MAKING IN ORDER AMENDMENTS EN BLOC DURING FURTHER CONSIDERATION OF H.R. 10, 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

Mr. HOEKSTRA. Madam Speaker, I ask unanimous consent that during further consideration in the Committee of the Whole of H.R. 10 pursuant to House Resolution 827 that it be in order at any time for the chairman of the Permanent Select Committee on Intelligence or a designee to offer amendments en bloc consisting of any of the amendments numbered 9, 16, 18, 20, and 22 printed in the House Report 108–751; that amendments en bloc pursuant to this order may be considered as read, be debatable for 10 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence or their designees, not be subject to amendment and not be subject to a demand for a division of the question in the House or in the Committee of the Whole; and that the original proponent of an amendment included in such amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

9/11 RECOMMENDATIONS IMPLEMENTATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 827 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10.

□ 1002

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, with Mr. KOLBE (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the committee of the whole rose earlier today, amendment No. 7 printed in House Report 108–751 by the gentlewoman from West Virginia (Mrs. CAPITO) had been disposed of.

Pursuant to the order of the House of today, it shall be in order at any time for the chairman of the Permanent Select Committee on Intelligence or a designee to offer amendments en bloc consisting of any of the amendment numbers 9, 16, 18, 20, and 22 printed in House report 108–751.

The amendments en bloc shall be considered read, shall be debatable for 10 minutes, equally divided and controlled by the chairman and the ranking minority member of the Permanent Select Committee on Intelligence or their designees, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The original proponent of the amendment included in the amendments en bloc may insert a statement in the Congressional RECORD immediately before disposition of the amendments en bloc.

It is now in order to consider amendment No. 8 printed in House Report 108–751.

AMENDMENT NO. 8 OFFERED BY MR. CARTER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. CARTER:

At the end of title II insert the following:

Subtitle J—Terrorist Penalties Enhancement Act of 2004

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the ''Terrorist Penalties Enhancement Act of 2004''.

SEC. 2222. PENALTIES FOR TERRORIST OFFENSES RESULTING IN DEATH; DENIAL OF FEDERAL BENEFITS TO TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

''§ 2339E. Terrorist offenses resulting in death

''(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

''(b) As used in this section, the term 'terrorist offense' means—

''(1) a Federal felony offense that is—

''(A) a Federal crime of terrorism as defined in section 2332b(g) except to the extent such crime is an offense under section 1363; or

''(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 236 of the Atomic Energy Act of 1954; or

''(2) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).

''§ 2339F. Denial of Federal benefits to terrorists

''(a) An individual or corporation who is convicted of a terrorist offense (as defined in section 2339E) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

''(b) As used in this section, the term 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act, and also includes any assistance or benefit described in section 115(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, with the same limitations and to the same extent as provided in section 115 of that Act with respect to denials of benefits and assistance to which that section applies.''.

(b) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, is amended by adding at the end the following new items:

''2339E. Terrorist offenses resulting in death.
''2339F. Denial of federal benefits to terrorists.''.

(c) AGGRAVATING FACTOR IN DEATH PENALTY CASES.—Section 3592(c)(1) of title 18, United States Code, is amended by inserting ''section 2339E (terrorist offenses resulting in death),'' after ''destruction),''.

SEC. 2223. DEATH PENALTY IN CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994.

Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

''(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93–366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.''

Conform the table of sections accordingly.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Texas (Mr. CARTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. CARTER).

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

Mr. Chairman, today I offer an amendment, the Terrorist Penalties Enhancements Act, which will provide new and expanded penalties to those who commit fatal acts of terrorism.

Since September 11, Federal and State officials continue to work hard to prevent further terrorist attacks on U.S. soil. However, despite some changes to the law to increase penalties after deadly terrorist attacks, a jury is still denied the ability to consider a death sentence or life imprisonment for a terrorist in many cases, even when the attacks result in death and the court believes it is necessary to prevent further harm to our citizens.

For example, in the case in which a terrorist causes massive loss of life by sabotaging a nuclear power plant or a national defense installation, there would be no possibility of imposing the death penalty under the statutes defining these offenses because they contain

no death penalty authorizations. In contrast, dozens of other Federal violent crime provisions authorize up to life imprisonment or the death penalty in cases where victims are killed. Because the potential tragedy here is so great, we must hope that changing this law to allow a sentence of death or life imprisonment will serve as a deterrent to would-be terrorists. It is one more tool in our arsenal.

Mr. Chairman, hearings have been held on this straightforward legislation, and it has been agreed to by the House Committee on the Judiciary. It will make terrorists who kill eligible for the Federal death penalty. This legislation will also deny these same terrorists any Federal benefits they otherwise may have been eligible to receive. These Federal benefits denied include Social Security, welfare, unemployment and food stamps.

As a former State District Judge for over 20 years, I have presided over five capital murders trials, three of which resulted in the death penalty. I understand the gravity of seeking and imposing the death penalty. However, from my experience, I believe the death penalty is a tool that can deter acts of terrorism and can serve as a tool for prosecutors when negotiating sentences.

I am pleased that President George Bush expressed his support for this legislation. In a speech to the FBI Academy, President Bush said, ''For the sake of American people, Congress should change the law and give law enforcement officials the same tools they have to fight terror that they have to fight other crime.''

In Hershey, Pennsylvania, President Bush reemphasized the inequity in current law. President Bush said, ''We ought to be sending a strong signal: If you sabotage a defense installation or a nuclear facility in a way that takes an innocent life, you ought to get the death penalty, the Federal death penalty.''

This legislation today puts all would-be terrorists on notice that they will receive ultimate justice should they decide to plan and execute a future attack.

Mr. Chairman, I urge my colleagues to support this legislation.

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

Mr. SCOTT of Virginia. Mr. Chairman, I claim the time in opposition.

Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this bill creates 23 new death penalties, making all Federal crimes of terrorism punishable by death. We would remind people that a 23-year study of over 4,500 death penalty cases found reversible error in 68 percent of the cases. We suspect that approximately 100 people in the last 10 years have been wrongfully executed. This burden falls disproportionately on minorities.

So when you talk about a strong signal, the signal, I guess, is you put people to death because, well, they might have been guilty. We know in the end the death penalty will not deter suicide bombers from completing their crimes. Furthermore, we have the problem of international law, the fact that most countries in the world, particularly our allies, do not have the death penalty and will not extradite criminals to the United States if they will be subject to the death penalty.

One of the problems with the Federal crimes of terrorism is that it is somewhat vague. It could include some kind of a political protest. The death could occur by accident. It was not even intended. Somebody got trampled in the protest, for example, and here you are talking about the death penalty. But because it includes not only completing the crime and killing somebody, it includes support for someone. You might want to rename this the ''Put Mama to Death Bill.'' If a mother harbors her son, lets him stay at home, she would then become and everybody in the family becomes subject to the death penalty.

Mr. Chairman, this has nothing to do with reorganization of the intelligence community. I would hope that we would reserve judgment on this and consider this bill and others when we consider the Patriot Act.

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

Mr. CARTER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, it is simple. We must do everything we can to stop terrorists, and that starts with ensuring that all terrorist acts are punished swiftly and severely. This amendment sends a clear message that we take terrorism seriously; that we understand that terrorist acts are not really crimes, they are combat; that on 9/11 we were not merely assaulted, we were invaded; and when there is combat, when terrorists invade our soil in deadly fashion, we will punish those responsible with the heaviest possible penalties. To do less would be a disservice to those who have lost their lives and would send a signal of softness to those who still seek our destruction.

I was proud to work with the gentleman from Texas (Mr. CARTER) on this subject. I commend him for carrying it forward. It is important work. It is good work that he is doing. I urge my colleagues to support this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would point out that we will be considering the Patriot Act. I would hope that we would consider this legislation as part of that.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CARTER. Mr. Chairman, I urge my colleagues to support this amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. CARTER).

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

Mr. CARTER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. CARTER) will be postponed.

AMENDMENT EN BLOC OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, pursuant to the unanimous consent agreement, I offer the amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. HOEKSTRA consisting of amendments numbered 9, 16, 18, 20 and 22:

AMENDMENT NO. 9 OFFERED BY MR. CASTLE

At the end of the bill, insert the following new section:

SEC. 5___. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) SHORT TITLE.—This section may be cited as the ''Good Samaritan Volunteer Firefighter Assistance Act of 2004''.

(b) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(c) EXCEPTIONS.—Subsection (b) does not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(d) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (c) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(e) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that

association or in the nearest such association with an entry level full-time paid individual.

(f) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (b), is donated on or after the date that is 30 days after the date of the enactment of this Act.

(g) ATTORNEY GENERAL REVIEW.—

(1) IN GENERAL.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of the enactment of this Act.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Attorney General of the United States shall publish and submit to the Congress a report on the results of the review conducted under paragraph (1). The report shall include, for each State, the most effective way to fund firefighter companies, whether first responder funding is sufficient to respond to the Nation's needs, and the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

AMENDMENT NO. 16 OFFERED BY MR. BARTON OF TEXAS

After section 5010 insert the following new section:

SEC. 5011. DIGITAL TELEVISION CONVERSION DEADLINE.

(a) FINDINGS.—The Congress finds the following:

(1) Congress granted television broadcasters additional 6 MHz blocks of spectrum to transmit digital broadcasts simultaneously with the analog broadcasts they transmit on their original 6 megahertz blocks of spectrum.

(2) Section 309(j)(14) of the Communications Act of 1934 requires each television broadcaster to cease analog transmissions and return 6 megahertz of spectrum by December 31, 2006, or once just over 85 percent of the television households in that broadcaster's market can view digital broadcast television channels using a digital television, a digital-to-analog-converter box, cable service, or satellite service, whichever is later.

(3) Twenty-four megahertz of spectrum currently occupied by the television broadcasters has been earmarked for use by first responders once the television broadcasters return the spectrum broadcasters currently use to provide analog transmissions.

(4) This spectrum would be ideal to provide first responders with interoperable communications channels.

(5) Large parts of the vacated spectrum could be auctioned for advanced commercial services, such as wireless broadband.

(6) The ''85-percent penetration test'' could delay the termination of analog television broadcasts and the return of spectrum well beyond 2007, hindering the use of that spectrum for these important public-safety and advanced commercial uses.

(7) Proposals to require broadcasters to return, on a date certain, just the spectrum earmarked for future public-safety use would not adequately resolve the identified need for improved public-safety communications interoperability. Broadcasters estimate that the public-safety only approach would dislocate as many as 75 stations, including some in major markets, airing major network programming, sometimes even in digital form. Unless broadcasters are required to return concurrently all the spectrum currently used for analog transmissions, it will be exceedingly difficult to relocate these 75 stations, which also serve a critical public safety function by broadcasting weather, traffic, disaster, and other safety alerts.

(8) Proposals to require broadcasters to return, on a date certain, just the spectrum earmarked for future public-safety use also would neither address the digital television transition in a comprehensive fashion nor free valuable spectrum for advanced commercial services.

(b) SENSE OF CONGRESS.—Now, therefore, it is the sense of Congress that section 309(j)(14) of the Communications Act of 1934 should be amended to eliminate the 85-percent penetration test and to require broadcasters to cease analog transmissions at the close of December 31, 2006, so that the spectrum can be returned and repurposed for important public-safety and advanced commercial uses.

AMENDMENT NO. 18 OFFERED BY MR. FOSSELLA

Page 606, after line 17, insert the following (and redesignate the subsequent subsections accordingly):

(d) MULTI-YEAR INTEROPERABILITY GRANTS.—

(1) MULTI-YEAR COMMITMENTS.—In awarding grants to any State, region, local government, or Indian tribe for the purposes of enhancing interoperable communications capabilities for emergency response providers, the Secretary may commit to obligate Federal assistance beyond the current fiscal year, subject to the limitations and restrictions in this subsection.

(2) RESTRICTIONS.—

(A) TIME LIMIT.—No multi-year interoperability commitment may exceed 3 years in duration.

(B) AMOUNT OF COMMITTED FUNDS.—The total amount of assistance the Secretary has committed to obligate for any future fiscal year under paragraph (1) may not exceed $150,000,000.

(3) LETTERS OF INTENT.—

(A) ISSUANCE.—Pursuant to paragraph (1), the Secretary may issue a letter of intent to an applicant committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an interoperability communications project (including interest costs and costs of formulating the project).

(B) SCHEDULE.—A letter of intent under this paragraph shall establish a schedule under which the Secretary will reimburse the applicant for the Federal Government's share of the project's costs, as amounts become available, if the applicant, after the Secretary issues the letter, carries out the project before receiving amounts under a grant issued by the Secretary.

(C) NOTICE TO SECRETARY.—An applicant that is issued a letter of intent under this subsection shall notify the Secretary of the applicant's intent to carry out a project pursuant to the letter before the project begins.

(D) NOTICE TO CONGRESS.—The Secretary shall transmit a written notification to the Congress no later than 3 days before the issuance of a letter of intent under this section.

(E) LIMITATIONS.—A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31, United States Code, and is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(F) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed—

(i) to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued; or

(ii) to apply to, or replace, Federal assistance intended for interoperable communications that is not provided pursuant to a commitment under this subsection.

(e) INTEROPERABLE COMMUNICATIONS PLANS.—Any applicant requesting funding assistance from the Secretary for interoperable communications for emergency response providers shall submit an Interoperable Communications Plan to the Secretary for approval. Such a plan shall—

(1) describe the current state of communications interoperability in the applicable jurisdictions among Federal, State, and local emergency response providers and other relevant private resources;

(2) describe the available and planned use of public safety frequency spectrum and resources for interoperable communications within such jurisdictions;

(3) describe how the planned use of spectrum and resources for interoperable communications is compatible with surrounding capabilities and interoperable communications plans of Federal, State, and local governmental entities, military installations, foreign governments, critical infrastructure, and other relevant entities;

(4) include a 5-year plan for the dedication of Federal, State, and local government and private resources to achieve a consistent, secure, and effective interoperable communications system, including planning, system design and engineering, testing and technology development, procurement and installation, training, and operations and maintenance; and

(5) describe how such 5-year plan meets or exceeds any applicable standards and grant requirements established by the Secretary.

AMENDMENT NO. 20 OFFERED BY MR. MICA

Page 198, after line 22, insert the following (and redesignate subsequent subparagraphs of the quoted matter accordingly):

''(D) PRESCREENING INTERNATIONAL PASSENGERS.—Not later than 60 days after date of enactment of this subparagraph, the Secretary of Homeland Security, or the designee of the Secretary, shall issue a notice of proposed rulemaking that will allow the Department of Homeland Security to compare passenger name records for any international flight to or from the United States against the consolidated and integrated terrorist watchlist maintained by the Federal Government before departure of the flight.

Page 199, strike lines 17 through 22 and insert the following:

''(F) APPEAL PROCEDURES.—

''(i) IN GENERAL.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any erroneous information.

''(ii) RECORDS.—The process shall include the establishment of a method by which the Assistant Secretary will be able to maintain a record of air passengers who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers, the Transportation Security Administration record shall contain information determined by the Assistant Secretary to authenticate the identity of such a passenger.

Page 203, lines 5 and 6, strike ''explosive detection systems'' and insert ''explosive detection devices''.

Page 203, line 9, insert ''backscatter x-ray scanners,'' after ''shoe scanners,''.

Page 213, after line 9, insert the following (and conform the table of contents of the bill accordingly):

SEC. 2188. IN-LINE CHECKED BAGGAGE SCREENING.

The Secretary of Homeland Security shall take such action as may be necessary to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

Page 213, line 10, redesignate section 2188 of the bill as section 2189 and conform the table of contents of the bill accordingly.

AMENDMENT NO. 22 OFFERED BY MR. SHADEGG

In title V, at the end of chapter 3 of subtitle H (page 609, after line 21) add the following:

SEC. ___. PILOT STUDY TO MOVE WARNING SYSTEMS INTO THE MODERN DIGITAL AGE.

(a) PILOT STUDY.—The Secretary of Homeland Security, from funds available for improving the national system to notify the general public in the event of a terrorist attack, and in consultation with the Attorney General and the heads of other appropriate Federal agencies, the National Association of State Chief Information Officers, and other stakeholders with respect to public warning systems, shall conduct a pilot study under which the Secretary may issue public warnings regarding threats to homeland security using a warning system that is similar to the AMBER Alert communications network.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report regarding the findings, conclusions, and recommendations of the pilot study.

The CHAIRMAN pro tempore. Pursuant to the order of the House earlier today, the gentleman from Michigan (Mr. HOEKSTRA) and the gentlewoman from California (Ms. HARMAN) or her designee each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I yield myself 1 minute.

This en bloc amendment has been agreed to in a bipartisan fashion which supports the amendments that have been offered by the gentleman from Delaware (Mr. CASTLE), the gentleman from Texas (Mr. BARTON), the gentleman from New York (Mr. FOSSELLA), the gentleman from Florida (Mr. MICA) and the gentleman from Arizona (Mr. SHADEGG).

I encourage my colleagues to support this en bloc amendment and move the process forward.

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

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to claim the time in opposition to the amendments.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

There is one bill, the firefighters bill, that is in here, we considered that, and we had a debate on it. I just want to incorporate by reference the problems with that legislation. It is not necessary because firefighters can receive gifts, and if they want to immunize the donor, they can do that under present law.

Furthermore, the answer to giving firefighters more equipment is in funding first responders equipment, rather than tort reform. So I would hope that we would consider that as we consider the en bloc amendments.

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

Mr. HOEKSTRA. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE), a former member of the Permanent Select Committee on Intelligence.

(Mr. CASTLE asked and was given permission to revise and extend his remarks.)

Mr. CASTLE. Mr. Chairman, I thank the chairman of the House Permanent Select Committee on Intelligence for yielding me time.

This is sort of like a deja vu discussion, that the gentleman from Virginia (Mr. SCOTT) and I have had this discussion before. I feel this legislation is necessary. There are some States that have waived the liability provisions to allow corporations to make donations of equipment to fire companies without liability, which is very, very important. A lot of these companies have very good and new equipment, hardly used because their fire needs are not as great as regular fire companies. They are willing to make this donation, but they are reluctant to do so because of the liability issues.

□ 1015

A few States have waived those provisions but others have not. We simply would allow this throughout this country. I cannot imagine anything that is more dutiful or more beneficial to fighting fires in this country than this.

So he opposed this before, and I said at the time, I hope he is the only one who is opposing this, and, he almost was. There were three people who opposed it. It carried by 397 to 3. Obviously, it has to do with what we are dealing with in this country in terms of terrorism, in terms of the problems of dealing with security in the United States of America, intelligence and all those other areas. Quite frankly, it is something that a lot of people want to get done, but we have got to find the vehicle for it, and this is a proper vehicle.

It was unopposed and that is the reason it was put in the en bloc amendment, agreed to by Members on both sides of the aisle. My sense is this is something that each and every one of us should be supporting so that both our rural and our urban fire departments can take advantage of this particular type of law and have emergency vehicles and other equipment donated to them without that concern of liability.

I would hope that his concerns about that, which he has expressed, would not lead to opposition to the en bloc amendment and, hopefully, ultimately, the passage of this, and we will all be protected.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, as the gentleman from Delaware has indicated, we have had this debate before, and I would just point out that my concerns with parts of the amendment are outweighed by the support of the other provisions in the other bills in the bloc. So I will not be opposing the bloc.

Mr. CASTLE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I rise today in support of my amendment to H.R. 10 which is identical to legislation I introduced, H.R. 1787, the "Good Samaritan Volunteer Firefighter Assistance Act." On September 14 this legislation overwhelming passed the U.S. House of Representatives 397 to 3.

My amendment removes a barrier which currently prevents some organizations from donating surplus fire fighting equipment to fire departments in need. Under current law, the threat of civil liability has caused some organizations to destroy fire equipment, rather than donating it to volunteer, rural and other financially-strapped departments.

We know that every day, across the United States, firefighters respond to calls for help. We are grateful that these brave men and women work to save our lives and protect our homes and businesses. We may presume that our firefighters work in departments with the latest and best firefighting and protective equipment. When in reality there are an estimated 30,000 firefighters who risk their lives daily due to a lack of basic Personal Protective Equipment (PPE).

In both rural and urban fire departments, limited budgets make it difficult to purchase more than fuel and minimum maintenance. At the same time, certain industries are constantly improving and updating the fire protection equipment to take advantage of new, state-of-the-art innovation. Sometimes, the surplus equipment has never been used to put out a single fire. Sadly, the threat of civil liability causes many organizations to destroy, rather than donate, millions of dollars of quality fire equipment.

Not only do volunteer fire departments provide an indispensable service, some estimates indicate that the nearly 800,000 volunteer firefighters nationwide save state and local governments $36.8 billion a year. Of the 26,000 fire departments in the United States, more than 19,000 are all volunteers and another 3,800 are mostly volunteer.

Ten states: Alabama, Arizona, Arkansas, California, Florida, Indiana, Missouri, New York, South Carolina and Texas have passed similar legislation. In the seven years of the Texas program more than $12 million worth of firefighter equipment has been donated and given to needy departments—this includes nearly 70 emergency vehicles, more than 1,500 piece of communications equipment. In total more than 33,000 items have been donated.

Congress can respond to the needs of fire companies by removing civil liability barriers. Equipping our nation's first responders is essential as we fight the war on terror and I am

hopeful the esteemed Chairman of the Judiciary Committee and my colleagues will again join me in supporting this measure.

Mr. BUYER. Mr. Chairman, I rise in strong support of this amendment sponsored by the Chairman of the House Energy and Commerce Committee. This Sense of Congress sets out the right approach for this nation to move toward the digital television transition and return much-needed spectrum for public-safety and advanced commercial purposes, such as wireless broadband. The Congress, the Federal Communications Commission, as well as the telecommunications industry have spent valuable time and money for the advancement of the transition. A hard date will bring certainty to all those involved in this transition.

The Senate, in its just passed National Intelligence Reform bill, included a 2008 hard deadline for broadcasters to vacate only portions of the 700 MHz spectrum reserved for public safety. I do not believe this is the correct approach, nor do I believe that it adequately solves the public safety issue.

I commend the Chairman for his amendment and I look forward to our continued work as we move from an analog to a digital world.

Mr. COX. Mr. Chairman, I rise in support of the Amendment offered by my colleague and good friend, Mr. SHADEGG of Arizona.

Mr. SHADEGG is a distinguished Member of the Select Committee on Homeland Security and ably serves as Chairman of its Subcommittee on Emergency Preparedness & Response.

Under Chairman SHADEGG's leadership, the EP&R Subcommittee recently held a very informative and eye-opening hearing on the state of our Nation's warning and alert system.

The Amendment that he is offering today is the product of that excellent hearing.

I commend Chairman SHADEGG for his foresight in recognizing the importance of emergency warnings and alerts, and for his leadership in offering this important Amendment.

It is simply imperative that our Nation maintain and operate an effective emergency communication system. It is our responsibility to ensure that our citizens receive sufficient and timely warnings to enable them to take action necessary for their safety—whether the cause is a terrorist attack or a force of nature.

This Amendment authorizes a pilot study examining whether a system like the AMBER Alert network should, and can, be used for emergency warnings and alerts. The AMBER Alert network, which provides actionable intelligence on a geographic basis to help identify and track missing children, is a proven success. This Amendment is certainly worthy of our support.

Let me again commend Chairman SHADEGG. And I urge my colleagues to vote "yes" on the Shadegg Amendment.

Mr. GARY G. MILLER of California. Mr. Chairman, I rise in support of the Mica amendment, which will go a long way in making certain our skies are safe and free of terrorism.

I would like to focus my comments on important provisions in this amendment that will help ensure the civil liberties of all of America's citizens are protected during this war on terrorism. I thank Aviation Subcommittee Chairman MICA for including this language in his amendment, which I had submitted to the Rules Committee as a separate amendment.

There is no question that we should be vigilant in our fight against terrorism or that increased security measures will serve to inconvenience some of our citizens. However, forcing certain law-abiding citizens to be repeatedly detained and questioned each time they travel should not be tolerated.

This amendment will establish a process for the Transportation Security Administration to ensure those passengers who are erroneously flagged under its new pre-screening system are not unnecessarily delayed on future flights.

To illustrate the importance of addressing this issue, I would like to highlight an example of a family in my district who has been repeatedly delayed when traveling.

The most recent case occurred this summer, when returning from an oversees trip. The family was met by officials as they deplaned and escorted to a holding room at JFK Airport. During their detainment, officials thoroughly inspected the family's luggage and would not even allow them to go to the restroom without escort. The family was extensively questioned about their background and employment.

It took over three hours for the officials to clear and release the family. Unfortunately, the long delay caused them to miss their connecting flight to California.

According to Immigration and Customs Enforcement, this family was delayed due to the nature of our law enforcement databases, which can give rise to "near matches" and "tentative hits," resulting in misidentification scenarios.

This was not the first time this family was delayed because of the similarity of their name to names that appear on watch lists. Unfortunately, according to the Department of Homeland Security, it will not be the last—the family should expect similar detainment in the future because of this shortcoming in our law enforcement databases.

Some of you might say that this is the price American citizens of Middle-Eastern descent must pay to ensure safety in our skies.

But we must ask ourselves—how do we protect those unfortunate Americans, who share names that are similar to dangerous people on terrorist watch lists, from being effectively denied the ability to fly?

There is no question that we must encourage our security officials to be vigilant. But, it is reasonable to expect that the Transportation Security Administration be able to maintain their watch lists to ensure that the system does not continue to erroneously flag the same law-abiding citizens every time they try to travel on a plane.

I believe this can be done in a way that maintains aviation security, improves the effectiveness of watch lists, and demonstrates to our fellow Americans of Middle-Eastern descent that America affords the same freedoms and opportunities to all of its law-abiding citizens, even during this war on terrorism.

Specifically, this amendment will: establish a timely and fair process for individuals identified as a threat to appeal the determination and correct any erroneous information; include a method by which TSA will be able to maintain a record of air passengers who have been misidentified; and prevent repeated delays of misidentified passengers by ensuring the record contain information determined by TSA to authenticate the identity of such a passenger.

As we work toward policies that secure our homeland, we must not forget that there are U.S. citizens who are of Middle Eastern descent. They have greatly contributed to American society and are deserving of equal treatment under the Constitution of the United States.

These various cultures and races became citizens of the United States just as our ancestors did, and they are our neighbors, co-workers, friends, and family members. Most of all, they are our fellow Americans.

It is unfortunate that these Americans have been forced to bear the brunt of our increased security.

In the past, when American law enforcement confronted challenges to our safety and security from espionage, drug trafficking and organized crime, we were able to meet those challenges in ways that preserved our fundamental freedoms and civil liberties.

We must meet the challenge of terrorism with this same careful regard for the Constitutional rights of Americans and respect for all human beings.

Last week, the House Transportation and Infrastructure Committee unanimously approved these provisions and I ask my colleagues to support this amendment today.

Mr. UPTON. Mr. Chairman, I rise in support of the Barton Amendment.

Part of the spectrum which the broadcasters are to return at the end of the DTV transition has been earmarked for public safety interoperable radio communications. The tragic events of 9/11 underscore the need for this, and that is why we must move with deliberate speed to complete the transition.

But moving with deliberate speed does not mean moving recklessly, and it does not mean grasping at well-intentioned half-measures that would either cause scores of television stations to literally go dark or would actually set us back in our efforts to get spectrum into the hands of public safety because they are riddled with ill-defined exceptions.

Moreover, we need to consider consumers' analog television sets which could go dark once broadcasters cease analog broadcasts—if we do not take care to do this right. Helping public safety and minimizing consumer disruptions need not be mutually goals.

I support the Barton amendment because it says that we should impose a hard-date for the end of the entire transition as part of a comprehensive digital television transition bill to be enacted next Congress. I look forward to working in the Energy and Commerce Committee next Congress on this and other proposals to minimize consumer disruptions, focusing on how to get low-cost digital-to-analog converter boxes into the hands of consumers, not to mention other policy matters that are relevant to the transition. The Barton Amendment signs us up to move—not with reckless abandon—but with deliberate speed to ensure that we really get spectrum into the hands of public safety in an expeditious fashion.

I urge all of my colleagues to support the Barton Amendment.

Mr. COX. Mr. Chairman, I rise in strong support of the Fossella-Stupak amendment. From the first World Trade Center bombing in 1993 to the attacks on September 11, 2001, the inability of our first responders to communicate adequately and effectively has posed a serious obstacle to our Nation's ability to respond to acts of terrorism and other emergencies.

Regrettably, there is no silver bullet or panacea that will enable us to attain interoperable

communications overnight. And, contrary to the good intentions of some of my colleagues on the other side of the aisle, merely throwing more money at the problem or creating new grant programs is not the answer. We already have enough programs.

Indeed, since 2002, the Federal government has awarded more than $1.2 billion in grant assistance specifically for the purpose of enhancing interoperable communications. And, unfortunately, our progress has been disappointing. The primary reason for this—according to the Government Accountability Office—is that Federal interoperable communications grant programs ''present challenges to short- and long-term planning.''

That is why I rise in support of the Fossella-Stupak Amendment. It does not create a new interoperable communications grant program. Rather, it gives the Department of Homeland Security much needed flexibility to support State and local short- and long-term planning for interoperable communications.

Specifically, under the Fossella-Stupak Amendment, the Department may issue Letters of Intent to commit future funding for interoperable communications for up to three years. These commitments must be made pursuant to existing grant programs.

States and local governments have been reluctant to invest in expensive and complicated communication systems due to uncertainty over the availability of Federal funds from year to year. Providing cash-strapped States and local governments with reasonable assurance that multi-year Federal assistance will be available should spur comprehensive planning and meaningful investments in communications.

The Fossella-Stupak Amendment also requires applicants to develop multi-year interoperable communication plans. Such plans are essential for long-term planning, such as coordinating communications strategies with different agencies and neighboring jurisdictions, and for preventing funds from being wasted on hastily planned systems.

I understand that numerous fire service and law enforcement groups, State and local government organizations, and other entities representing the public safety community played a key role in drafting this Amendment. They and I support this Amendment, and so should you.

I commend Representatives FOSSELLA and STUPAK for their leadership and vision in offering this important Amendment.

As Chairman of the Select Committee on Homeland Security, I strongly encourage my colleagues to support this Amendment.

Mr. DINGELL. Mr. Chairman, I agree with Chairman BARTON that the digital television transition has taken too long and that we need to quickly get our police officers, firefighters, and other first responders an additional 24 megahertz of spectrum to help them safely do their jobs. This spectrum, currently occupied by television channels 63, 64, 68, and 69, is set to be turned over to first responders once the stations broadcasting on those channels transition to digital. Can the federal government speed this up?

Some have proposed getting first responders this spectrum more quickly by requiring certain broadcasters to return their spectrum by the end of 2006. This suggestion, though well intentioned, is a simplistic approach to a complex problem. It does not ensure that the public safety sector will be ready to use this new spectrum. Also, this suggestion, by supplanting certain broadcasters directly, and shutting down others to prevent interference, will prevent many consumers from receiving important programming such as local news and weather. Finally, it will also disproportionately harm the Hispanic community by shutting down a number of Spanish-language stations.

Likewise, the amendment before us today does not reflect the complexity of this issue. Although I agree with Chairman BARTON that we need to speed up the digital transition, the amendment declares that we should establish a hard deadline of December 31, 2006, when all analog television broadcasts on all channels would cease. Such an absolute declaration is premature. It would not allow enough time for affordable equipment to come to market or to properly educate consumers about the transition. Moreover, it could result in many consumers losing their television service. That must not happen.

Congress needs to address the digital transition issue soon in a comprehensive way, addressing, among others, three major issues. First, we need to expedite public safety's access to new spectrum and provide them with certainty so they know when they will be receiving new spectrum. Certainty will allow first responders time to plan how to use the spectrum. It will also allow them time to line up the funding necessary to make use of the spectrum once it becomes available.

Second, we need to implement a far-reaching plan to educate consumers on what will happen once the digital transition is complete. It is important that consumers know when the transition will take place, how it will take place, and what it means for them with regard to their television viewing.

Third, consumers should not bear unfair cost burdens, and we need to have a program in place to provide subsidies so that no one is left behind as the United States transitions to digital television.

I am pleased that Chairman BARTON recognizes the need to tackle these issues in a thoughtful and comprehensive way. Unfortunately, I cannot support the amendment before us today because it is premature and could lead to consumers losing their television service.

I am confident, however, that regardless of which party controls the House next Congress, the Committee on Energy and Commerce will work on a bipartisan basis to properly address these issues in a way that will speed up the digital transition, provide certainty to public safety regarding new spectrum, and protect consumers from losing their television service.

Mr. MICA. Mr. Chairman, the amendment I have offered makes several non-controversial, but important changes:

First, it prevents a repeat of the ''Cat Stevens'' incident.

On September 21st, Yusuf Islam, formerly known as Cat Stevens, was allowed to board United Flight 919 from London to Washington, DC.

The plane was hundreds of miles over the Atlantic before it was discovered that Mr. Islam was on the terrorist watchlist. Fortunately, the plane was diverted to Maine without incident. That plane should never have left the ground with Mr. Islam on board.

My amendment requires DHS to compare the names of international passengers to the terrorist watch-lists prior to the flight's departure, and it ensures that future flights will not take off with known terrorists on board.

Secondly, my amendment requires TSA to establish an appeal process for passengers wrongly placed on terror watchlists.

It also establishes a process for DHS to track passengers erroneously flagged under the Department's new pre-screening system.

The watchlists are incredibly important tools, but they are far from perfect.

Last week, I learned that several members of Congress, including the Chairman of the Transportation Committee, have been prevented from boarding airliners because they shared the first and last name of someone on the watchlist.

This provision will ensure that they and others are not unnecessarily delayed on future flights.

Lastly, this amendment directs the Department of Homeland Security to take all necessary actions to expedite the installation and use of advanced in-line baggage-screening equipment at commercial airports.

I am disappointed that language to provide innovative non-Federal financing for these systems was not included in H.R. 10 due to shortsighted CBO scorekeeping.

However, I do believe the Administration has the authority to pursue this approach, and hopefully, this section will encourage them to do so.

We worked closely with members on both sides of the aisle to develop this amendment. A similar amendment passed the Transportation Committee unanimously last week and I urge all of my colleagues to vote in favor of this amendment.

Mr. PICKERING. Mr. Chairman, I rise today to support the Amendment being offered by Mr. BARTON, Chairman of the House Energy and Commerce Committee. First, I would like to thank Chairman BARTON for his leadership on this issue. I agree with Chairman BARTON that H.R. 10 is not the vehicle by which to effectively transition this precious public spectrum to public safety and valuable commercial and non-licensed uses. In order to address all issues and concerns, we must take a comprehensive approach and develop a comprehensive solution so that our first responders receive all the tools they need and the American people receive the unimaginable benefits of digital technology. The Senate proposal is the wrong approach and I hope we will work to accomplish our goal in a more all-inclusive process focusing on all broadcast issues. We cannot effectively address the digital transition piece by piece. I look forward to working with Chairman BARTON on this very important issue in order to find a date that is appropriate and achievable in order to effectively transition to that new and exciting digital age of television that will promote public safety, encourage innovation, create jobs, and benefit all Americans.

Mr. BARTON of Texas. Mr. Chairman, my amendment expresses the sense of the Congress that the way to get valuable spectrum promptly into the hands of public safety officials without shutting off consumers' televisions is to enact comprehensive, hard-deadline digital television legislation.

The Senate-passed 9/11 bill, however, requires the return of only a portion of that spectrum, rather than all the spectrum that broadcasters are currently using for analog broadcasts. Broadcasters estimate that these provisions would shut off as many as 75 stations.

Many of these broadcasters carry major networks in major markets. Because the Senate bill does not require the other broadcasters to vacate their analog spectrum, there will be nowhere to relocate these 75 stations.

By waiting until the 109th Congress set a date-certain for all broadcasters to clear the spectrum they use for analog broadcasts, we can turn spectrum over to public safety sooner, and all broadcasters will be able to move to their final digital channels. The remaining spectrum can be auctioned for advanced commercial services, such as wireless broadband. Some of the billions of dollars generated can then be used for digital-to-analog converter boxes so that households relying on over-the-air analog broadcasts can continue to use their analog televisions.

I urge my colleagues to join me in expressing the Sense of the Congress that the responsible policy should be to address this issue comprehensively through regular order, not in a piecemeal fashion on a bill to implement the 9/11 Commission recommendations. I look forward next year to working with Ranking Minority Member DINGELL, Subcommittee Chairman UPTON, and Subcommittee Ranking Minority Member MARKEY, along with all of the Members of the Energy and Commerce Committee, to pass hard-deadline legislation. I urge my colleagues to vote for this amendment so that public safety gets its needed spectrum without making televisions go dark.

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

Mr. HOEKSTRA. Mr. Chairman, we have no additional speakers, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. KOLBE). The question is on the amendments en bloc offered by the gentleman from Michigan (Mr. HOEKSTRA).

The amendments en bloc were agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 10 printed in House Report 108–751.

AMENDMENT NO. 10 OFFERED BY MR. FOLEY

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. Offered by Mr. FOLEY:

Page 328, after line 7, insert the following (and amend the table of contents accordingly)

Subtitle F—Treatment of Aliens Who Commit Acts of Torture, Extrajudicial Killings, or Other Atrocities Abroad

SEC. 3121. INADMISSIBILITY AND DEPORTABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) INADMISSIBILITY.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

(1) in clause (ii), by striking ''has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible'' and inserting ''ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible'';

(2) by adding at the end the following:

''(iii) COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS.—Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of—

''(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

''(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

is inadmissible.''; and

(3) in the subparagraph heading, by striking ''PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE'' and inserting ''PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING''.

(b) DEPORTABILITY.—Section 237(a)(4)(D) of such Act (8 U.S.C. 1227(a)(4)(D)) is amended—

(1) by striking ''clause (i) or (ii)'' and inserting ''clause (i), (ii), or (iii)''; and

(2) in the subparagraph heading, by striking ''ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE'' and inserting ''PARTICIPATED IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed before, on, or after the date of the enactment of this Act.

SEC. 3122. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) GROUND OF INADMISSIBILITY.—Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

''(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), is inadmissible.''.

(b) GROUND OF DEPORTABILITY.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien described in section 212(a)(2)(G) is deportable.''.

SEC. 3123. WAIVER OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended—

(1) in subparagraph (A), by striking ''and 3(E)'' and inserting ''and clauses (i) and (ii) of paragraph (3)(E)''; and

(2) in subparagraph (B), by striking ''and 3(E)'' and inserting ''and clauses (i) and (ii) of paragraph (3)(E)''.

SEC. 3124. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

(1) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(2) by adding at the end the following:

''(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).''.

SEC. 3125. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

''(h)(1) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority to detect and investigate, and, where appropriate, to take legal action to denaturalize any alien described in section 212(a)(3)(E).

''(2) The Attorney General shall consult with the Secretary of the Department of Homeland Security in making determinations concerning the criminal prosecution or extradition of aliens described in section 212(a)(3)(E).

''(3) In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to—

''(A) the availability of criminal prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

''(B) the availability of extradition of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this subtitle) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 3126. REPORT ON IMPLEMENTATION.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on implementation of this subtitle that includes a description of—

(1) the procedures used to refer matters to the Office of Special Investigations and other components within the Department of Justice and the Department of Homeland Security in a manner consistent with the amendments made by this subtitle;

(2) the revisions, if any, made to immigration forms to reflect changes in the Immigration and Nationality Act made by the amendments contained in this subtitle; and

(3) the procedures developed, with adequate due process protection, to obtain sufficient evidence to determine whether an alien may be inadmissible under the terms of the amendments made by this subtitle.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Florida (Mr. FOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

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

I rise today in support of our amendment, the Foley-Ackerman amendment to H.R. 10, the Anti-Atrocity Alien Deportation Act that will help strengthen our Nation's security.

Every year, according to Amnesty International, an estimated 800 to 1,000 war criminals and human rights abusers seek refuge in the United States.

Due to loopholes in current law, these criminals could be living in our States, in our towns, and even in our neighborhoods. There is nothing in current U.S. law to bar such monsters from the United States or to legally justify their removal from our country.

This headline, the INS says it cannot deport them. The Justice Department will not prosecute them. Torturers, death squad leaders, and human rights criminals who seek refuge in the United States have nothing to fear except their victims.

Let me be perfectly clear: Torturers are terrorists. Many of us here today probably think of torturers as domestic terrorists, those just committing unspeakable crimes in their own Nations, but that cannot be further from the truth.

Let us look at the facts. North Korea, Iran, Syria, Libya, Cuba, Sudan, the former regimes in Afghanistan, the Taliban, and Iraq, they are all State sponsors of terrorism, and all have some of the worst human rights records in history. They detain people for indefinite periods of time, commit brutal acts of torture and kill with little regard for human life. We would be naive to believe that torturers and terrorists are in many ways not one in the same.

The Anti-Atrocity Alien Deportation amendment, which the gentleman from New York (Mr. ACKERMAN) and I have worked on for over 4½ years, we are offering it today, will give the Federal Government another weapon in our war on terror. This amendment will, among other things, make aliens who commit torture or other human rights violations inadmissible and removable.

This bipartisan and bicameral provision will strengthen H.R. 10 by adding additional layers to our immigration laws, barring these criminals with clear ties to terror from even entering our country.

For decades, those who have committed some of the most horrific acts against humanity have sought sanctuary here with impunity. This amendment would strip their protection once and for all. We cannot let these criminals continue to be around our families any longer. They have committed crimes against their own people. They have committed crimes against the United States. They have committed crimes against humanity.

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

Mr. ACKERMAN. Mr. Chairman, I ask unanimous consent to control the time in opposition and will be in favor of the legislation.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. ACKERMAN) is recognized for 5 minutes.

There was no objection.

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

First, I want to say it has been a privilege to work with the gentleman from Florida (Mr. FOLEY) on a completely nonpartisan basis for almost half a decade on this particular legislation.

The Foley-Ackerman amendment closes the loophole that currently allows war criminals who enter the United States to remain in the United States. This measure enjoys bipartisan support in both the House and the Senate. A bill sponsored by the chairman and ranking Democrat on the Senate Judiciary Committee, ORRIN HATCH and PATRICK LEAHY, has been reported out of the Judiciary Committee in that body.

At this very moment, with our Nation engaged in a conflict in Iraq, which previously had a regime that committed every kind of grotesque criminal behavior that our Nation deplores, the U.S. Code provides no, again, no, assurance that Saddam Hussein's henchmen, Iraqi war criminals, perpetrators of torture or atrocities from there or other places could not somehow come into the United States and enjoy the very benefits that they have so cruelly deprived of others.

It is hard to believe but it is true. Some of Saddam Hussein's most brutal thugs, if they were able to hide their past and slip past the INS, they could conceivably apply and receive either U.S. permanent resident status or even possibly citizenship.

How do we know this? Because war criminals from other conflicts have been surreptitiously coming to the United States since World War II. We cannot continue to leave the United States open to monsters who have committed horrible atrocities against innocent civilians, and we need to slam that door shut and to shut it tightly. We must also capture those war criminals who have already entered the United States and show them the door.

The Foley-Ackerman amendment provides the Justice Department's Office of Special Investigation, the OSI, with the statutory authority to hunt down these thugs and criminals and, through the courts, remove them from our country.

The OSI is currently tasked with finding and expelling Nazi war criminals seeking to evade the consequences of their unprecedented and horrific crimes. Since its creation in 1979, this elite team of prosecutors and investigators has been methodically removing Nazi war criminals who were able to sneak into the United States. Based on its terrific past performance, its current readiness, and most critically, its desire to perform the mission, OSI is the right agency to ensure that this land remain free from the most vile criminals and violators of human rights.

Mr. Chairman, the very notion that anyone who has perpetuated genocide or committed these horrible crimes, these acts of torture, would be able to get into the United States is shocking enough. The fact that there is currently no law on the books to find these criminals and to remove them from our country is even worse. War criminals should have no safe haven or refuge anywhere, least of all in this land of liberty, and that is why I am encouraging all of our colleagues, Mr. Chairman, to vote in support of the Foley-Ackerman amendment.

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

Mr. FOLEY. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. HOSTETTLER), the chairman of the Subcommittee on Immigration, Border Security and Claims.

(Mr. HOSTETTLER asked and was given permission to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Chairman, I rise in strong support of the Foley-Ackerman amendment to H.R. 10, the 9/11 Recommendations Implementation Act. This important amendment will close a longstanding gap that has allowed thousands of aliens who have tortured or otherwise abused the human rights of untold numbers in their home country to live in the United States.

They are living here in our country the lives that many of their victims will never enjoy. As we continue our war on terror, we must do everything in our power to make sure that our Federal agencies have the tools they need to ensure our safety.

The Foley-Ackerman amendment will take such a step. This amendment will keep our country safe by barring admission into the United States and authorizing the deportation of any foreigner who has committed acts of torture or other human rights abuses abroad.

These criminals have committed some of the most atrocious acts ever imagined by mankind. We can no longer be a safe haven for those who seek to do us harm and have proven this by doing grave harm to others in the countries they have fled.

Mr. Chairman, I urge my colleagues to vote for this very important amendment.

Mr. ACKERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for the time.

I rise to support this amendment because it spells out that immigrants who have committed torture or extrajudicial killings abroad are not eligible to enter the United States, and it changes the provisions that makes immigrants inadmissible if they have committed acts of genocide. The amendment also expands an existing bar against government officials who have committed severe violations of religious freedom.

I want to thank and commend the two gentlemen, and that is why I believe it is very important that H.R. 10 is clearly stripped of any violations of the convention against torture and to make sure that as we are consistent in

denying into the United States those who would commit genocide, torture and other heinous acts, that we accept the responsibility of having the high moral ground, making sure that no legislation that we pass would deport any alien to a place where they might be tortured and subjected to such horrific acts.

This is a very strong amendment. It puts us on the right side of the column, protecting those who would be subjected to the violence of those who would be interested in coming to this country, and I support the gentlemen in this amendment and would ask that we also consider the elimination of such language in our own H.R. 10. I support this amendment.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. ACKERMAN) has one-half minute remaining.

Mr. ACKERMAN. Mr. Chairman, I have no further speakers, and I yield our time to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to thank my colleague the gentleman from New York (Mr. ACKERMAN) and the gentleman from Indiana (Mr. HOSTETTLER), Richard Krieger from my district, who brought this important issue to our attention who has been diligently tracking and identifying these criminals.

Let me read a couple of names: Marko Boskic, Bosnia, member of a group that killed 1,200 Bosnian Muslims in one day; Major General Jean-Claude Duperval, Haiti, implicated in the massacre at Raboteau, Haiti, 1994; Nikola Vukovic, beat Bosnian Muslims with rifles and metal pipes; Mohamed Ali Samatar from Somalia, oversaw the killing of more than 50,000 northern Somali Issaks; Abdi Ali Nur from Somalia, assisted in sham trials and the execution of hundreds of civilians. That is just a few of them.

I will enter this into the RECORD at this point so people can see.

TABLE OF INDIVIDUALS ACCUSED OF ATROCITIES

[Arranged by Time of Atrocity Committed]

Name	Country	Crime	Time of atrocities
Thomas Ricardo Anderson Kohatsu	Peru	Implicated in the torture of Leonor La Rosa and Mariela Lucy Barreto. La Rosa was paralyzed, Barreto was killed.	1997
Marko Boskic	Bosnia	Member of group that killed 1,200 Bosnian Muslims in one day	July 15, 1995
Major Gen. Jean-Claude Duperval	Haiti	Implicated in massacre at Raboteau, Haiti	1994
Jean-Marie Vianney Mudahinyuka	Rwanda	Part of an elite group that ordered the killings of 500,000 Tutsis	1994
Nikola Vukovic	Bosnia	Beat Bosnian Muslims with rifles and metal pipes. Carved a religious symbol into the forehead of one prisoner.	1992–1994
Emanuel ''Toto'' Constant	Haiti	Created paramilitary organization that killed over 3,000 pro-democracy activists.	1991–1994
Carl Dorelien	Haiti	Oversaw the deaths of 5,000 people	1991–1994
Zijad Muzic	Bosnia	Ethnic cleansing of Croats and Bosnian Muslims	1991–1993
Jackson Joanis	Haiti	Accused of torture and murder	Early 1990s
Thioun Prasith	Cambodia	Implicated in the deaths of thousands of people	Late 1970s–1993
Mohamed Ali Samatar	Somalia	Oversaw killing of more than 50,000 northern Somali Issaks	1971–1990
Juan Lopez Grijalba	Honduras	Military chief accused of murder and torture of civilians	1980s
Jaime Ramirez Raudales	Honduras	Charged with political murders	1980s
Abdi Ali Nur	Somalia	Assisted in sham trials and the executions of hundreds of civilians	Late 1980s
Luis Discua	Honduras	Killed dozens of leftists in Honduras	1980s
Alvaro Rafael Saravia Marino	Honduras	Murdered Salvadoran archbishop	1980
Kelbessa Negewo	Ethiopia	Tortured, beat and raped Ethiopians	1978
Armando Fernando Larios	Chile	Helped kill Chile's foreign minister	1976
Gen. Fernando Vecino Alegret, a.k.a. ''Fidel''	Vietnam	Cuban interrogator that tortured American POWs during Vietnam War	1967
Helmut Oberlander	Ukraine	Belonged to Nazi death squad that killed thousands of Jews	1941–1943

GENERAL

Iran: Pro-democracy Iranian Students tortured in 1970s.

Iraq: Dissidents against Ba'ath party regime systematically tortured.

Afghanistan: Taliban.

Sources sorted by name of accused individuals:

1. Kohatsu: ''U.S. Becoming haven for Torturers.'' San Diego Union Tribune, April 10, 2002.

2. Boskic: Rupert, James. ''Accused killer in Bosnian war makes a life in U.S.'' New York Newsday, Sep. 13, 2004.

3. Duperval: Daniel, Trenton and Susannah A. Nesmith. ''Abusers back in the streets; Some of Haiti's most notorious human rights abusers walk the streets openly now.'' The Miami Herald. March 15, 2004.

4. Mudahinyuka: Korecki, Natasha. ''More charges for Rwanda suspect.'' Chicago Sun-Times. May 15, 2004.

5.Vukovic: Dart, Bob. ''U.S. is a haven for foreign war criminals.'' Austin American Statesman. April 11, 2002.

6. Constant: ''Torture suspects find haven in U.S.'' Miami Herald. Aug. 1, 2001.

7. Dorelien: Wilber, Del Quentin. ''Rights abusers can find haven.'' Baltimore Sun. Aug. 28, 2000.

8. Muzic: Fainaru, Steve. ''Suspect in 'cleansing' by Serbs living in Vt.'' The Boston Globe. May 3, 1999.

9. Joanis: Benjamin, Jody A. ''Haitian enforcer makes bid to stay put.'' Ft. Lauderdale Sun-Sentinel. June. 22, 2001.

10. Prasith: Fifield, Adam. ''Apologist in suburbia.'' The Village Voice. May 5, 1998.

11. Samatar: Ragavan, Chitra. ''A safe haven, but for whom?'' U.S. News and World Report. Nov. 15, 1999.

12. Grijalba: ''Foley introduces bill to stop influx of criminals here.'' Sun-Herald.com. April 4, 2003. http://www.sun-herald.com.

13. Raudales: Valbrun, Marjorie. ''U.S. to pursue torturers who flee here—Move seeks to address 'nexus' between human-rights abusers and national-security risks.'' The Wall Street Journal. May 8, 2003.

14. Abdi Ali Nur: Ragavan, Chitra. ''A safe haven, but whom?'' U.S. News and World Report. Nov. 15, 1999.

15. Discua: ''Foley introduces bill to stop influx of criminals here.'' Sun-Herald.com. April 4, 2003. http://www.sun-herald.com

16. Marino: Charvy, Alfonso and Elizabeth Donovan. ''Torture suspects find haven.'' The Miami Herald. July 22, 2001.

17. Negewo: Dart, Bob. ''U.S. is a haven for torturers, report says; many settle here illegally.'' The Atlanta-Journal Constitution. April 11, 2002.

18. Larios: Valbrun, Marjorie. ''U.S. to pursue torturers who flee here—Move seeks to address 'nexus' between human-rights abusers and national-security risks.'' The Wall Street Journal. May 8, 2003.

19. Alegret a.k.a. ''FIDEL'': Alfonso, Pablo and Sonji Jacobs. ''Ex-POW identifies Cuban dignitary as his chief tormentor.'' The Miami Herald. Sep. 9, 1999.

20. Oberlander: Staletovitch, Jenny. ''New law would send modern war criminals packing.'' The Palm Beach Post. Jan. 18, 2000.

These are articles from papers about criminals living in the United States.

I urge my colleagues to vote for this very important national security measure. I thank my legislative counsel and legal director, Bradley Schreiber, and my staff for working so diligently.

As I mentioned, the gentleman from New York (Mr. ACKERMAN) and I have been doing this now for 4½ plus years. It has finally come to fruition. We thank our colleagues. We urge adoption of the amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 11 printed in House Report 108–751.

AMENDMENT NO. 11 OFFERED BY MR. GOODLATTE

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. GOODLATTE:

Page 235, after line 21, insert the following:

Subtitle J—Pretrial Detention and Postrelease Supervision of Terrorists

SEC. 2221. SHORT TITLE.

This subtitle may be cited as the ''Pretrial Detention and Lifetime Supervision of Terrorists Act of 2004''.

SEC. 2222. PRESUMPTION FOR PRETRIAL DETENTION IN CASES INVOLVING TERRORISM.

Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting ''or'' before ''the Maritime''; and

(B) by inserting after ''or 2332b of title 18 of the United States Code'' the following: '', or

an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code''; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after ''violence'' the following: '', or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code''.

SEC. 2223. POSTRELEASE SUPERVISION OF TERRORISTS.

Section 3583(j) of title 18, United States Code, is amended in subsection (j), by striking '', the commission'' and all that follows through ''person,''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Virginia (Mr. GOODLATTE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

□ 1030

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

Mr. Chairman, this amendment would simply create a rebuttable presumption that no amount of bail or other conditions would assure the appearance in court of a defendant when he is charged with a terrorist offense and there is probable cause that the defendant committed certain terrorist acts. This bill simply creates a rebuttable presumption which can be overcome by evidence that the defendant would appear in court.

This presumption that a defendant would not show up in court already applies to those who are charged with major drug crimes and certain violent crimes. If it is good enough for drug dealers and violent criminals, it should be good enough for terrorists. It is simply too risky to trust terrorists who have been charged with terrorist offenses to return to court to be tried. We should not allow these criminals to roam free in our streets while they await trial.

In addition, this bill would help prevent further terrorist attacks by giving judges the discretion to impose a term of supervised relief up to life for terrorists who have been convicted of terrorist offenses. Currently, the law provides that only those who committed terrorist offenses which either resulted in or created a foreseeable risk of death could be supervised for a term of years up to life after being released. This bill would make clear that post-trial supervision is available for all victim terrorists, not just those whose terrorist acts happen to result in death.

This amendment only authorizes a court to impose the supervised relief of a terrorist. It does not mandate any particular term of supervised relief for any particular criminal, nor does it mandate that any supervised release be imposed at all. It leaves that decision up to the courts based on the facts and circumstances of each individual case.

In addition, current law already gives courts the authority to modify or end the period of supervised release if the court determines that the criminal's conduct and circumstances so warrant. This safeguard is not changed by this amendment.

Mr. Chairman, this amendment makes simple changes to current Federal criminal law to ensure that those who have committed terrorist acts will not attempt to harm our citizens again. I urge my colleagues to support this important amendment.

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

Mr. SCOTT of Virginia. Mr. Chairman, I rise to claim the time in opposition for the minority, and I yield myself such time as I may consume.

Mr. Chairman, this amendment adds to the list of crimes for which the presumption of detention occurs. It is an extraneous PATRIOT Act II provision not sought by the 9/11 Commission. This puts the defendant in a position where he has to prove the unprovable.

The Department of Justice has a bad record of detaining people who should not be detained. Brendon Mayfield, a lawyer in Seattle, was detained as a material witness in the Madrid train bombing. The Department of Justice was subsequently forced to admit that they had the wrong person, in that Mr. Mayfield had nothing to do with the crime, notwithstanding the fact that he had been held on one of these presumptions of detention.

I would hope we would consider this when we consider PATRIOT Act II.

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

Mr. GOODLATTE. Mr. Chairman, I yield myself 15 seconds to say to the gentleman from Virginia that this is freestanding legislation which I have introduced. It has nothing to do with the so-called PATRIOT Act II the gentleman refers to. It is a good measure.

Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of this amendment. This amendment would enhance public safety by denying pretrial release to individuals accused of committing a terrorism offense. It would also provide that any individual convicted of a terrorism offense could be sentenced to supervised release for any term of years up to life.

Defendants in Federal cases who are accused of certain crimes are presumptively denied pretrial release. For these crimes there is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of that person as required for the safety of the community.

The list of crimes currently includes drug offenses, carrying maximum prison sentences of 10 years or more, but does not include most terrorism offenses. Thus, persons accused of many drug offenses are presumptively to be detained before trial, but no comparable presumption exists for people accused of most terrorist crimes. This makes no sense.

The continuing danger posed to national security by those who materially support terrorism, who are the vital links in the chain of any terrorist act, may be no less than that posed by the direct perpetrators, the triggermen, of terrorist violence. And the court should be afforded the same degree of discretion in prescribing post-release supervision in all these cases as well.

The standard for every one of these amendments is whether or not this language enhances the safety and security of this country. Clearly, this amendment is a step in the right direction. It gives our courts some of the same tools they have in drug cases. I urge my colleagues to support this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Ms. HARMAN), the ranking member of the Permanent Select Committee on Intelligence.

Ms. HARMAN. Mr. Chairman, I rise to discuss three subjects, the first of which is this amendment. Although I listened carefully to the gentleman from Virginia (Mr. GOODLATTE). I think many of the points he makes are valid, and I agree with him that we should not be coddling terrorists, but I think this amendment is ill timed and needs further consideration by this House.

The gentleman has said that he is not participating in an effort to expand the PATRIOT Act, but these ideas have been circulated in a package called PATRIOT Act II. My view of the PATRIOT Act, which I supported, is that next year is the right time to consider how to expand or contract it.

I am a cosponsor of the SAFE Act, which would delete some provisions of the PATRIOT Act that are egregious, but I have an open mind in looking at some features of the PATRIOT Act which might be fine-tuned to work more effectively. So for that reason, I oppose this amendment.

I also will oppose the Hostettler amendment, which will be offered in a few minutes. I think it replaces the worst features of H.R. 10 with some other bad features. Certainly, the outsourcing of terrorists, as some of us have called it, which some Members of the majority including the gentleman

from Illinois (Mr. HYDE), agree would violate U.S. law and the International Convention on Torture, is a terrible idea.

But there are other features of the Hostettler amendment that make asylum much harder to get, and in ways that have nothing whatsoever to do with finding and prosecuting terrorists, punish innocent immigrants. That is not the purpose of the debate today.

Finally, I want to comment on the en bloc amendment which was just offered and agreed to. I think it is a very good amendment, and the features of it I want to talk about are the Barton amendment, and the Fossella amendment, both of which have to do with interoperable communications.

We have done almost nothing since 9/11 effectively to deal with the failure to have communications equipment and adequate bandwidth with which to communicate, which was a major problem in New York and a major problem at the Pentagon. This administration is not even funding initiatives in this fiscal year for interoperable communications, claiming there is enough money in the pipeline.

The right answer is to free up some dedicated bandwidth for emergency communications. There is a pending bill called the HERO Act, introduced by the gentleman from Pennsylvania (Mr. WELDON) and me, which has been sadly withering on the vine for a year and a half, opposed by the broadcasters. These two amendments will help with multiyear funding, which we need for ports as well as interoperable communications, and will help convey the sense of the Congress that makes it clear we have to free up this bandwidth so that our first responders have the tools that they need.

So as we proceed this morning, Mr. Chairman, I hope we are all paying close attention to amendments. Some are good, some are less good. I would like to say to the gentleman from Virginia (Mr. GOODLATTE), however, that I think he is an extremely careful legislator and a very good lawyer, and I hope that next year we can work together to craft PATRIOT Act amendments both to eliminate provisions that do not work and to enhance provisions that do work that will keep America safe, find the bad guys, and protect our civil liberties and our constitution.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time, and I say to the gentlewoman that I appreciate her comments, but I would also point out that we are engaged in the midst of a war against terror right now and a lot is going to happen in the next year, including the apprehension of people who, under appropriate circumstances meet this standard, and we should have the opportunity for the court, and this is a decision by the judge, not something that is a mandatory decision, but the judge should have the discretion to allow that the individual be held pending trial without bond.

Secondly, there will be people who have been convicted of terrorist acts potentially released during that period of time, and if the court finds it appropriate to authorize lifetime supervision, we ought to get that supervision started now to keep track of people who have engaged in terrorist acts and give the court the authority to undertake that now, without waiting an additional year and expose our country to greater risks that will occur during that time.

So I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore (Mr. KOLBE). The question is on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro temore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) will be postponed.

It is now in order to consider amendment No. 12 printed in House Report 108–751.

AMENDMENT NO. 12 OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. GREEN of Wisconsin:

Page 252, line 18, strike ''**DEPORTATION**'' and insert ''**REMOVAL**'' (and amend the table of contents accordingly).

Page 258, after line 5, insert the following (and amend the table of contents accordingly):

SEC. 3034. INADMISSIBILITY DUE TO TERRORIST AND TERRORIST-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended to read as follows:

''(i) IN GENERAL.—Any alien who—

''(I) has engaged in a terrorist activity;

''(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

''(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

''(IV) is a representative (as defined in clause (v)) of—

''(aa) a terrorist organization; or

''(bb) a political, social, or other group that endorses or espouses terrorist activity;

''(V) is a member of a terrorist organization described in subclause (I) or (II) of clause (vi);

''(VI) is a member of a terrorist organization described in clause (vi)(III), unless the alien can demonstrate by clear and convincing evidence that the alien did not know, and should not reasonably have known, that the organization was a terrorist organization;

''(VII) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

''(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi); or

''(IX) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.''.

(b) ENGAGE IN TERRORIST ACTIVITY DEFINED.—Section 212(a)(3)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended to read as follows:

''(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this subparagraph, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

''(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

''(II) to prepare or plan a terrorist activity;

''(III) to gather information on potential targets for terrorist activity;

''(IV) to solicit funds or other things of value for—

''(aa) a terrorist activity;

''(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

''(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

''(V) to solicit any individual—

''(aa) to engage in conduct otherwise described in this clause;

''(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

''(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

''(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

''(aa) for the commission of a terrorist activity;

''(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

''(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi); or

''(dd) to a terrorist organization described in clause (vi)(III), unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.''.

(c) TERRORIST ORGANIZATION DEFINED.—Section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) is amended to read as follows:

''(vi) TERRORIST ORGANIZATION DEFINED.—As used in this section, the term 'terrorist organization' means an organization—

''(I) designated under section 219;

''(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attorney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv); or

''(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) removal proceedings instituted before, on, or after the date of the enactment of this Act; and

(2) acts and conditions constituting a ground for inadmissibility occurring or existing before, on, or after such date.

SEC. 3035. DEPORTABILITY OF TERRORISTS.

(a) IN GENERAL.—Section 237(a)(4)(B) (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

''(B) TERRORIST ACTIVITIES.—Any alien who would be considered inadmissible pursuant to subparagraph (B) or (F) of section 212(a)(3) is deportable.''.

(b) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

''(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization, as defined in section 212(a)(3)(B)(vi), is deportable.''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts and conditions constituting a ground for removal occurring or existing before, on, or after such date.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Wisconsin (Mr. GREEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. GREEN).

(Mr. GREEN of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my time is limited, so I will focus on just two aspects of this amendment that come largely from my own legislation, H.R. 4942.

First, this amendment recognizes that our enemy is not merely the terrorist who pulls the trigger or places the bomb or drives that rig truck, it is also those who through their material support make the violent act possible. They provide the training, they provide the shelter, the ID documents, the resources, the intelligence, the many dirty acts that help the chain of destruction. If we can break these links in the terrorist chain, then the chain will fall apart.

The second thing these provisions do is common sense. It makes material support of terrorism, especially those who participate in military-style training, grounds for being inadmissible into this country and grounds for deportation.

We are a welcoming country. I am the proud son of immigrants. But we cannot allow our welcoming arms to be a tool for terrorists who seek our downfall.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to seek the time in opposition, and I yield myself such time as I may consume.

Mr. Chairman, no one is opposed to identifying and denying admission to terrorists, and no one is opposed to deporting terrorists who are found in the United States. However, we should not exclude or deport someone as a terrorist who is an innocent person. This amendment would make that possibility more likely by expanding the already overly broad provisions for excluding and deporting individuals on terrorism grounds.

The terrorist removal provisions presently in the Immigration Nationality Act specify that terrorist organizations must be designated by the Secretary of the Department of State. This amendment would eliminate that requirement. This would greatly increase the possibility that people will be excluded or deported on the basis of involvement with an organization that has incorrectly been called a terrorist organization.

□ 1045

Moreover, I would be surprised if someone removed on that basis would ever be allowed to return to the United States.

Under current law, involvement with a terrorist organization is not a ground for removal unless that person knew or should have known that it was a terrorist organization. We have seen this occur time and time again, particularly after passage of the PATRIOT Act and, as well, as it is related to many in the Muslim community. I believe that more consideration needs to be given to these very important issues.

I ask my colleagues to vote against this amendment.

Ms. JACKSON-LEE. Mr. Chairman, no one is opposed to denying admission to terrorists, and no one is opposed to deporting terrorists who are found in the United States. However, we should not exclude or deport someone as a terrorist who is an innocent person. This amendment would make that possibility more likely by expanding the already overbroad provisions for excluding and deporting individuals on terrorism grounds.

The terrorist removal provisions presently in the Immigration and Nationality Act specify that terrorist organizations must be designated by the Secretary of the Department of State. This amendment would eliminate that requirement. This would greatly increase the possibility that people will be excluded or deported on the basis of involvement with an organization that has incorrectly been called a ''terrorist organization.'' Moreover, I would be surprised if someone removed on that basis would ever be allowed to return to the United States.

Under current law, involvement with a terrorist organization is not a ground for removal unless the person knew or should have known that it was a terrorist organization. The amendment would require the alien to demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known that it was a terrorist organization. This would create a higher standard that would be much more difficult to prove. In fact, I am not sure that it is possible to establish the negative proposition that you did not know something.

Finally, the changes that this amendment would make would apply retroactively, which would increase the likelihood of ensnaring innocent people. I urge you to vote against this amendment.

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

Mr. GREEN of Wisconsin. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER), the distinguished chairman of the Committee on the Judiciary who has produced so many of the important provisions of this legislation.

Mr. SENSENBRENNER. I thank the gentleman for yielding me this time.

Mr. Chairman, I am puzzled why anybody would oppose this amendment. The amendment simply states that if you cannot be admitted to the United States because you are affiliated with a terrorist organization, then you can be deported if you get in through one way or another. We have a big problem with illegal aliens crossing both the northern and the southern border. If you do not go through the passport check and enter the United States illegally and you could not enter the United States legally because you were a part of a terrorist organization, then if this amendment goes down, you cannot kick them out. So it seems to me that if you cannot get in and it is illegal for you to get in and you do get in, anyhow, illegally, or by fooling an immigration inspector, then the government ought to have the power to be able to deport these people.

The amendment is as simple as that, meaning if they do get in when they should not, they should be able to be removed and sent out of the country and make America safer.

I urge support of the amendment.

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

Let me just say that the important part of this is that the amendment would require the alien to demonstrate by clear and convincing evidence that he did not know and should not reasonably have known that it was a terrorist organization. This is a higher standard and would be much more difficult to prove. And might I say we are adding this to a bill that frankly the White House has indicated that it strongly opposes any overbroad expansion of expedited removal. This is clearly in that ballpark.

The administration has concerns with the overbroad alien identification standards proposed by the bill and unrelated to security concerns. All of these amendments that we will be talking about, we have a clear statement by the White House that they oppose. But also my understanding is that the chairman of the full Committee on the Judiciary has indicated that he would not stand for the expansion of section 411 of the PATRIOT Act. In fact, the chairman said that it will be done ''over my dead body.'' This is what we are doing here right now. Even if we do so, we need to do so with far more detailed review and judicial committee hearings and the understanding of the imbalance between civil liberties and respect for the judicial system and the right of someone to go into the courts and prove otherwise than what we are doing here under H.R. 10 which is supposed to be, as the 9/11 Commission has said, the overhaul of the U.S. intelligence agencies.

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

Mr. GREEN of Wisconsin. Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. HOSTETTLER), chairman of the Subcommittee on Immigration, Border Security, and Claims.

(Mr. HOSTETTLER asked and was given permission to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Chairman, I rise in strong support of this amendment and commend my colleague from Wisconsin for his work on this issue. Currently, terrorists and their supporters can be kept out of the United States, but as soon as they set foot in the U.S. on tourist visas, for example, we cannot deport them for many of the very same offenses. This hinders our ability to protect Americans from those alien terrorists who have infiltrated the United States. This amendment makes aliens deportable for terrorist-related offenses to the same extent that they would not be admitted in the first place to the United States.

Another deficiency in current law is based on a flawed understanding of how terrorist organizations operate. The Immigration and Nationality Act now reads that if an alien provides funding or other material support to a terrorist organization, the alien can escape deportation if he can show that he did not know that the funds or support would further the organization's terrorist activity. That is, his donation did not immediately go to buying explosives. This notion is based on a fundamental misunderstanding of how terrorist organizations operate.

As Kenneth McKune, former associate coordinator for counterterrorism at the State Department explained, ''Given the purposes, organizational structure and clandestine nature of foreign terrorist organizations, it is highly likely that any material support to these organizations will ultimately inure to the benefit of their criminal, terrorist functions, regardless of whether such support was ostensibly intended to support nonviolent, nonterrorist activities.''

Money given to terrorist organizations is fungible. Senator DIANNE FEINSTEIN has rightly stated that, ''I simply do not accept that so-called humanitarian works by terrorist groups can be kept separate from their other operations.''

I urge my colleagues to support the amendment.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think what is interesting to listen to today are the arguments on the other side. Where they cannot win on the merits, they choose to throw up a smoke screen of process, no matter how far off point it may be. This amendment stands for a very simple proposition, those who materially support terrorists, who make the terrorist act possible by providing training, intelligence, logistics, transportation, those who materially support terrorism should not be here. They should not be allowed in this country; and if they are in this country, they should be deported. We must have this tool. If we are truly going to make this country safe, if we are truly going to disrupt terrorism before the trigger is pulled or the bomb is set, before lives are lost, we must have these tools.

Those who support terrorism intellectually through their training support and harboring terrorists, those who operate and move in the shadows of the terrorist operation, they do not belong here. They are every bit as dangerous as the one who would pull the trigger. I urge my colleagues to support this amendment. I think it is a vitally important tool in our overall effort in homeland security.

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

The CHAIRMAN pro tempore (Mr. KOLBE). The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized to close for 2 minutes.

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

We do not want terrorists in this country and we certainly want to be able to identify the terrorists as everyone might expect we would want to do. This amendment is particularly overbroad, has an ability to wrap up innocent individuals, and it goes against what the administration has said. The administration strongly opposes the overbroad expansion of expedited removal authority.

Might I remind my colleagues of the unfortunate circumstances, though they are someone different, of Cat Stevens, Yusuf Islam, who came here with all innocent purposes. In fact, his last years of work have been in charitable work. Look what we tried to do with him. So many of our constituents in the United States have Muslim names and are affiliated with organizations who have good intentions but may be misconceived and therefore they are wrapped up in this expedited removal.

This is something that needs to be done in a separate, bipartisan manner, which is to have hearings, to get testimony, to understand the depth of the need and how to craft something that works. Our own chairman has indicated that we cannot by extension extend the PATRIOT Act without considerable thought and I believe it is important when we are defending our Nation to have considerable thought.

I would ask my colleagues to deny this amendment, to reject it, and I ask us to focus on restoring the sense of integrity to our intelligence system as the 9/11 Commission report argues for and the Maloney-Shays bill argues for.

I ask for a ''no'' vote on this particular amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

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

Mr. GREEN of Wisconsin. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) will be postponed.

It is now in order to consider amendment No. 13 printed in House Report 108–751.

AMENDMENT NO. 13 OFFERED BY MR. HOSTETTLER

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. HOSTETTLER:

Page 243, beginning on line 12, strike ''and the officer determines that the alien has been physically present in the United States for less than 1 year''.

Page 244, beginning on line 7, strike ''if the officer determines that the alien has been physically present in the United States for less than 1 year''.

Page 245, line 5, strike ''the central motive'' and insert ''a central reason''.

Page 254, strike line 6 and all that follows through line 24 on page 255 and insert the following:

SEC. 3032. DETENTION OF ALIENS BARRED FROM RESTRICTION ON REMOVAL PENDING REMOVAL.

(a) IN GENERAL.—Section 241 of Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

''(j) DETENTION OF ALIENS BARRED FROM RESTRICTION ON REMOVAL PENDING REMOVAL.—

''(1) IN GENERAL.—In order to protect the United States from those aliens who would threaten the national security or endanger the lives and safety of the American people, the Secretary of Homeland Security may, in the Secretary's unreviewable discretion, determine that any alien who has been ordered removed from the United States and who is

described in subsection (b)(3)(B) is a specially dangerous alien and should be detained until removed. This determination shall be reviewed every six months until the alien is removed. In making this determination, the Secretary shall consider the length of sentence and severity of the offense, the loss and injury to the victim, and the future risk the alien poses to the community.

''(2) ALIENS GRANTED PROTECTION RESTRICTING REMOVAL.—Any alien described in paragraph (1) who has been ordered removed, and who has been granted any other protection under the immigration law, as defined in section 101(a)(17), restricting the alien's removal, shall be detained. The Secretary of State shall seek diplomatic assurances that such alien shall be protected if removed from the United States.''.

(b) SEVERABILITY.—If any amendment, or part of any amendment, made by subsection (a), or the application of any amendment or part of any amendment to any person or circumstance, is held to be unconstitutional—

(1) the Secretary of Homeland Security shall continue to seek the removal of any alien described in section 241(j)(1) of the Immigration and Nationality Act, as amended by this Act, consistent with any protection described in section 241(j)(2) of such Act; and

(2) the Secretary of State shall continue to seek diplomatic assurances that any alien described in section 241(j)(2) of the Immigration and Nationality Act, as amended by this Act, would be protected upon removal.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from Indiana (Mr. HOSTETTLER) and the gentleman from California (Mr. BERMAN) each will control 5 minutes.

Mr. HOSTETTLER. Mr. Chairman, I ask unanimous consent to extend the debate on this amendment to 20 minutes, equally divided.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Indiana (Mr. HOSTETTLER) and the gentleman from California (Mr. BERMAN) each will control 10 minutes.

The Chair recognizes the gentleman from Indiana (Mr. HOSTETTLER).

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

I urge my colleagues to support this amendment. It is supported by leadership, including Chairman HENRY HYDE, and will protect the American people from dangerous aliens while continuing our Nation's proud history of providing refuge to the innocent oppressed. This amendment will protect the American people in the same way as section 3032, which it replaces, would have. Section 3032 would have barred aliens who posed a threat to the American public from seeking our country's protection.

The courts have created a need to defend the American public against such aliens. You see, the decisions of a few judges have turned what was a clear congressional mandate authorizing the detention of dangerous aliens who are facing removal into a confused and unworkable mess. Congress has authorized the Attorney General to detain all aliens who pose a risk to the community, including aliens granted protection under the Convention Against Torture, until they can be removed from the United States. The Supreme Court has read this provision, however, to find that any alien who has been ordered deported but who cannot be removed must be released, no matter how grave a danger the alien poses, unless some ''special circumstance'' makes the alien especially dangerous.

Congress' clear standard has eroded to the point that the Ninth Circuit Court of Appeals ordered Department of Homeland Security authorities to release a dangerously insane alien who had accumulated convictions for assault, harassment and rape. Why? Because the Supreme Court had released a killer in the same circumstances, and the alien in the Ninth Circuit Court of Appeals' case had not actually killed anyone. Under such logic, DHS cannot protect the public against an alien who has been granted torture convention protection and who therefore cannot be removed from the United States unless the alien has done something more serious than killing another person.

This amendment will address the goals of section 3032 by giving the Secretary of Homeland Security the tools to keep dangerous aliens granted protection under the torture convention out of our communities, off of our streets, and away from our children. It will authorize the Secretary, in his unreviewable discretion, to detain aliens granted such protection who pose a risk to the American people. In addition, this amendment will continue our Nation's tradition of providing aliens the opportunity to request asylum and torture convention relief while at the same time ensuring that our country's generosity is not abused.

It would also amend section 3007 to reinforce the current burdens governing asylum, with one exception. Aliens who claim that they need asylum because they have been accused in connection with terrorist, militant or guerilla activity must show that race, religion, membership in a particular social group, nationality or political opinion is a central reason for any claimed persecution. This amendment will protect innocent aliens who come to our shores fleeing thugs and dictators, while undoing an inappropriate burden imposed on our government by, once again, the Ninth Circuit Court of Appeals.

Contrary to law and logic, the Ninth Circuit has required the government to prove that aliens claiming persecution because they have been tied to terrorism are not eligible for asylum, instead of requiring the aliens seeking protection to show that they are. My subcommittee has discovered that Hesham Hedayet, who killed two innocent bystanders at LAX on July 4, 2002, had tried to exploit this loophole.

I must underscore again, however, the most important effect of this amendment which is to give the Secretary of Homeland Security the discretion to detain aliens who would pose a risk to the American people if released.

I urge my colleagues to support this amendment.

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

Mr. BERMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, we are about to embark on the debate on three amendments dealing with three provisions of this bill that are very important and I think the House should try to understand the context, so I would like to use this initial time just to sort of set the table.

The majority in putting forth this bill on the floor used intelligence reform and the compelling and legitimate concern about terrorism to insert three obnoxious, overbroad and overreaching provisions that flagrantly violate our convention against torture, which the United States has signed and ratified, and threaten to send people who are likely to be tortured back to their countries that will torture them; to engage in a process that allows a massive deportation of people, having nothing to do with terrorism, who are in this country for less than 5 years, through expedited removal, in a fashion that will not allow them a hearing, this is section 3006, that will not allow them a hearing, that will not allow them to contact their families, that will require them to establish they are either here legally or have been here for more than 5 years by the documents on their person, and, if not, to be detained and immediately removed from this country, in total and in flagrant violation of existing processes, taking a legitimate idea of expedited removal at our points of entry and in establishing it to the country in its entirety throughout its interior and to anyone who is here less than 5 years.

□ 1100

Then, finally, in section 307 to massively alter the procedures and tests for getting asylum in such a way as to fundamentally depart from this country's tradition as a haven for refugees and people fleeing because of a well-founded fear of persecution, based on their politics, their gender, their religion, their ethnicity. These are horrible provisions. They have nothing to do with terrorism.

Now we have an amendment offered by the gentleman from Indiana after the White House counsel wrote the toughest letter we have seen saying the notion that America is going to send somebody back to a country where they are likely to be tortured is unconscionable, we do not support it, we do not ask for this provision. He offers an amendment, which is a smokescreen, a total smokescreen, that tries to pretend that we are getting out of this problem by making amendments to three sections, notwithstanding the fact that if his amendment were to pass and the Smith amendments that follow his amendment to strike sections 306 and 307 were to lose, every one of these problems would still exist.

Mr. HOSTETTLER. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), majority whip.

Mr. BLUNT. Mr. Chairman, I thank the gentleman from Indiana for yielding me this time.

Because of the strange conflict in current law, terrorists and criminals who are not citizens of our country but for some reason get here are, in fact, being released into our society. There are three amendments, as the gentleman from California (Mr. BERMAN) pointed out. I think it is better to debate them one at a time. That is why we do that. We are going to vote on them one at a time.

This amendment is an important amendment because it deals with that specific problem. I cannot believe anyone in this House would want violent criminals from other countries who somehow get here to be able to be released in our country. This amendment allows that those criminals would be detained.

There is a great example of a Jordanian who was convicted in Jordan of conspiracy to bomb a Jordanian school for American children. He is convicted of a conspiracy where his goal, his target, was to kill American children. He somehow got to this country.

Under the current interpretation of the courts, we cannot send him back to Jordan because he might be tortured, but we also cannot detain him. So in that interpretation this person is likely to be set free in some community in the United States, a person who is conspiring to kill American children in Jordan. So we would put him in a community of the United States that is full of American children, nobody but American children, to kill in that community? That cannot be allowed.

What the gentleman from Indiana's (Mr. HOSTETTLER) amendment does is address the concern that we all would have about sending anybody into a place where they would be punished in a way that we would think was not appropriate.

I have got to tell my colleagues the appropriateness to this body and anywhere else and even as we would talk personally of a punishment for some whose target was to kill American children, it is hard to imagine how that punishment could be too difficult, but that is not what we are about in this society. So this amendment would allow that person to be detained.

If one catches a rattlesnake on one's farm, they do not look at it and say, this is definitely a rattlesnake, let us go up and release it in the front yard. What this amendment does is say, if they catch that rattlesnake and they say we are going to be able detain this rattlesnake, even though he did not commit his crime in the United States. We are not going to let this criminal who was, in this case, targeting American children, in other cases might be a murderer, in other cases might be a rapist, in other cases might be a pedophile, we are not going to let this person go and release him in our community simply because we have no place to send him back to and he did not commit the crimes that there was an agreement that he committed in the United States.

This is a good amendment. It improves this bill. But the underlying bill was designed to deal with the concern that we could not find an adequate way to deal with until the gentleman from Indiana (Mr. HOSTETTLER) worked hard to come up with this amendment.

I urge support for this amendment. We are debating these and voting on them one at a time. I urge that this amendment be adopted.

Mr. BERMAN. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Michigan (Mr. CONYERS)

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I reluctantly rise to tell the gentleman from Indiana (Mr. HOSTETTLER) of the Committee on the Judiciary that this breaks our deadlock, but it simply does not go far enough; and I am hoping that he will carefully consider the arguments being made by his colleagues, particularly on the Committee on the Judiciary, to see why it is that we think that even the Hostettler amendment can be approved.

I rise in strong opposition to this amendment. the Hostettler Amendment allows for some of the broadest and most damaging immigration changes we will have passed in several decades, and will decimate legal protections in our laws of expedited removal, asylum, and extraordinary rendition and torture.

Expedited removal (Section 3006)—The Hostettler Amendment would amend the immigration laws to permit summary deportations for persons who cannot prove that have physically been in the U.S. for more than 5 years. While the amendment deletes the provision that would have applied this summary deportation provision to asylee applicants, it still suffers from several glaring loopholes that would result in deserving immigrants facing the legal nightmare of summary deportation. Groups who would lose legal protections under the Hostettler Amendment include:

Trafficking victims, and victims of rape, incest, kidnaping, and domestic violence. Currently, the Trafficking Victims Protection Act allows these victims to remain in the U.S. so they are not subject to further violence and abuse. Under the Hostettler amendment, trafficking victims and other victims of rape, incest and kidnaping would be subject to mandatory deportation.

Batterred women and children. The Violence Against Women Act provides that battered immigrant women and children are permitted to remain here, so they are not forced to face further battering and violence. Under the Hostettler amendment, these immigrants could be plucked off the street and subject to mandatory deportation.

Cubans who arrive in the U.S. by sea or by land. Currently, the Attorney General has only discretionary power to exempt Cubans who arrive in the U.S. via land or sea from expedited removal. Under the Hostettler amendment, this discretionary power would again be obviated by the mandatory requirement of expedited removal. This would mean that Cubans who arrive at our shores would face automatic summary deportation

Asylum (Section 3007)—Under the Hostettler amendment, the rights of all asylum candidates would be impaired, decimating our historic commitment to refugees and persecuted immigrants. Among other things, the Hostettler Amendment would:

Require an asylum applicant to prove that a central reason for his or her being persecuted was race, religion, nationality, membership in a particular social group, or political opinion; a far more difficult evidentiary burden than current law.

Permit adjudicators to deny asylum because the applicant is unable to provide specific corroborating specific, and deny judicial review of such denials.

Introduce brand new credibility grounds for denying asylum, such as ''demeanor,'' any inconsistency in statements (even if attributable to fear of retribution), and other subjective grounds that introduce new cultural barriers to asylum, particularly for traumatized victims of torture and violence.

Exclude country conditions from human rights organizations, journalists, and other relevant, reliable and more recent information than may be obtained from State Department reports.

Extraordinary Rendition/Torture (Section 3032)—The Hostettler Amendment would also allow immigrants to be returned to countries where they could be tortured in violation of the Convention Against Torture. This is because the amended provision would allow our government to send an individual to a country with a history of human rights violations even if a U.S. immigration judge has determined he or she would face torture, as long as the Secretary of State had merely asked the country if they would agree not to torture the immigrant. In essence, we would be substituting the judgment of a foreign diplomat from Syria, China or the Sudan, for that of a judge in the U.S., with the immigrant facing excruciating torture if the judge was right.

Another problem with the Hostettler Amendment is that it would create unreviewable authority on the part of the DHS to detain noncitizens who are found to be at risk of torture or persecution in their home countries.

The Hostettler amendment is opposed by a wide range of human rights, civil liberties and immigration groups, including the ACLU, the American Immigration Lawyers Association, Amnesty International, the Center for Victims of Torture, the Hebrew Immigrant Aid Society, Human Rights Watch, the US Committee for Refugees, the National Council of La Raza and the U.S. Conference of Catholic Bishops. I urge No vote.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

In response to the last speaker, he demonstrated why it is a smokescreen. The issue of criminal aliens is a serious issue which we should have to deal with; so they insert that into the Hostettler amendment. But what they do is leave a gaping loophole whereby a country that utilizes torture gives assurances to the United States and therefore gets back the person whom they are going to torture.

Mr. Chairman, I yield 3½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong opposition to the Hostettler amendment. The Hostettler amendment amends the ill-considered and counterproductive torture provisions in H.R. 10 in a way that still allows foreigners to be subjected to torture.

How does it do this? The Hostettler amendment gives the Secretary of Homeland Security the power to detain certain foreigners that, ''in the Secretary's unreviewable discretion,'' the Secretary has determined to be a specially dangerous alien that should be detained until removed. Such persons would be held behind bars indefinitely with no recourse to a court or another independent fact finder empowered to review the basis for the Secretary's decision. Any foreign person that the Secretary of Homeland Security decides is ''especially dangerous'' can just be locked up forever with no trial or just deported.

And the Hostettler amendment stipulates that the ''Secretary of State shall seek diplomatic assurances that such alien shall be protected if removed from the United States.'' That means that the State Department is supposed to seek diplomatic assurances from a country that it will not torture somebody after a U.S. judge already has found that this country likely would, in fact, torture that person. Are we really going to trust the assurances of the countries that our own State Department says torture detainees?

Mr. Chairman, we should really call this the ''In Syria we trust'' amendment or perhaps the ''In Sudan we trust'' amendment. The assurances that these countries have provided that they would not torture have proved completely unreliable in practice.

In 2002, Maher Arar, a Syrian-born citizen, was intercepted at New York's JFK Airport and deported to Syria, where he was detained and reportedly tortured. The Washington Post has reported that while Syria provided ''diplomatic assurances'' that Arar would not be mistreated, these assurances proved worthless. Maher Arar was tortured anyway.

America should not be outsourcing torture to countries like Syria and the Sudan. America should be relying not on diplomatic assurances from countries that we already know practice torture, particularly when a U.S. judge has already found that it is more likely than not that the deported person would be tortured if they were sent there.

We as America cannot preach temperance from a bar stool. If we want to protect our own Marines and soldiers from torture, we must have the same standard for protecting prisoners that we have under our control from torture. We cannot build a new generation of nuclear bunker busters and then tell the Muslim nations they should not want nuclear weapons, and we cannot tell the Muslim world not to torture American prisoners at the same time we are sending Muslim detainees to countries that we know are going to torture those prisoners.

We cannot exist in a world where the United States is not the moral leader. This amendment must be defeated.

Mr. HOSTETTLER. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), distinguished chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the Hostettler amendment, which I believe deals with the issue of compliance with the torture amendment in a humane manner that will safeguard the safety of the American people.

Let me say why this is necessary. Under current law, as interpreted by the courts, a criminal who has committed a crime or conspired to commit a crime in another country, or someone who is on a terrorist watch list can come to the United States. When they get here, they claim asylum. It takes a while to adjudicate asylum applications.

They also can say if he is immediately deported, then he would be tortured if he went back home. So the way it stands now under the current law, that person would be out in society free to commit crimes, free to commit terrorist acts until the time comes for the asylum hearing. And then if the person were found not to be eligible for asylum, they still could not be deported if they thought that they would be tortured when they come back home.

So if we cannot send them home under the torture convention, and that is the case in many Middle Eastern countries, and we cannot detain them, then they are out on the street posing a danger to society.

What the Hostettler amendment does in this circumstance is say that they can be detained. And there are procedural safeguards in the Hostettler amendment that set up standards for detention and require a review every 6 months. If my colleagues vote against this amendment, they are going to have these people out on the street.

They should not be out on the street. They should be detained or deported. If we cannot deport them, then let us give the Department of Homeland Security the authority to detain them. Pass the amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), ranking member of the Immigration, Border Security, and Claims Subcommittee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership. I thank the chairman of the subcommittee and the chairman of the full committee for their comments.

I agree with the chairman of the full committee. Keep them, detain them here. The problem with this amendment is that it is subjected to persons who are not terrorists. It is subjected to persons who can cause harm but are not terrorists. This is the problem.

The White House has already said that the President of the United States opposes provisions dealing with sending people to places where torture occurs. The President made it clear that the United States stands against and will not tolerate torture and that the United States remains committed to comply with its obligations under the convention against torture and other cruel, inhuman, or degrading treatment or punishment.

The amendment offered by the gentleman from Indiana amendment does not solve the problem. It requires, or asks, the Secretary of State to simply ask a country not to torture the individual. Do my colleagues believe that Sudan would comply with that? That is not the case. This amendment is subjected to mistake.

Let me just read Cat Stevens: ''I am a victim.'' Although the circumstances are different, he was yanked off a Washington-bound plane and sent home. The singer, formerly known as Cat Stevens, says he became the victim of an ''unjust and arbitrary system.'' This is what we are passing now.

''I was devastated,'' he wrote. ''The unbelievable thing is that only 2 months earlier, I had been having meetings in Washington with top officials from the White House Office of Faith-Based and Community Initiatives to talk about my charity work.''

The real key in this amendment is that we should deal with this question in another separate opportunity to really address this in a fair manner. This amendment will be a wide, wide, wide net, and what will happen with this net? Innocent persons will be forced to places where they will be tortured.

The President is standing up against it. We stand up against it. I will simply argue that this is not the appropriate vehicle to use. This goes against the convention against torture, and I ask my colleagues to consider a high moral ground in this and to vote against the amendment. We must also support the two Smith of New Jersey amendments to eliminate the very bad H.R. 10 provisions subjecting deported persons to possible torture against the convention against torture.

This amendment would make minor changes to the expedited removal provisions in section 3006, but we need more than minor changes. We need to eliminate expedited removal proceedings entirely. Expedited removal proceedings are conducted by immigration officers who are not even attorneys. There is no hearing before an immigration judge, no right to counsel, and no appeal. Nevertheless, despite this complete absence of due process, someone removed from the United States in expedited removal proceedings is barred for 5 years from returning.

The amendment also would modify section 3032 to specify that people who have received

CAT relief or withholding of removal may be detained indefinitely if they are dangerous. The authority to detain dangerous aliens indefinitely already exists.

In *Zadvydas* v. *Davis*, 533 U.S. 678 (2001), the United States Supreme Court held that the detention provisions in the Immigration and Nationality Act, read in light of the Constitution's demands, limit an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. The Supreme Court found further that once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute—except where special circumstances justify continued detention, such as when it is necessary to protect the public.

In response to that Supreme Court decision, the former Immigration and Naturalization Service promulgated regulations for determining the circumstances under which an alien may be held in custody beyond the statutory removal period. 8 C.F.R. §241.4. These regulations authorize the Government to continue to detain aliens who present foreign policy concerns or national security and terrorism concerns, as well as individuals who are especially dangerous due to a mental condition or personality disorder, even though their removal is not likely in the reasonably foreseeable future.

If we are going to establish a statutory criterion for deciding when indefinite detention is warranted, we need to have a hearing first. An unwise or inadequate criterion will result in people being detained indefinitely who should be released from custody. We need to proceed with caution on this matter.

I urge you to vote against this amendment.

□ 1115

The CHAIRMAN pro tempore (Mr. KOLBE). There is 1 minute remaining on each side. The gentleman from California (Mr. BERMAN), as a member of the Committee on the Judiciary and in opposition, has the right to close.

The Chair recognizes the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Chairman, I would like to at this time state that the administration, as a result of the amendment to section 3032, has said that they favor the change in my amendment.

Mr. Chairman, I yield the balance of the time to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART).

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I think it is important that we realize that this amendment, while not perfect, it is extremely important that it pass. I am very supportive of the Smith amendments that will be debated shortly. But what this amendment does is it keeps us, the United States of America, in compliance with the convention against torture, allowing us, obviously, not to, in order to be in compliance with the convention against torture, not to deport people to places where they will be tortured. But it also gives discretion to the Secretary of Homeland Security to detain, to keep under detention, terrorists, murderers, rapists, child molesters, and a limited list of other serious criminals.

To comply with the convention against torture, it is important that we pass this amendment.

I thank the gentleman from Indiana (Mr. HOSTETTLER) for his hard work.

Mr. BERMAN. Mr. Chairman, I yield myself the remaining time.

I am going to vote against the Hostettler amendment because, number one, it is a smokescreen by pretending to fix 3006 and 3007, the amendments that will follow this amendment when we come back to the Committee of the Whole; and, secondly, because it has a glaring loophole involving assurances from the torturing country that they will not torture. That means it is still in violation of the Convention Against Torture. Members will decide how they are going to vote on that particular amendment.

The point I want to make most of all is do not fall for the trap which is being set by this amendment that the Smith amendments to 3006 and 3037, that have nothing to do with terrorism and that allow for mass deportations with no due process and which fundamentally change our asylum laws, do not fall for the trap that by pasting the Hostettler amendment you have cured the defects in those provisions. Be sure to vote for the Smith amendments and against those provisions when they come up.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. HOSTETTLER).

The amendment was agreed to.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by Mr. KIRK of Illinois, Amendment No. 5 offered by Mr. SESSIONS of Texas, Amendment No. 8 offered by Mr. CARTER of Texas, Amendment No. 11 offered by Mr. GOODLATTE of Virginia, Amendment No. 12 offered by Mr. GREEN of Wisconsin.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. KIRK

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on Amendment No. 4 offered by the gentleman from Illinois (Mr. KIRK) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 414, noes 0, not voting 18, as follows:

[Roll No. 512]

AYES—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Owens
Oxley

Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—18

Boehlert
Clay
Conyers
Culberson
Filner
Gephardt
Hinojosa
Lipinski
Majette
Matsui
McCarthy (MO)
Meek (FL)
Norwood
Ortiz
Paul
Slaughter
Tauzin
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. ADERHOLT) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1142

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Ms. MCCARTHY of Missouri. Mr. Chairman, on rollcall No. 512, I was unavoidable detained at a doctor's appointment. Had I been present, I would have voted "aye."

Mr. FILNER. Mr. Chairman, on rollcall No. 512, I was in my Congressional District on official business. Had I been present, I would have voted "aye."

AMENDMENT NO. 5 OFFERED BY SESSIONS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. SESSIONS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 385, noes 30, not voting 17, as follows:

[Roll No. 513]

AYES—385

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—30

Blumenauer
Carson (IN)
Farr
Grijalva
Hastings (FL)
Holt
Honda
Jackson (IL)
Kildee
Kucinich
Lee
Lewis (GA)
Markey
McCarthy (MO)
McCollum
McDermott
Mollohan
Oberstar
Olver
Payne
Rangel
Roybal-Allard
Sabo
Scott (VA)
Solis
Stark
Velázquez
Waters
Watt
Woolsey

NOT VOTING—17

Boehlert
Cox
Culberson
Filner
Gephardt
Hinojosa
Lipinski
Majette
Matsui
Meek (FL)
Norwood
Ortiz
Paul
Ruppersberger
Slaughter
Tauzin
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1152

Mr. KUCINICH and Mr. BLUMENAUER changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chairman, on rollcall No. 513, I was in my Congressional District on official business. Had I been present, I would have voted "aye."

AMENDMENT NO. 8 OFFERED BY MR. CARTER

The CHAIRMAN pro tempore (Mr. ADERHOLT). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. CARTER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 344, noes 72, not voting 16, as follows:

[Roll No. 514]

AYES—344

Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hobson
Hoeffel
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Marshall
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—72

Abercrombie
Baldwin
Becerra
Berman
Blumenauer
Capuano
Carson (IN)
Clay
Conyers
Davis (IL)
DeGette
Delahunt
Ehlers
Farr
Fattah
Frank (MA)
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoekstra
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kildee
Kilpatrick
Kleczka
Kucinich
Lee
Levin
Lewis (GA)
Lofgren
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
Meeks (NY)
Millender-McDonald
Miller, George
Mollohan
Nadler
Napolitano
Oberstar
Olver
Owens
Payne
Pelosi
Rangel
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Sherman
Smith (NJ)
Solis
Stark
Tierney
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Woolsey

NOT VOTING—16

Boehlert
Culberson
Filner
Gephardt
Hinojosa
Lipinski
Majette
Matsui
Meek (FL)
Norwood
Obey
Ortiz
Paul
Slaughter
Tauzin
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1202

Mr. RUSH, Mr. SMITH of New Jersey, Ms. LINDA T. SÁNCHEZ of California, Mr. WAXMAN and Mr. SHERMAN changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chairman, on rollcall No. 514, I was in my Congressional District on official business. Had I been present, I would have voted "aye".

AMENDMENT NO. 11 OFFERED BY MR. GOODLATTE

The CHAIRMAN pro tempore (Mr. ADERHOLT). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 333, noes 84, not voting 15, as follows:

[Roll No. 515]

AYES—333

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Marshall
Matheson
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick

Napolitano
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Osborne
Ose
Oxley
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—84

Abercrombie
Ackerman
Allen
Baldwin
Becerra
Blumenauer
Brown (OH)
Capps
Carson (IN)
Clay
Conyers
Davis (IL)
DeGette
Delahunt
Dicks
Dingell
Doggett
Farr
Fattah
Frank (MA)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Jones (OH)
Kilpatrick
Kucinich
Larsen (WA)
Larson (CT)
Lee
Lewis (GA)
Lofgren
Maloney
Markey
McCarthy (MO)
McDermott
McGovern
Meehan
Meeks (NY)
Michaud
Millender-McDonald
Miller, George
Mollohan
Nadler
Neal (MA)
Oberstar
Olver
Otter
Owens
Pallone
Pastor
Payne
Pelosi
Rangel
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (VA)
Serrano
Smith (WA)
Solis
Stark
Strickland
Tierney
Udall (NM)
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Woolsey

NOT VOTING—15

Boehlert
Culberson
Filner
Gephardt
Hinojosa
Lipinski
Majette
Matsui
Meek (FL)
Norwood
Ortiz
Paul
Slaughter
Tauzin
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1212

Mr. RUSH, Mrs. MALONEY, and Mr. DICKS changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chairman, on rollcall No. 515, I was in my congressional district on official business. Had I been present, I would have voted "aye".

AMENDMENT 12 OFFERED BY MR. GREEN OF WISCONSIN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 283, noes 132, not voting 17, as follows:

[Roll No. 516]

AYES—283

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—132

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Clay
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley (CA)
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Maloney
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Smith (WA)
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wynn

NOT VOTING—17

Boehlert
Culberson
Filner
Gephardt
Hinojosa
Johnson, E. B.
Lipinski
Majette
Matsui
Meek (FL)
Norwood
Ortiz
Paul
Slaughter
Sullivan
Tauzin
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. ADERHOLT) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1220

Mr. WYNN changed his vote from ''aye'' to ''no.''

Mr. SHAYS changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Chairman, on rollcall No. 516, I was in my congressional district on official business. Had I been present, I would have voted "no".

Mr. HUNTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. ADERHOLT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 4200, RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. HUNTER submitted the following conference report and statement on the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes:

(Conference report will be printed in Book II of the RECORD.)

REQUESTING THE SENATE TO RETURN TO THE HOUSE OF REPRESENTATIVES S. 1301

Mr. HUNTER. Mr. Speaker, I offer a privileged resolution (H. Res. 842) requesting return of official papers on S. 1301, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 842

Resolved, That the Clerk of the House of Representatives request the Senate to return to the House the bill (S. 1301), an Act to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and for other purposes.

The resolution was agreed to.

A motion to reconsider was laid on the table.

9/11 RECOMMENDATIONS IMPLEMENTATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 827 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 10.

□ 1222

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, with Mr. ADERHOLT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, the amendment numbered 12 printed in House Report 108–751 by the gentleman from Wisconsin (Mr. GREEN) had been disposed of.

It is now in order to consider amendment No. 14 printed in House Report 108–751.

AMENDMENT NO. 14 OFFERED BY MR. SMITH of new jersey

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. SMITH of New Jersey:

Strike section 3006 (page 242, line 18 through page 244, line 9) and redesignate provisions and conform the table of contents accordingly.

The CHAIRMAN pro tempore. Pursuant to House Resolution 827, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, section 3006 would make one of the most sweeping, unfair changes in immigration policy in the last decade and, if enacted, would pose life-threatening consequences for asylum seekers, trafficking victims, men, women and children. Section 3006 would radically alter existing law with respect to expedited removal, and it would mandate that any noncitizen found in the U.S. be summarily deported if an immigration officer determined that the person had not been inspected upon entry to the country and could not prove to the immigration officer that he or she had been living in the U.S. for more than 5 years.

This mandate, Mr. Chairman, effectively transforms what was a discretionary program managed by Homeland Security and requires them to impose this procedure anywhere, including in the interior of the U.S.

Section 3006 would be especially harmful for women and children who are escaping a range of gender-related persecutions such as rape, sexual slavery, trafficking and honor killings since persons scarred by such trauma often require time before they can step forward to express their claims.

Mr. Chairman, section 3006 would provide for a super-expedited process of removing these people from the United States, with virtually no right of review, thus eviscerating protections that Congress has provided over the last several years for such victims in the Victims of Trafficking and Violence Protection Act which I was the prime sponsor of and is the law of the land.

Mr. Chairman, I want all of my colleagues to know that President Bush, in his SAP which came out yesterday, made it very clear that he is against this provision. The Bush administration wants this out. I call on Members on both sides of the aisle, Democrats and Republicans, to vote for my amendment which would strip it. Also, there are some 40 organizations, the U.S. Catholic Conference of Bishops; National Association of Evangelicals; Refugees International; and Human Rights First—a whole array from the left, right, middle, and everywhere else, who say this is an unwarranted change, an unfair change in our immigration policy. It does not belong in here. The 9/11 Commission did not ask for it.

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

Mr. Chairman, this is not an issue of humanitarian application of our immigration refugee laws. It is an issue of securing our borders. None of the people the gentleman from New Jersey described would be subject to this if they have come to the United States and entered legally with a claim of persecution under the Refugee Act or a claim of asylum because of what is going on in their home country.

Simply stated, the amendment of the gentleman from New Jersey would strike the expedited removal provisions of this bill. The expedited removal provisions say that the provision of existing law shall be used when the INS picks up somebody who is illegally in this country and who has not been here for 5 years or more.

What is going on is that there are a lot of non-Mexicans that are coming across the southern border. Many of these people come from the Middle East. Without having the expedited removal procedures that are contained in this law, we are stuck with these people. This is a tremendous security threat to the United States. And what the provision that the gentleman from New Jersey seeks to strike is a provision that says that you do not have to jump through all kinds of legal hoops to get these people who have illegally entered the United States out of our country or who have entered legally and have overstayed their visas. It is as simple as that. This is a question of border security. It is not a question of persecuting all of the list of people that the gentleman from New Jersey talked about.

If you want secure borders in this country, the only vote on the Smith amendment is ''no.''

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

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to my good