similarly employed.

''(ii) If an employer, in such previous period specified by the Secretary of Homeland Security, employed 1 or more L–1 nonimmigrants, the employer shall provide to the Secretary of Homeland Security the Internal Revenue Service Form W–2 Wage and Tax Statement filed by the employer with respect to such nonimmigrants for such period.

''(iii) It is a failure to meet a condition under this subparagraph for an employer, who has filed a petition to import 1 or more aliens as nonimmigrants described in section 101(a)(15)(L), to—

''(I) require such a nonimmigrant to pay a penalty for ceasing employment with the employer before a date mutually agreed to by the nonimmigrant and the employer; or

''(II) fail to offer to such a nonimmigrant, during the nonimmigrant's period of authorized employment, on the same basis, and in accordance with the same criteria, as the employer offers to United States workers, benefits and eligibility for benefits, including—

''(aa) the opportunity to participate in health, life, disability, and other insurance plans;

''(bb) the opportunity to participate in retirement and savings plans; and

''(cc) cash bonuses and noncash compensation, such as stock options (whether or not based on performance).

''(iv) The Secretary of Homeland Security shall determine whether a required payment under clause (iii)(I) is a penalty (and not liquidated damages) pursuant to relevant State law.''.

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

(e) PROHIBITION ON OUTPLACEMENT.—

(1) IN GENERAL.—Paragraph (2) of section 214(c) of such Act, as amended by this section, is further amended by adding at the end the following:

''(L)(i) An employer who imports an alien as a nonimmigrant described in section 101(a)(15)(L) shall not place, outsource, lease, or otherwise contract for the placement of the alien with another employer unless the employer of the alien has received a waiver under clause (ii).

''(ii) The Secretary of Homeland Security shall promulgate rules, after notice and a period for comment, for an employer to apply for a waiver of the prohibition set out in clause (i). The decision whether to grant or deny such a waiver under this subparagraph shall be in the sole and unreviewable discretion of the Secretary. In order to receive such a waiver, the burden shall be on the employer seeking the waiver to establish that—

''(I) the placement is for legitimate business purposes and not to evade the requirements of this subsection;

''(II) the employer with whom the nonimmigrant would be placed has not displaced and does not intend to displace a United States worker employed by the employer within the period beginning 180 days before and ending 180 days after the date of the placement of the nonimmigrant with the employer;

''(III) the nonimmigrant will not be controlled and supervised principally by the employer with whom the nonimmigrant would be placed; and

''(IV) the placement of the nonimmigrant is not essentially an arrangement to provide labor for hire for the employer with whom the nonimmigrant will be placed, rather than a placement in connection with the provision or a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to an application filed on or after the date the rules required section 212(c)(2)(L)(ii) of such Act, as added by paragraph (1) of this subsection, are issued.

(e) DOCUMENTATION REQUIREMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)), as amended by this section, is further amended—

(1) in subparagraph (A), by adding at the end the following:

''(iii) will provide to the H–1B nonimmigrant—

''(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

''(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.''; and

(f) FRAUD ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

SA 1499. Mr. KYL (for himself, Ms. CANTWELL, Ms. COLLINS, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 1348, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Nothwithstanding any provisions of this act, it is amended as follows:

Beginning on page 238, strike line 13, and all that follows through page 239, line 38, and insert the following:

(c) GRANTING DUAL INTENT TO CERTAIN NONIMMIGRANT STUDENTS.—Section 214(h) (8 U.S.C. 1184(h)) is amended—

(1) by striking ''(H)(i)(b) or (c),'' and inserting ''(F)(iv), (H)(i)(b), (H)(i)(c),''; and

(2) by striking ''if the alien had obtained a change of status'' and inserting ''if the alien had been admitted as, provided status as, or obtained a change of status''.

(d) H–1B AMENDMENTS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)(A), by striking clauses (i) through (vii) and inserting the following:

''(i) 115,000 in fiscal year 2008;

''(ii) in any subsequent fiscal year, subject to clause (iii), the number for the previous fiscal year as adjusted in accordance with the method set forth in paragraph (2); and

''(iii) 180,000 for any fiscal year;''.

(2) in paragraph (9), as redesignated by section 409—

(A) in subparagraph (B)—

(i) in clause (ii), by striking ''The annual numerical limitations described in clause (i) shall not exceed'' and inserting ''Without respect to the annual numerical limitations described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 1101(a)(15)(H)(i)(b) in the following quantities:''; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

(e) ENSURING ACCESS TO SKILLED WORKERS IN SPECIALTY OCCUPATIONS.—

(1) IN GENERAL.—Paragraph (6) of section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is amended to read as follows:

''(6) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who—

''(A) until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 50,000

(i) is employed (or has received an offer of employment) at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) (20 U.S.C. 1001(a)), or a related or affiliated nonprofit entity; or

(ii) is employed (or has received an offer of employment) at a nonprofit research organization or a governmental research organization;

''(B) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 40,000; or

''(C) has earned a master's or higher degree in science, technology, engineering, or mathematics from an institution of higher education outside of the United States, until the number of aliens who are exempted from such numerical limitation under this subparagraph during a year exceeds 20,000.''.

(f) Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as redesignated by section 409, is further amended to add the following:

''(13) An employer that has at least 1,000 full-time employees who are employed in the United States, including employment authorized aliens, and employs aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in a number that is equal to or at least 15 percent of the number of such full-time employees, may file no more than 1,000 new petitions under subsection (c) to import aliens under section 101(a)(15)(H)(i)(b) in any fiscal year

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any petition or visa application pending on the date of enactment of this Act and any petition or visa

application filed on or after such date. The amendment made by subparagraph (F) shall take effect on the first day of the fiscal year following the fiscal year in which the backlog of employment-based immigrant visa petitions existing as of the effective date established in section 502(d) of this Act

On page 260, line 39, strike ''and''.

On page 260, after line 44, insert the following:

(iii) up to 10,000 shall be for aliens who met the specifications set forth in section 203(b)(I) (as of January 1, 2007); and

(iv) the remaining visas be allocated as follows:

(I) In fiscal year 2008 and 2009, 115,401 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(II) In fiscal year 2010, 86,934 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(III) In fiscal year 2011, 58,467 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

(IV) In fiscal year 2012, 44,234 shall be for aliens who are the beneficiaries of a petition filed by an employer on their behalf under this section.

On page 265, between lines 15 and 16, insert the following:

''(G) Any employer desiring and intending to employ within the United States an alien qualified under (A) may file a petition with the Secretary of Homeland Security for such classification.

''(H) The Secretary of Homeland Security shall collect applications and petitions by July 1 of each fiscal year and will adjudicate from the pool of applicants received for that fiscal year, from the highest to the lowest, the determined number of points necessary for the fiscal year. If the number of applications and petitions submitted that meet the merit based threshold is insufficient for the number of visas available that year, the Secretary is authorized to continue accepting applications and petitions at a date determined by the Secretary to adjudicate the applications and petitions under this section.''.

On page 266, line 4, insert ''The beneficiary (as classified for this subparagraph as a nonimmigrant described in section 101(a)(15)(H)(i)(b)) of such a pending or approved petition, and any dependent accompanying or following to join such beneficiary, may file an application for adjustment of status under section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255) regardless of whether an immigrant visa is immediately available at the time the application is filed. Such application for adjustment of status shall not be approved until an immigrant visa becomes available.'' after ''visa.''.

On page 242, between lines 39 and 40, insert the following:

(e) DOCUMENTATION REQUIREMENT.—Section 212(n)(1) (8 U.S.C. 1182(n)), as amended by this section, is further amended—

(1) in subparagraph (A), by adding at the end the following:

''(iii) will provide to the H–1B non-immigrant—

''(I) a copy of each application filed on behalf of the nonimmigrant under this section; and

''(II) documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor.''; and

(2) by adding at the end the following:

''(L) An H–1B nonimmigrant may not be stationed at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent if the alien will be controlled and supervised principally by such unaffiliated employer or if the placement of the alien at the worksite of the affiliated employer is essentially an arrangement to provide labor for hire for the unaffiliated employer, rather than a placement in connection with the provision of a product or service.''.

(f) FRAUD ASSESSMENT.—Not later than 60 days after the date of the enactment of the Act, the Director of United States Citizenship and Immigration Services shall submit to Congress a fraud risk assessment of the H–1B visa program.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 7, 2007, at 9:30 a.m., in open session to consider the nomination of Lieutenant General Douglas E. Lute, USA, to be assistant to the President and Deputy National Security Advisor for Iraq and Afghanistan.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, June 7, 2007, at 2 p.m., in room 253 of the Russell Senate Office Building.

The hearing will serve as an investigation of NASA Inspector General, Robert W. Cobb.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, June 7, 2007 at 10 a.m. in Room 406 of the Dirksen Senate Office Building to conduct a hearing entitled ''An Examination of the Views of Religious Organizations Regarding Global Warming.''

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

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 7, 2007, at 10 a.m. in Dirksen Room 226.

Agenda

I. Bills: S. 185, Habeas Corpus Restoration Act of 2007 (Specter, Leahy, Feinstein, Feingold, Whitehouse, Durbin, Biden); S. 720, Army Specialist Joseph P. Micks Federal Flag Code Amendment Act of 2007 (Levin); H.R. 692, Army Specialist Joseph P. Micks Federal Flag Code Amendment Act of 2007; S. 535, Emmett Till Unsolved Civil Rights Crime Act (Dodd, Leahy, Schumer, Kennedy); S.456, Gang Abatement and Prevention Act of 2007 (Feinstein, Hatch, Schumer, Specter, Biden, Kyl, Cornyn, Kohl).

II. Nominations: Leslie Southwick to be United States Circuit Judge for the Fifth Circuit; Robert James Jonker to be a United States District Judge for the Western District of Michigan.

III. Resolutions: S. Res. 171, Memorializing fallen firefighters by lowering the U.S. flag (Collins, Biden, Kennedy); S. Res. 82, Designating August 16, 2007 as National Airborne Day (Hagel, Graham, Sessions, Feinstein, Feingold); S. Res. 173, Designating August 11,2007 as National Marina Day (Stabenow).

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

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing entitled ''Prevention of Deceptive Practices and Voter Intimidation in Federal Elections: S. 453'' on Thursday, June 7, 2007 at 2 p.m. in Dirksen Senate Office Building Room 226.

Witness list

Panel I: The Honorable Charles Schumer, United States Senator [D–NY]; The Honorable Barack Obama, United States Senator [D–IL].

Panel II: The Honorable Douglas F. Gansler, Attorney General, State of Maryland, Baltimore, MD; The Honorable Jack B. Johnson, County Executive, Prince George's County, MD, Upper Marlboro, MD.

Panel III: Hilary O. Shelton, Director, Washington Bureau, National Association for the Advancement of Colored People [NAACP], Washington, DC; John Trasviña, President and General Counsel, Mexican American Legal Defense and Education Fund [MALDEF], Los Angeles, CA; Richard Briffault, Joseph P. Chamberlain Professor of Legislation, Columbia Law School, New York, NY.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 7, 2007 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, June 7, 2007 at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building. The purpose of this hearing is to receive testimony on Alternate Energy-Related Uses on the Outer Continental Shelf: Opportunities, Issues and Implementation of Section 388 of the Energy Policy Act of 2005.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Government Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Thursday, June 7, 2007 at 2:30 p.m. to conduct a hearing entitled, DHS' Acquisition Organization: Who is Really in Charge?

The PRESIDING OFFICER. Without objection it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Madam President, I ask unanimous consent that Katherine Chen and Alec Bonander of my staff be granted the privilege of the floor for the duration of today's session.

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

CONGRATULATING THE JOHNS HOPKINS UNIVERSITY BLUE JAYS

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 227 submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 227) congratulating the Johns Hopkins University Blue Jays for winning the 2007 NCAA Division I Men's Lacrosse Championship.

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

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 227) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 227

Whereas, on May 28, 2007, before a crowd of nearly 50,000, the Johns Hopkins University Blue Jays of Baltimore, Maryland, won the 2007 National Collegiate Athletic Association (NCAA) Division I Men's Lacrosse Championship, defeating the Duke University Blue Devils by a score of 12-11 at M&T Bank Stadium in Baltimore, Maryland;

Whereas the Johns Hopkins University Blue Jays, in the 2007 season, had an overall record of 13 wins and 4 losses, and won their last 9 consecutive games to end the season;

Whereas the Johns Hopkins University Blue Jays have won their 9th NCAA Division I Men's Lacrosse Championship;

Whereas the Johns Hopkins University Blue Jays reached the championship game for the 2nd time in 3 years and for the 17th time in school history;

Whereas Jesse Schwartzman was awarded the Tournament Most Outstanding Player award for the 2nd time;

Whereas Jake Byrne, Paul Rabil, Stephen Peyser, and Eric Zerrlaut joined Schwartzman on the All-Tournament Team;

Whereas the 2007 NCAA Championship lacrosse team members are Jamison Koesterer, Jesse Schwartzman, Andrew Miller, Garrett Stanwick, Michael Gvozden, Matt Bocklet, Ben O'Neill, Paul Rabil, Steven Boyle, George Castle, Stephen Peyser, Josh Peck, Michael Doneger, Michael Kimmel, Eric Zerrlaut, Drew Dabrowski, Austin Walker, Brian Christopher, Conor Cassidy, Brendan Skakandi, Nolan Matthews, Kevin Huntley, Jake Byrne, Mark Bryan, Tom Duerr, Chris Boland, Nick Donoghue, Dave Spaulding, Will Jawish, Val Washington, Michael Evans, Zach Tedeschi, Erik Stilley, Andrew Jaffe, Andrew Posil, John Franklin, Lorenzo Heholt, Kyle Miller, Max Chautin, Michael Powers, Matt Drenan, Sam DeVore, Nathan Matthews, Greg Harrington, Eric Dang, Max Levine, and Michael Murray; and

Whereas the 2007 NCAA Championship lacrosse team coaches are Dave Pietramala, Bill Dwan, Bobby Benson, and Dave Allan: Now, therefore, be it

Resolved, That the Senate congratulates the Johns Hopkins University men's lacrosse team for winning the 2007 NCAA Division I Men's Lacrosse Championship.

CONGRATULATING THE BROWN UNIVERSITY WOMEN'S CREW TEAM

Mr. DURBIN. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 228, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 228) congratulating the Brown University women's crew team for winning the 2007 NCAA Division I Women's Rowing Championship.

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

Mr. DURBIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 228) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 228

Whereas, on Sunday, May 27, 2007, the Brown University women's crew team won the 2007 National Collegiate Athletic Association (NCAA) Division I Women's Rowing Championship in Oak Ridge, Tennessee;

Whereas the Brown University women's crew team was 1 of only 2 teams that qualified for the grand final in varsity eights, junior varsity eights, and varsity fours;

Whereas the Brown University women's crew team has won 5 NCAA championships in the last 9 years, in 1999, 2000, 2002, 2004, and 2007, as well as finishing 2nd twice and 3rd twice during that period;

Whereas the Brown University women's crew team is the winningest crew program in NCAA history; and

Whereas the Brown University varsity women's crew team had a record of 5-1 during the regular season, and both the 2nd varsity and novice teams were undefeated for the season: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Brown University women's crew team for being champions on and off the water and for their victory in the 2007 National Collegiate Athletic Association (NCAA) Division I Women's Rowing Championship;

(2) recognizes the achievements of the rowers, coaches John and Phoebe Murphy, and the students and alumni whose dedication and hard work helped the Brown University women's crew team win the NCAA championship; and

(3) respectfully requests the Secretary of the Senate to transmit a copy of this resolution for appropriate display to Artemis Joukowsky, Chancellor Emeritus of Brown University.

HONORING WILLIAM CLIFTON FRANCE

Mr. DURBIN. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 229, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 229) honoring William Clifton France.

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

Mr. DURBIN. Madam President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 229) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 229

Whereas William Clifton France, NASCAR patriarch and visionary, was born on April 4, 1933, in Washington, D.C.;

Whereas Mr. France grew up in the formative years of stock car racing, living and learning every detail of the sport from his own experiences and those of his father, William Henry Getty France, known as ''Big Bill'' because of his 6-foot-5 stature, who was the founder and first president of NASCAR;

Whereas, in 1972, William Clifton France replaced his father and became the second president of the world's largest auto-racing sanctioning body;

Whereas, during the 28-year tenure of Mr. France as president, and later chairman and chief executive officer, of NASCAR, NASCAR grew from a sport with regional appeal to draw more than 75,000,000 fans yearly and become the second-most popular sport on television in the United States;

Whereas Mr. France worked in every role in stock car racing, from flagging events to scoring, promoting, serving as a steward, and even racing a few times in the 1950s;

Whereas, before being named president of NASCAR, Mr. France served for 6 years as vice president of the organization;

Whereas, in addition to his NASCAR duties, Mr. France served as chairman of the

board of International Speedway Corporation, which oversees Daytona International Speedway, Darlington Raceway, Talladega Superspeedway, and other racing facilities around the country, and served as a director of the National Motorsports Council of ACCUS-FIA; and

Whereas Mr. France was a visionary and served the motorsports industry with great distinction: Now, therefore, be it

Resolved, That the Senate extends its condolences to Mrs. Betty Jane France, Lesa France Kennedy, Brian France, and the entire France Family.

ORDERS FOR MONDAY, JUNE 11, 2007

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 2 p.m., Monday, June 11; that on Monday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired and the time for the two leaders reserved for their use later in the day, and there then be a period of morning business until 3:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; that at 3:30 p.m., the Senate resume debate on the motion to proceed to H.R. 6, with the time until 4:30 equally divided and controlled between the chair and ranking member of the Energy Committee; that from 4:30 to 5:30 p.m., the Senate resume debate on the motion to proceed to S.J. Res. 14, with the time equally divided and controlled between the two leaders or their designees; that the mandatory quorums required under rule XXII be waived with respect to the cloture motions filed with respect to these items; further, that at 5:30 p.m., without intervening action or debate, the Senate vote on the motion to invoke cloture on the motion to proceed to S.J. Res 14.

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

ADJOURNMENT UNTIL MONDAY, JUNE 11, 2007, AT 2 P.M.

Mr. DURBIN. If there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 10:33 p.m., adjourned until Monday, June 11, 2007, at 2 p.m.