

Day on June 23, 2004, to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing wrong site surgery errors in operating rooms in the United States;

Whereas the Senate during the 109th Congress supported a National Time-Out Day in 2005 on behalf of the Association of periOperative Registered Nurses, the Joint Commission on Accreditation of Healthcare Organizations, the American College of Surgeons, and the American Society for Healthcare Risk Management to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room;

Whereas the Association of periOperative Registered Nurses, joined by coalition partners, celebrated a National Time-Out Day on June 22, 2005, for the purpose of promoting safe medication administration practices and the Association of periOperative Registered Nurses distributed "Safe Medication Administration Tool Kits" to more than 5,000 hospitals and 13,000 nurse managers or educators;

Whereas the 109th Congress passed the Patient Safety and Quality Improvement Act of 2005 to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety;

Whereas the Association of periOperative Registered Nurses develops and issues, with coalition partners, universally-accepted authoritative statements, recommended guidelines, best practice guidelines, and competency statements for how to provide optimal care for patients in the operating room;

Whereas there is nationally-focused attention on improving patient safety in all healthcare facilities through the reduction of medical errors;

Whereas the Association of periOperative Registered Nurses, the recognized leader in patient safety in the operating room, promotes the highest quality of patient care during all operative or invasive procedures; and

Whereas the Association of periOperative Registered Nurses designates and celebrates National Time-Out Day on June 21, 2006, and each third Wednesday of June thereafter to promote patient safety and optimal outcomes in the operating room by focusing on the reduction of medical errors, fostering better communication among the members of the surgical team, and collaborating with coalition partners to establish universal protocols to increase quality and safety for surgical patients: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideal of an annual National Time-Out Day as designated by the Association of periOperative Registered Nurses for ensuring patient safety and optimal outcomes in the operating room; and

(2) congratulates perioperative nurses and representatives of surgical teams for working together to protect patient safety during all operative and other invasive procedures.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4037. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 4038. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4039. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4040. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4041. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4042. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4043. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4044. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4045. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. REID, Mr. ISAKSON, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4046. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4047. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4048. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4049. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4050. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4051. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4052. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4053. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4054. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4055. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4056. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4057. Mr. THOMAS (for himself, Mr. KYL, Mr. SALAZAR, Mr. BINGAMAN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4058. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4059. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4060. Mr. LIEBERMAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4061. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4062. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4063. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4064. Mr. INHOFE (for himself, Mr. BYRD, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. COBURN, Mr. ENZI, Mr. SESSIONS, and Mr. GRAHAM) proposed an amendment to the bill S. 2611, supra.

SA 4065. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4037. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 63, strike lines 14 through 16 and insert the following:

(a) DENIAL OR TERMINATION OF ASYLUM.—Section 208 (8 U.S.C. 1158) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A)(v), by striking "or (VI)" and inserting "(V), (VI), (VII), or (VIII)"; and

(B) by adding at the end the following:

"(4) CHANGED COUNTRY CONDITIONS.—An alien seeking asylum based on persecution or a well-founded fear of persecution shall not be denied asylum based on changed country conditions unless fundamental and lasting changes have stabilized the country of the alien's nationality.";

(2) in subsection (c)(2)(A), by striking "a fundamental change in circumstances" and inserting "fundamental and lasting changes that have stabilized the country of the alien's nationality"; and

(3) in subsection (d)(5), by adding at the end the following:

"(C) MOTION TO REOPEN.—If an application for asylum filed before the effective date of this subparagraph is denied based on changed country conditions, the alien who filed such an application may file a single motion to reopen the administrative adjudication of the asylum application. Subsection (b)(4) shall apply to any adjudication reopened under this subparagraph."

SA 4038. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 264, strike lines 13 through 20.

On page 370, line 21, strike "this subsection" and insert "paragraphs (2) and (3)".

On page 371, between lines 14 and 15, insert the following:

"(5) STATE IMPACT ASSISTANCE FEE.—

"(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien shall submit, at the time

the alien files an application under this section, a State impact assistance fee equal to—

- “(i) \$750 for the principal alien; and
- “(ii) \$100 for the spouse and each child described in subsection (a)(2).

“(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 389, between lines 6 and 7, insert the following:

“(3) STATE IMPACT ASSISTANCE FEE.—

“(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien seeking Deferred Mandatory Departure status shall submit, at the time the alien files an application under this section, a State impact assistance fee equal to \$750.

“(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 389, between lines 21 and 22, insert the following:

“(3) STATE IMPACT ASSISTANCE FEE.—

“(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, the spouse and each child of an alien seeking Deferred Mandatory Departure status shall submit a State impact assistance fee equal to \$100.

“(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

On page 395, after line 23, add the following:

(e) STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by inserting after subsection (w) the following:

“(x) STATE IMPACT ASSISTANCE ACCOUNT.—

“(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘State Impact Assistance Account’.

“(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the State Impact Assistance Account all State impact assistance fees collected under section 245B(m)(5) and subsections (j)(3) and (k)(3) of section 245C.

“(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account may only be used to carry out the State Impact Assistance Grant Program established under paragraph (4).

“(4) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

“(A) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall establish the State Impact Assistance Grant Program (referred to in this section as the ‘Program’), under which the Secretary may award grants to States to provide health and education services to noncitizens in accordance with this paragraph.

“(B) STATE ALLOCATIONS.—The Secretary of Health and Human Services shall annually allocate the amounts available in the State Impact Assistance Account among the States as follows:

“(i) NONCITIZEN POPULATION.—Eighty percent of such amounts shall be allocated so that each State receives the greater of—

“(I) \$5,000,000; or

“(II) after adjusting for allocations under subclause (I), the percentage of the amount to be distributed under this clause that is equal to the noncitizen resident population of the State divided by the noncitizen resident population of all States, based on the most recent data available from the Bureau of the Census.

“(ii) HIGH GROWTH RATES.—Twenty percent of such amounts shall be allocated among

the 20 States with the largest growth rates in noncitizen resident population, as determined by the Secretary of Health and Human Services, so that each such State receives the percentage of the amount distributed under this clause that is equal to—

“(I) the growth rate in the noncitizen resident population of the State during the most recent 3-year period for which data is available from the Bureau of the Census; divided by

“(II) the average growth rate in noncitizen resident population for the 20 States during such 3-year period.

“(iii) LEGISLATIVE APPROPRIATIONS.—The use of grant funds allocated to States under this paragraph shall be subject to appropriation by the legislature of each State in accordance with the terms and conditions under this paragraph.

“(C) FUNDING FOR LOCAL GOVERNMENT.—

“(i) DISTRIBUTION CRITERIA.—Grant funds received by States under this paragraph shall be distributed to units of local government based on need and function.

“(ii) MINIMUM DISTRIBUTION.—Except as provided in clause (iii), a State shall distribute not less than 30 percent of the grant funds received under this paragraph to units of local government not later than 180 days after receiving such funds.

“(iii) EXCEPTION.—If an eligible unit of local government that is available to carry out the activities described in subparagraph (D) cannot be found in a State, the State does not need to comply with clause (ii).

“(iv) UNEXPENDED FUNDS.—Any grant funds distributed by a State to a unit of local government that remain unexpended as of the end of the grant period shall revert to the State for redistribution to another unit of local government.

“(D) USE OF FUNDS.—States and units of local government shall use grant funds received under this paragraph to provide health services, educational services, and related services to noncitizens within their jurisdiction directly, or through contracts with eligible services providers, including—

“(i) health care providers;

“(ii) local educational agencies; and

“(iii) charitable and religious organizations.

“(E) STATE DEFINED.—In this paragraph, the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(F) CERTIFICATION.—In order to receive a payment under this section, the State shall provide the Secretary of Health and Human Services with a certification that the State’s proposed uses of the fund are consistent with (D).

(G) ANNUAL REPORT.—The Secretary of Health and Human Services shall inform the States annually of the amount of funds available to each State under the Program.”.

SA 4039. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ALIENS OF EXTRAORDINARY ARTISTIC ABILITY.

Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(2) in paragraph (6)(D)—

(A) by striking “Any person” and inserting “(i) Except as provided in clause (ii), any person”; and

(B) adding at the end the following:

“(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien with extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) not later than 30 days after—

“(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

“(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an opportunity, as appropriate, to supply rebuttal evidence.

“(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary of Homeland Security shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.”.

SA 4040. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 69, strike line 3 and all that follows through “(G)” on line 9 and insert “(F)”.

On page 69, line 11, strike “(H)” and insert “(G)”.

On page 71, strike line 19 and all that follows through “(L)” on page 78, line 12, and insert the following:

“(E) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary’s discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

“(F) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody as if the removal period terminated on the day of the redetention.

“(G)

On page 78, strike line 16 and all that follows through page 79, line 4, and insert the following: “guidelines established under sections 241.4 and 241.13 of title 8, Code of Federal Regulations.”.

On page 83, lines 17 and 18, strike “, including classified, sensitive, or national security information;” and insert “; and”.

On page 84, line 6, strike “; and” and all that follows through line 17, and insert a period.

On page 86, lines 10 and 11, strike “including classified, sensitive, or national security information.”.

On page 88, strike line 7 and all that follows through “(3)” on page 89, line 23, and insert “(1)”.

On page 137, strike line 24 and all that follows through “(2)” on page 138, line 7, and insert “(1)”.

On page 138, line 13, strike “(3)” and insert “(2)”.

On page 138, strike lines 21 through 23 and insert the following:

“(3) FAILURE TO COMPLY WITH AGREEMENT.—If an alien agrees to

On page 139, line 5, strike “(i) ineligible” and insert the following:

“(A) ineligible

On page 139, line 7, strike “(ii) subject” and insert the following:

“(B) subject

On page 139, line 9, strike “(iii) subject” and insert the following:

“(C) subject

On page 139, line 11, strike the period at the end and all that follows through “Secretary” on page 140, line 6.

On page 141, line 10, strike the period at the end and all that follows through “protection” on page 142, line 3.

SA 4041. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . JUDICIAL REVIEW OF VISA REVOCATION.

(a) IN GENERAL.—Section 221(i) (8 U.S.C. 1201(i)) is amended by striking the last sentence and inserting the following: “Notwithstanding any other provision of law (statutory or nonstatutory), including sections, 1361, 1651, and 2241 of title 28, United States Code, and any other habeas corpus provision, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply to visa revocations effected before, on, or after the date of enactment of this Act.

SA 4042. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . H-1B EMPLOYER FEE.

Section 214(c)(9)(B) (8 U.S.C. 1184(c)(9)(B)) is amended by striking “\$1,500” and inserting “\$2,000”.

SA 4043. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 260, line 18, strike “may be required to” and insert “shall”.

SA 4044. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 385, strike line 21 and all that follows through page 386, line 3, and insert the following:

“(B) a fine of \$5,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

“(C) a fine of \$10,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

SA 4045. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. REID, Mr.

ISAkson, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ADDRESSING POVERTY IN MEXICO.

(a) FINDINGS.—Congress finds the following:

(1) There is a strong correlation between economic freedom and economic prosperity.

(2) Trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom.

(3) Poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico.

(4) Strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration.

(5) Advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity.

(b) GRANT AUTHORIZED.—The Secretary of State may award a grant to a land grant university in the United States to establish a national program for a broad, university-based Mexican rural poverty mitigation program.

(c) FUNCTIONS OF MEXICAN RURAL POVERTY MITIGATION PROGRAM.—The program established pursuant to subsection (b) shall—

(1) match a land grant university in the United States with the lead Mexican public university in each of Mexico's 31 states to provide state-level coordination of rural poverty programs in Mexico;

(2) establish relationships and coordinate programmatic ties between universities in the United States and universities in Mexico to address the issue of rural poverty in Mexico;

(3) establish and coordinate relationships with key leaders in the United States and Mexico to explore the effect of rural poverty on illegal immigration of Mexicans into the United States; and

(4) address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

(1) AUTHORIZED USES.—Grant funds awarded under this section may be used—

(A) for education, training, technical assistance, and any related expenses (including personnel and equipment) incurred by the grantee in implementing a program described in subsection (a); and

(B) to establish an administrative structure for such program in the United States.

(2) LIMITATIONS.—Grant funds awarded under this section may not be used for activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.

SA 4046. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 313, after line 22, add the following:

Subtitle A—Secure Authorized Foreign Employee (SAFE) Visa Program

SEC. 441. ADMISSION OF SAFE VISA WORKERS.

(a) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.), as amended by this title and title VI, is further amended by inserting after section 218 the following:

SEC. 2181. SECURE AUTHORIZED FOREIGN EMPLOYEE (SAFE) VISA PROGRAM.

“(a) AUTHORIZATION.—Not later than twelve months after the date of enactment of this Act, the Secretary of State shall grant a SAFE visa to a national of a NAFTA or CAFTA-DR nation who meets the requirements under subsection (b) to perform services in the United States in accordance with this section.

“(b) REQUIREMENTS FOR ADMISSION.—An alien is eligible for a SAFE visa if the alien—

“(1) has a residence in a NAFTA or CAFTA-DR nation which the alien has no intention of abandoning;

“(2) applies for an initial SAFE visa from their home country;

“(3) establishes that the alien has received a job offer from an employer who has complied with the requirements under subsection (c);

“(4) undergoes a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice;

“(5) passes all appropriate background checks;

“(6) submits a completed application, on a form designed by the Secretary of Homeland Security; and

“(7) pays a visa issuance fee, as determined by the Secretary of State, in an amount equal to not less than the cost of processing and adjudicating such application.

“(c) EMPLOYER RESPONSIBILITIES.—An employer seeking to hire a national of a NAFTA or CAFTA-DR nation under this section shall—

“(1) submit a request to the Secretary of Labor for a certification under subsection (d) that there is a shortage of workers in the occupational classification and geographic area for which the worker is sought;

“(2) submit to each worker a written employment offer that sets forth the rate of pay at a rate that is not less than the greater of—

“(A) the prevailing wage for such occupational classification in such geographic area; or

“(B) the applicable minimum wage in the State in which the worker will be employed;

“(3) provide the workers with necessary transportation, housing, and meal costs, which may be deducted from the worker's pay under an employment agreement; and

“(4) withhold and remit appropriate payroll deductions to the Internal Revenue Service.

“(d) LABOR CERTIFICATION.—Upon receiving a request from an employer under subsection (c)(1), the Secretary of Labor shall provide the employer with labor shortage certification for the occupational classification for which the worker is sought if the Secretary of Labor determines the existence of such shortage, based on the national unemployment rate and the number of workers needed in the occupational classification and geographic area for which the worker is sought.

“(e) PERIOD OF AUTHORIZED ADMISSION.—

“(1) DURATION.—A SAFE visa worker may remain in the United States for not longer than 10 months during the 12 month period for which the visa is issued.

“(2) RENEWAL.—A SAFE visa may be renewed for additional 10-month work periods under the same terms and conditions as the original issuance.

“(3) VISITS OUTSIDE UNITED STATES.—Under regulations established by the Secretary of Homeland Security, a SAFE visa worker—

“(A) may travel outside of the United States; and

“(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(4) LOSS OF EMPLOYMENT.—The period of authorized admission under this section shall terminate if the SAFE visa worker is unemployed for 60 or more consecutive days. Any SAFE visa worker whose period of authorized admission terminates under this paragraph shall be required to leave the United States. Failure to comply with the terms of the SAFE visa will result in permanent ineligibility for the program.

“(5) RETURN TO COUNTRY OF ORIGIN.—A SAFE visa worker may not apply for lawful permanent residence or any other visa category until the worker has relinquished the SAFE visa and returned to their country of origin.

“(f) EVIDENCE OF NONIMMIGRANT STATUS.—Each SAFE visa worker shall be issued a SAFE visa card, which—

“(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

“(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement; and

“(3) shall, during the alien's authorized period of admission under subsection (e), serve as a valid document for the purpose of physically entering the United States.

“(g) SOCIAL SERVICES.—

“(1) IN GENERAL.—SAFE visa workers are not eligible for Federal, State, or local government-sponsored social services.

“(2) SOCIAL SECURITY.—SAFE visa workers are eligible to receive the employee portion of the social security contributions withheld from their pay not earlier than the date on which the worker permanently leaves the SAFE visa program.

“(3) MEDICARE.—Amounts withheld from the SAFE visa workers pay for Medicare contributions shall be used to pay for uncompensated emergency health care provided to noncitizens.

“(h) PERMANENT RESIDENCE; CITIZENSHIP.—Nothing in this section shall be construed to provide a SAFE visa worker with eligibility to apply for legal permanent residence or a path towards United States citizenship.”.

(b) CLERICAL AMENDMENT.—The table of contents (8 U.S.C. 1101) is amended by inserting after the item relating to section 218H, as added by section 615, the following:

“Sec. 218I. Secure Authorized Foreign Employee (SAFE) Visa Program.”.

SA 4047. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FAIR MINIMUM WAGE.

(a) SHORT TITLE.—This section may be cited as the “Fair Minimum Wage Act of 2006”.

(b) MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$5.15 an hour beginning September 1, 1997;

“(B) \$5.85 an hour beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2006;

“(C) \$6.55 an hour beginning 12 months after such 60th day; and

“(D) \$7.25 an hour beginning 24 months after such 60th day;”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(c) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) TRANSITION.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) \$3.55 an hour beginning on the 60th day after the date of enactment of this Act; and

(B) increased by \$0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act) beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this paragraph is equal to the minimum wage set forth in such section.

SA 4048. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 36, between lines 5 and 6, insert the following:

(c) NORTHERN BORDER TRAINING FACILITY.—

(1) IN GENERAL.—The Secretary shall establish a northern border training facility at Rainy River Community College in International Falls, Minnesota, to carry out the training programs described in this subsection.

(2) USE OF TRAINING FACILITY.—The training facility established under paragraph (1) shall be used to conduct various supplemental and periodic training programs for border security personnel stationed along the northern international border between the United States and Canada.

(3) TRAINING CURRICULUM.—The Secretary shall design training curriculum to be offered at the training facility through multi-day training programs involving classroom and real-world applications, which shall include training in—

(A) a variety of disciplines relating to offensive and defensive skills for personnel and vehicle safety, including—

- (i) firearms and weapons;
- (ii) self defense;
- (iii) search and seizure;
- (iv) defensive and high speed driving;
- (v) mobility training;
- (vi) the use of all-terrain vehicles, watercraft, aircraft and snowmobiles; and
- (vii) safety issues related to biological and chemical hazards;

(B) technology upgrades and integration; and

(C) matters relating directly to terrorist threats and issues, including—

- (i) profiling;
- (ii) changing tactics;
- (iii) language;
- (iv) culture; and
- (v) communications.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fis-

cal years 2007 through 2011 to carry out this subsection.

SA 4049. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . CONTAINER SECURITY.

(a) REQUIREMENTS FOR SCANNING.—Except as provided in subsection (b), after the date that is 3 years after the date of the enactment of this Act, a container may not enter the United States, either directly or via a foreign port, unless the container is scanned with radiation detection equipment.

(b) EXTENSION OF TIME.—The Secretary may extend by up to one year the date referred to in subsection (a) if the Secretary finds that the required radiation detection scanning equipment is not available for purchase and installation and submits such finding to Congress not later than 90 days prior to issuing such an extension.

(c) STANDARDS.—The Secretary shall establish standards for equipment used to carry out the scanning required by subsection (a) to ensure such equipment uses the best available technology for radiation detection screening.

(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the Secretary's plan to implement this section.

SA 4050. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike lines 9 through 16, and insert the following:

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall—

(1) procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a “virtual fence” along such international borders to provide a barrier to illegal immigration; and

(2) acquire and utilize real time, high-resolution, multi-spectral, precisely-rectified digital aerial imagery to detect physical changes and patterns in the landscape along the northern or southern international border of the United States to identify uncommon passage ways used by aliens to illegally enter the United States.

SA 4051. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 34, between lines 2 and 3, insert the following:

(b) MOBILE IDENTIFICATION SYSTEM.—

(1) REQUIREMENT FOR SYSTEMS.—Not later than October 1, 2007, the Secretary shall deploy wireless, hand-held biometric identification devices, interfaced with United States Government immigration databases, at all United States ports of entry and along the international land borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary \$10,000,000 for fiscal year 2007 to carry out this subsection.

(3) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to the authorization of appropriations in paragraph (2) shall remain available until expended.

SA 4052. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, strike line 10 and all that follows through page 395, line 23, and insert the following:

Subtitle A—Mandatory Departure and Reentry in Legal Status

SEC. 601. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS.

(a) **IN GENERAL.**—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218C, as added by section 405, the following: **“SEC. 218D. MANDATORY DEPARTURE AND REENTRY.**

“(a) **IN GENERAL.**—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

“(b) **REQUIREMENTS.**—

“(1) **PRESENCE.**—An alien shall establish that the alien—

“(A) was physically present in the United States on the date that is 1 year before the date on which the Comprehensive Immigration Reform Act of 2006 was introduced in Congress; and

“(B) has been continuously in the United States since that date; and

“(C) was not legally present in the United States under any classification set forth in section 101(a)(15) on that date.

“(2) **EMPLOYMENT.**—An alien must establish that the alien—

“(A) was employed in the United States before the date on which the Comprehensive Immigration Reform Act of 2006 was introduced in Congress; and

“(B) has been employed in the United States since that date.

“(3) **ADMISSIBILITY.**—

“(A) **IN GENERAL.**—The alien must establish that the alien—

“(i) is admissible to the United States (except as provided in subparagraph (B)); and

“(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

“(B) **GROUND NOT APPLICABLE.**—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

“(C) **WAIVER.**—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), as applied to individual aliens—

“(i) for humanitarian purposes;

“(ii) to assure family unity; or

“(iii) if such waiver is otherwise in the public interest.

“(4) **INELIGIBLE.**—An alien is ineligible for Deferred Mandatory Departure status if the alien—

“(A) has been ordered removed from the United States—(i) for overstaying the period of authorized admission under section 217; (ii) under section 235 or 238; or (iii) pursuant to a final order of removal under section 240;

“(B) failed to depart the United States during the period of a voluntary departure order under section 240B;

“(C) is subject to section 241(a)(5);

“(D) has been issued a notice to appear under section 239, unless the sole acts of conduct alleged to be in violation of the law are that the alien is removable under section 237(a)(1)(C) or inadmissible under section 212(a)(6)(A);

“(E) is a resident of a country for which the Secretary of State has made a determination that the government of such country has repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371);

“(F) fails to comply with any request for information by the Secretary of Homeland Security; or

“(G) the Secretary of Homeland Security determines that—(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States; (ii) there are reasonable grounds for * * * a serious crime outside the United States prior to the arrival of the alien in the United States; or (iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

“(H) the alien has been convicted of a felony or 3 or more misdemeanors.

“(I) **Exception.**—notwithstanding subparagraphs (A) and (B), an alien who has not been ordered removed from the United States shall remain eligible for deferred mandatory departure status if the alien's ineligibility under subparagraphs (A) and (B) is solely related to the alien's—(i) entry into the United States without inspection; (ii) remaining in the United States beyond the period of authorized admissions; or (iii) failure to maintain legal status while in the United States.

(J) **Waiver.**—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraphs (A) and (B) if the alien was ordered removed on the basis that the alien (i) entered without inspection;

(ii) failed to maintain status, or (iii) was ordered removed under 212(a)(6)(c)(i) prior to April 7, 2006, and—(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a) or; (ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or (iii) the alien's departure from the United States now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

“(5) **MEDICAL EXAMINATION.**—The alien may be required, at the alien's expense, to undergo an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

“(6) **TERMINATION.**—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status—

“(A) if the Secretary determines that the alien was not eligible for such status; or

“(B) if the alien commits an act that makes the alien removable from the United States.

“(7) **APPLICATION CONTENT AND WAIVER.**—

“(A) **APPLICATION FORM.**—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

“(B) **CONTENT.**—In addition to any other information that the Secretary determines is required to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and

mental health, criminal history and gang membership, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States government, voter registration history, claims to United States citizenship, and tax history.

“(C) **WAIVER.**—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

“(D) **KNOWLEDGE.**—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

“(C) **IMPLEMENTATION AND APPLICATION TIME PERIODS.**—

“(1) **IN GENERAL.**—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates anti-fraud protection. The Secretary shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

“(2) **INITIAL RECEIPT OF APPLICATIONS.**—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(3) **APPLICATION.**—An alien shall submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

“(4) **COMPLETION OF PROCESSING.**—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

“(d) **SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.**—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

“(e) **ACKNOWLEDGMENT.**—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

“(1) an acknowledgment made in writing and under oath that the alien—

“(A) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

“(B) understands the terms of the terms of Deferred Mandatory Departure;

“(2) any Social Security account number or card in the possession of the alien or relied upon by the alien;

“(3) any false or fraudulent documents in the alien's possession.

“(f) MANDATORY DEPARTURE.—

“(1) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, grant Deferred Mandatory Departure status to an alien for a period not to exceed 5 years.

“(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

“(A) depart the United States before the expiration of the period of Deferred Mandatory Departure status;

“(B) register with the Secretary of Homeland Security at the time of departure; and

“(C) surrender any evidence of Deferred Mandatory Departure status at time of departure.

“(3) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and departs before the expiration of such status—

“(A) shall not be subject to section 212(a)(9)(B); and

“(B) may immediately seek admission as a nonimmigrant or immigrant, if otherwise eligible.

“(4) FAILURE TO DEPART.—An alien who fails to depart the United States before the expiration of Deferred Mandatory Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, except as provided under section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates an intention to apply for asylum under section 208 or a fear of persecution or torture.

“(5) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to immediately depart the United States shall be subject to—

“(A) no fine if the alien departs the United States not later than 1 year after being granted Deferred Mandatory Departure status;

“(B) a fine of \$2,000 if the alien remains in the United States for more than 1 year and not more than 2 years after being granted Deferred Mandatory Departure status;

“(C) a fine of \$3,000 if the alien remains in the United States for more than 2 years and not more than 3 years after being granted Deferred Mandatory Departure status;

“(D) a fine of \$4,000 if the alien remains in the United States for more than 3 years and not more than 4 years after being granted Deferred Mandatory Departure status; and

“(E) a fine of \$5,000 if the alien remains in the United States for more than 4 years after being granted Deferred Mandatory Departure status.

“(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable, tamper-resistant, and allow for biometric authentication. The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as

evidence of employment authorization and identity under section 274A(b)(1)(B).

“(h) TERMS OF STATUS.—

“(1) REPORTING.—During the period in which an alien is in Deferred Mandatory Departure status, the alien shall comply with all registration requirements under section 264.

“(2) TRAVEL.—

“(A) An alien granted Deferred Mandatory Departure status is not subject to section 212(a)(9) for any unlawful presence that occurred before the Secretary of Homeland Security granting such status to the alien.

“(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure status—

“(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

“(ii) shall establish, at the time of application for admission, that the alien is admissible under section 212.

“(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

“(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure status under this section, the alien—

“(A) shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

“(B) may be deemed ineligible for public assistance by a State or any political subdivision of a State that furnishes such assistance.

“(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—An alien granted Deferred Mandatory Departure status may not apply to change status under section 248 or, unless otherwise eligible under section 245(i), from applying for adjustment of status to that of a permanent resident under section 245.

“(j) APPLICATION FEE.—

“(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of \$1,000.

“(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

“(k) FAMILY MEMBERS.—

“(1) FAMILY MEMBERS.—

“(A) IN GENERAL.—The spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien, but is not authorized to work in the United States.

“(B) APPLICATION FEE.—

“(i) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of \$500.

“(ii) USE OF FEE.—The fees collected under clause (i) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

“(1) EMPLOYMENT.—

“(1) IN GENERAL.—An alien may be employed by any United States employer authorized by the Secretary of Homeland Security to hire aliens.

“(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status shall be employed while the alien is in the United States. An alien who fails to be

employed for 30 days may not be hired until the alien has departed the United States and reentered. The Secretary of Homeland Security may, in the Secretary's sole and unreviewable discretion, reauthorize an alien for employment without requiring the alien's departure from the United States.

“(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security System, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

“(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

“(1) CRIMINAL PENALTY.—

“(A) VIOLATION.—It shall be unlawful for any person—

“(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

“(ii) to create or supply a false writing or document for use in making such an application.

“(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

“(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

“(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

“(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

“(1) any judgment regarding the granting of relief under this section; or

“(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 1158(a).

“(r) JUDICIAL REVIEW.—

“(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

“(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

“(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

“(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

“(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

“(2) CHALLENGES TO VALIDITY.—

“(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant to this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

“(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

“(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.”.

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218C the following:

“Sec. 218D. Mandatory departure and reentry.”.

(2) DEPORTATION.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by striking the period at the end and inserting “(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 218D))”.

SEC. 602. STATUTORY CONSTRUCTION.

Nothing in this title, or any amendment made by this title, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 603. EXCEPTIONS FOR HUMANITARIAN REASONS.

Notwithstanding any other provision of law, an alien may be exempt from Deferred Mandatory Departure status and may apply for lawful permanent resident status during the 1-year period beginning on the date of the enactment of this Act if the alien—

(1) is the spouse of a citizen of the United States at the time of application for lawful permanent resident status;

(2) is the parent of a child who is a citizen of the United States;

(3) is not younger than 65 years of age;

(4) is not older than 16 years of age and is attending school in the United States;

(5) is younger than 5 years of age;

(6) on removal from the United States, would suffer long-term endangerment to the life of the alien; or

(7) owns a business or real property in the United States.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$1,000,000,000 for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out this title and the amendments made by this title.

SA 4053. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. . IMMIGRANTS TO NEW AMERICANS MODEL PROGRAMS

(a) FINDINGS.—The Senate finds the following: (1) English is the language of the United States, and all members of the society recognize the importance of English to national life and individual accomplishment; (2) The English language is spoken by 92 percent of United States residents, according to the 2000 United States Census, and English language skills are essential to successful participation in communities across the United States;

(3) Many communities recognize the need to continue to provide services in languages other than English to facilitate access to essential functions of government, promote public health and safety, promote equal educational opportunity, and ensure government efficiency.

(b) PURPOSE.—The purpose of this section is to establish a grant program, within the Department of Education, that provides funding to partnerships of local educational agencies and community-based organizations to develop model programs that encourage all residents of this country to become fully proficient in English and provide immigrant students and their families the services needed to successfully participate in elementary schools, secondary schools, and communities, in the United States.

(c) DEFINITIONS.—In this section:

(1) SECONDARY SCHOOL.—The terms “community-based organization”, “elementary school”, “local educational agency”, and “secondary school” have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) IMMIGRANT.—The term “immigrant” has the meaning given the term in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(3) SECRETARY.—The term “Secretary” means the Secretary of Education.

(d) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award not more than 10 grants in a fiscal year to eligible partnerships for the design and implementation of model programs to—

(A) assist immigrant students to achieve in elementary schools and secondary schools in the United States by offering such educational services as English as a second language classes, literacy programs, programs for introduction to the education system, and civics education; and

(B) assist parents of immigrant students by offering such services as Adult English as a second language class, civics and government classes, parent education, and literacy development services, and;

(C) to coordinate activities with other entities to provide comprehensive community social services such as health care, job training, child care, and transportation services.

(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 5 years. A partnership may use funds made available through the grant for not more than 1 year for planning and program design.

(e) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) ELIGIBLE PARTNERSHIPS.—To be eligible to receive a grant under this section, a partnership—

(A) shall include—

(i) at least 1 local educational agency; and

(ii) at least 1 community-based organization; and

(B) may include another entity such as an institution of higher education, a local or

State government agency, a private sector entity, or another entity with expertise in working with immigrants.

(3) REQUIRED DOCUMENTATION.—Each application submitted by a partnership under this section for a proposed program shall include documentation that—

(A) the partnership has the qualified personnel required to develop, administer, and implement the proposed program; and

(B) the leadership of each participating school has been involved in the development and planning of the program in the school.

(4) OTHER APPLICATION CONTENTS.—Each application submitted by a partnership under this section for a proposed program shall include—

(A) a list of the organizations entering into the partnership;

(B) a description of the need for the proposed program, including data on the number of immigrant students, and the number of such students with limited English proficiency, in the schools or school districts to be served through the program and the characteristics of the students described in this subparagraph, including—

(i) the native languages of the students to be served;

(ii) the proficiency of the students in English and the native languages;

(iii) achievement data for the students in—

(I) reading or language arts (in English and in the native languages, if applicable); and

(II) mathematics; and

(iv) the previous schooling experiences of the students;

(C) a description of the goals of the program;

(D) a description of how the funds made available through the grant will be used to supplement the basic services provided to the immigrant students to be served;

(E) a description of activities that will be pursued by the partnership through the program, including a description of—

(i) how parents, students, and other members of the community, including members of private organizations and nonprofit organizations, will be involved in the design and implementation of the program;

(ii) how the activities will further the academic achievement of immigrant students served through the program;

(iii) methods of teacher training and parent education that will be used or developed through the program, including the dissemination of information to immigrant parents, that is easily understandable in the language of the parents, about educational programs and the rights of the parents to participate in educational decisions involving their children; and

(iv) methods of coordinating comprehensive community social services to assist immigrant families;

(F) a description of how the partnership will evaluate the progress of the partnership in achieving the goals of the program;

(G) a description of how the local educational agency will disseminate information on model programs, materials, and other information developed under this section that the local educational agency determines to be appropriate for use by other local educational agencies in establishing similar programs to facilitate the educational achievement of immigrant students;

(H) an assurance that the partnership will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

(I) any other information that the Secretary may require.

(f) SELECTION OF GRANTEEES.—

(1) CRITERIA.—The Secretary, through a peer review process, shall select partnerships to receive grants under this section on the

basis of the quality of the programs proposed in the applications submitted under subsection (f), taking into consideration such factors as—

(A) the extent to which the program proposed in such an application effectively addresses differences in language, culture, and customs;

(B) the quality of the activities proposed by a partnership;

(C) the extent of parental, student, and community involvement;

(D) the extent to which comprehensive community social services are made available;

(E) the quality of the plan for measuring and assessing success; and

(F) the likelihood that the goals of the program will be achieved.

(2) **GEOGRAPHIC DISTRIBUTION OF PROGRAMS.**—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section serve different areas of the Nation, including urban, suburban, and rural areas, with special attention to areas that are experiencing an influx of immigrant groups (including refugee groups), and that have limited prior experience in serving the immigrant community.

(g) **EVALUATION AND PROGRAM DEVELOPMENT.**—

(1) **REQUIREMENT.**—Each partnership receiving a grant under this section shall—

(A) conduct a comprehensive evaluation of the program assisted under this section, including an evaluation of the impact of the program on students, teachers, administrators, parents, and others; and

(B) prepare and submit to the Secretary a report containing the results of the evaluation.

(2) **EVALUATION REPORT COMPONENTS.**—Each evaluation report submitted under this section for a program shall include—

(A) data on the partnership's progress in achieving the goals of the program;

(B) data showing the extent to which all students served by the program are meeting the State's student performance standards, including—

(i) data comparing the students served to other students, with regard to grade retention and academic achievement in reading and language arts, in English and in the native languages of the students if the program develops native language proficiency, and in mathematics; and

(ii) a description of how the activities carried out through the program are coordinated and integrated with the overall school program of the school in which the program described in this section is carried out, and with other Federal, State, or local programs serving limited English proficient students;

(C) data showing the extent to which families served by the program have been afforded access to comprehensive community social services; and

(D) such other information as the Secretary may require.

(h) **ADMINISTRATIVE FUNDS.**—A partnership that receives a grant under this section may use not more than 5 percent of the grant funds received under this section for administrative purposes.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums for fiscal year 2007 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SA 4054. Mr. GREGG (for himself and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for com-

prehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 345, between lines 5 and 6, insert the following:

(e) **WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.**—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting “and immigrants with advanced degrees” after “diversity immigrants”; and

(2) by amending subsection (e) to read as follows:

“(e) **WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.**—

“(1) **DIVERSITY IMMIGRANTS.**—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

“(2) **IMMIGRANTS WITH ADVANCED DEGREES.**—The worldwide level of immigrants with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.”

(f) **IMMIGRANTS WITH ADVANCED DEGREES.**—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking “paragraph (2), aliens subject to the worldwide level specified in section 201(e)” and inserting “paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)”; and

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

“(2) **ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.**—

“(A) **IN GENERAL.**—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

“(B) **ECONOMIC CONSIDERATIONS.**—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.”;

(D) in paragraph (3), as redesignated, by striking “this subsection” each place it appears and inserting “paragraph (1)”; and

(E) by amending paragraph (4), as redesignated, to read as follows:

“(4) **MAINTENANCE OF INFORMATION.**—

“(A) **DIVERSITY IMMIGRANTS.**—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

“(B) **IMMIGRANTS WITH ADVANCED DEGREES.**—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).”; and

(2) in subsection (e)—

(A) in paragraph (2), by striking “(c)” and inserting “(c)(1)”; and

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

(C) by inserting after paragraph (2) the following:

“(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

“(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

“(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

“(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

“(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

“(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.”

(g) **ADVANCED DEGREE AND DIVERSITY VISA CARRYOVER.**—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)) is amended to read as follows:

“(II) An immigrant visa made available under subsection 203(c) for fiscal year 2007 or any subsequent fiscal year may be issued, or adjustment of status under section 245(a) may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment of status in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide levels set forth in section 201(e) for the fiscal year for which the alien was selected.”

(h) **EFFECTIVE DATE.**—The amendments made by subsections (e) through (g) shall take effect on October 1, 2006.

SA 4055. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99-603) is amended—

(1) by striking “section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))” and inserting “item (a) or (b) of section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))”; and

(2) by inserting “or forestry” after “agricultural”.

SA 4056. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ GRANTS FOR LOCAL PROGRAMS RELATING TO UNDOCUMENTED IMMIGRANTS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to award competitive grants to units of local government for innovative programs that address the increased expenses incurred in responding to the needs of undocumented immigrants.

(b) MAXIMUM AMOUNT.—The Secretary may not award a grant under this section to a unit of local government in an amount which exceeds \$15,000,000.

(c) USE OF GRANT FUNDS.—Grants awarded under this section may be used for activities relating to the undocumented immigrant population residing in the locality, including—

- (1) law enforcement activities;
- (2) uncompensated health care;
- (3) public housing;
- (4) inmate transportation; and
- (5) reduction in jail overcrowding.

(d) APPLICATION.—Each unit of local government desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(e) DISTRIBUTION OF GRANT AMOUNTS.—Of the amounts made available to provide grants to units of local governments under this section, 75 percent shall be made available to counties that have a population of less than 3,000,000 according to the 2000 census.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$100,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.

SA 4057. Mr. THOMAS (for himself, Mr. KYL, Mr. SALAZAR, Mr. BINGAMAN, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 761 and insert the following:

SEC. 761. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term “protected land” means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents

under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the United States Fish and Wildlife Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service, the United States Fish and Wildlife Service, and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

- (1) units of the National Park System;
- (2) National Forest System land;
- (3) land under the jurisdiction of the United States Fish and Wildlife Service; and
- (4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

SA 4058. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 315, strike line 7 and all that follows through page 316, line 5, and insert the following:

“(A)(i) for each of fiscal years 2007 through 2016, 450,000; or

“(ii) for fiscal year 2017 and each subsequent fiscal year, 290,000; and

“(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year.

“(2) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS FOR FISCAL YEARS 2001 THROUGH 2005.—

“(A) IN GENERAL.—Beginning in fiscal year 2006, the number of employment-based visas made available for immigrants described in paragraph (1), (2), or (3) of section 203(b) during any fiscal year, as calculated under paragraph (1), shall be increased by the number described in subparagraph (B).

“(B) ADDITIONAL NUMBER.—

“(i) IN GENERAL.—Subject to clause (ii), the number referred to in subparagraph (A) shall be equal to the sum of—

“(I) the difference between—

“(aa) the number of employment-based visas made available during the period of fiscal years 2001 through 2005; and

“(bb) the number of employment-based visas actually used during that period; and

“(II) the number of immigrant visas issued after September 30, 2004, to spouses and children of employment-based immigrants that were counted for purposes of paragraph (1)(B).

“(ii) REDUCTION.—For fiscal year 2007 and each fiscal year thereafter, the number described in clause (i) shall be reduced by the number of employment-based visas actually used under subparagraph (A) during the preceding fiscal year.”

On page 316, strike lines 6 through 15 and insert the following:

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking “7 percent (in the case of a single foreign state) or 2 percent” and inserting “10 percent (in the case of a single foreign state) or 5 percent”.

On page 341, strike lines 1 through 4 and insert the following:

“(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

“(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

“(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

“(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

“(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

“(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.”

Beginning on page 341, strike line 23 and all that follows through page 342, line 4, and insert the following:

“(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and are employed in a related field.

On page 345, between lines 5 and 6, insert the following:

(e) TEMPORARY WORKER VISA DURATION.—Section 106 of the American Competitiveness in the Twenty-First Century Act of 2000 (Public Law 106-313; 114 Stat. 1254) is amended by striking subsection (b) and inserting the following:

“(b) EXTENSION OF H-1B WORKER STATUS.—The Attorney General shall—

“(1) extend the stay of an alien who qualifies for an exemption under subsection (a) in not less than 3 increments, the duration of each of which shall be not less than 3 years, until such time as a final decision is made with respect to the lawful permanent residence of the alien; and

“(2) adjust each applicable fee payment schedule in accordance with the increments

provided under paragraph (1) so that 1 fee is required for each 3-year increment.”.

SA 4059. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ INADMISSIBILITY FOR FALSELY CLAIMING CITIZENSHIP.

Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(6)(C)(iii), by inserting after “clause (i)” the following: “or (ii)”; and

(2) in subsection (i)(1), by inserting after “clause (i)” the following: “or (ii)”.

SA 4060. Mr. LIEBERMAN (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—INSPECTIONS AND DETENTIONS

SEC. ____01. SHORT TITLE.

This title may be cited as the “Secure and Safe Detention and Asylum Act”.

SEC. ____02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The origin of the United States is that of a land of refuge. Many of our Nation's founders fled here to escape persecution for their political opinion, their ethnicity, and their religion. Since that time, the United States has honored its history and founding values by standing against persecution around the world, offering refuge to those who flee from oppression, and welcoming them as contributors to a democratic society.

(2) The right to seek and enjoy asylum from persecution is a universal human right and fundamental freedom articulated in numerous international instruments endorsed by the United States, including the Universal Declaration of Human Rights, as well as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and the Convention Against Torture. United States law also guarantees the right to seek asylum and protection from return to territories where one would have a well-founded fear of persecution on account of one's race, religion, nationality, membership in a particular social group, or political opinion.

(3) The United States has long recognized that asylum seekers often must flee their persecutors with false documents, or no documents at all. The second person in United States history to receive honorary citizenship by Act of Congress was Swedish diplomat Raoul Wallenberg, in gratitude for his issuance of more than 20,000 false Swedish passports to Hungarian Jews to assist them flee the Holocaust.

(4) In 1996, Congress amended section 235(b) of the Immigration and Nationality Act, to authorize immigration officers to detain and expeditiously remove aliens without proper documents, if that alien does not have a credible fear of persecution.

(5) Section 605 of the International Religious Freedom Act of 1998 subsequently authorized the United States Commission on International Religious Freedom to appoint experts to study the treatment of asylum seekers subject to expedited removal.

(6) The Departments of Justice and Homeland Security fully cooperated with the Com-

mission, which reviewed thousands of previously unreleased statistics, approximately 1,000 files and records of proceeding related to expedited removal proceedings, observed more than 400 inspections, interviewed 200 aliens in expedited removal proceedings at 7 ports of entry, and surveyed 19 detention facilities and all 8 asylum offices. The Commission released its findings on February 8, 2005.

(7) Among its major findings, the Commission found that, while the Congress, the Immigration and Naturalization Service, and the Department of Homeland Security developed a number of processes to prevent bona fide asylum seekers from being expeditiously removed, these procedures were routinely disregarded by many immigration officers, placing the asylum seekers at risk, and undermining the reliability of evidence created for immigration enforcement purposes. The specific findings include the following:

(A) Department of Homeland Security procedures require that the immigration officer read a script to the alien that the alien should ask for protection—without delay—if the alien has any reason to fear being returned home. Yet in more than 50 percent of the expedited removal interviews observed by the Commission, this information was not conveyed to the applicant.

(B) Department of Homeland Security procedures require that the alien review the sworn statement taken by the immigration officer, make any necessary corrections for errors in interpretation, and then sign the statement. The Commission found, however, that 72 percent of the time, the alien signs his sworn statement without the opportunity to review it.

(C) The Commission found that the sworn statements taken by the officer are not verbatim, are not verifiable, often attribute that information was conveyed to the alien which was never, in fact, conveyed, and sometimes contain questions which were never asked. These sworn statements look like verbatim transcripts but are not. Yet the Commission also found that, in 32 percent of the cases where the immigration judges found the asylum applicant were not credible, they specifically relied on these sworn statements.

(D) Department of Homeland Security regulations also require that, when an alien expresses a fear of return, he must be referred to an asylum officer to determine whether his fear is “credible.” Yet, in nearly 15 percent of the cases which the Commission observed aliens who expressed a fear of return were nevertheless removed without a referral to an asylum officer.

(8) The Commission found that the sworn statements taken during expedited removal proceedings were reliable for neither enforcement nor protection purposes because Department of Homeland Security management reviewed only the paperwork created by the interviewing officer. The agency had no national quality assurance procedures to ensure that paper files are an accurate representation of the actual interview. The Commission recommended recording all interviews between Department of Homeland Security officers and aliens subject to expedited removal, and that procedures be established to ensure that these recordings are reviewed to ensure compliance.

(9) The Commission found that the Immigration and Naturalization Service (INS) issued policy guidance on December 30, 1997, defining criteria for decisions to release asylum seekers from detention. Neither the INS nor the Department of Homeland Security, however, had been following this, or any other discernible criteria, for detaining or releasing asylum seekers. The Study's review of Department of Homeland Security

statistics revealed that release rates varied widely, between 5 percent and 95 percent, in different regions.

(10) In order to promote the most efficient use of detention resources and a humane yet secure approach to detention of aliens with a credible fear of persecution, the Commission urged that the Department of Homeland Security develop procedures to ensure that a release decision is taken at the time of the credible fear determination or as soon as feasible thereafter. Upon a determination that the alien has established credible fear, identity and community ties, and that the alien is not subject to any possible bar to asylum involving violence, misconduct, or threat to national security, the alien should be released from detention pending an asylum determination. The Commission also urged that the Secretary of Homeland Security establish procedures to ensure consistent implementation of release criteria, as well as the consideration of requests to consider new evidence relevant to the determination.

(11) In 1986, the United States, as a member of the Executive Committee of the United Nations High Commissioner for Refugees, noted that in view of the hardship which it involves, detention of asylum seekers should normally be avoided; that detention measures taken in respect of refugees and asylum-seekers should be subject to judicial or administrative review; that conditions of detention of refugees and asylum seekers must be humane; and that refugees and asylum-seekers shall, whenever possible, not be accommodated with persons detained as criminals.

(12) The USCIRF Study found that, of non-criminal asylum seekers and aliens detained, the vast majority are detained under inappropriate and potentially harmful conditions in jails and jail-like facilities. This occurs in spite of the development of a small number of successful nonpunitive detention facilities, such as those in Broward County Florida and Berks County, Pennsylvania.

(13) The Commission found that nearly all of the detention centers where asylum seekers are detained resemble, in every essential respect, conventional jails. Often, aliens with no criminal record are detained alongside criminals and criminal aliens. The standards applied by the Bureau of Immigration and Customs Enforcement for all of their detention facilities are identical to, and modeled after, correctional standards for criminal populations. In some facilities with “correctional dormitory” set-ups, there are large numbers of detainees sleeping, eating, going to the bathroom, and showering out in the open in one brightly lit, windowless, and locked room. Recreation in Bureau of Immigration and Customs Enforcement facilities often consists of unstructured activity of no more than 1 hour per day in a small outdoor space surrounded by high concrete walls.

(14) Immigration detention is civil and should be nonpunitive in nature.

(15) A study conducted by Physicians for Human Rights and the Bellevue/New York University Program for Survivors of Torture found that the mental health of asylum seekers was extremely poor, and worsened the longer individuals were in detention. This included high levels of anxiety, depression, and post-traumatic stress disorder. The study also raised concerns about inadequate access to health services, particularly mental health services. Asylum seekers interviewed consistently reported being treated like criminals, in violation of international human rights norms, which contributed to worsening of their mental health. Additionally, asylum seekers reported verbal abuse and inappropriate threats and use of solitary confinement.

(16) The Commission recommended that the secure but nonpunitive detention facility in Broward County Florida Broward provided a more appropriate framework for those asylum seekers who are not appropriate candidates for release.

(b) **PURPOSES.**—The purposes of this Act are the following:

(1) To ensure that personnel within the Department of Homeland Security follow procedures designed to protect bona fide asylum seekers from being returned to places where they may face persecution.

(2) To ensure that persons who affirmatively apply for asylum or other forms of humanitarian protection and noncriminal detainees are not subject to arbitrary detention.

(3) To ensure that asylum seekers, families with children, noncriminal aliens, and other vulnerable populations, who are not eligible for release, are detained under appropriate and humane conditions.

SEC. 03. DEFINITIONS.

In this title:

(1) **ASYLUM OFFICER.**—The term “asylum officer” has the meaning given the term in section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)).

(2) **ASYLUM SEEKER.**—The term “asylum seeker” means any applicant for asylum under section 208 or for withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158) or any alien who indicates an intention to apply for relief under those sections and does not include any person with respect to whom a final adjudication denying the application has been entered.

(3) **CREDIBLE OR REASONABLE FEAR OF PERSECUTION.**—The term “credible fear of persecution” has the meaning given the term in section 235(b)(1)(B)(v) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(v)). The term “reasonable fear” has the meaning given the term in section 208.31 of title 8, Code of Federal Regulations.

(4) **DETAINEE.**—The term “detainee” means an alien in the Department’s custody held in a detention facility.

(5) **DETENTION FACILITY.**—The term “detention facility” means any Federal facility in which an asylum seeker, an alien detained pending the outcome of a removal proceeding, or an alien detained pending the execution of a final order of removal, is detained for more than 72 hours, or any other facility in which such detention services are provided to the Federal Government by contract, and does not include detention at any port of entry in the United States.

(6) **IMMIGRATION JUDGE.**—The term “immigration judge” has the meaning given the term in section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).

(7) **STANDARD.**—The term “standard” means any policy, procedure, or other requirement.

(8) **VULNERABLE POPULATIONS.**—The term “vulnerable populations” means classes of aliens subject to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) who have special needs requiring special consideration and treatment by virtue of their vulnerable characteristics, including experiences of, or risk of, abuse, mistreatment, or other serious harms threatening their health or safety. Vulnerable populations include the following:

(A) Asylum seekers as described in paragraph (2).

(B) Refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), and individuals seeking such admission.

(C) Aliens whose deportation is being withheld under section 243(h) of the Immigration

and Nationality Act (as in effect immediately before the effective date of section 307 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-612)) or section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)).

(D) Aliens granted or seeking protection under article 3 of the United Nations Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.

(E) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Trafficking Victims Protection Act of 2000 (division A of Public Law 106-386), including applicants for visas under subparagraph (T) or (U) of section 101(a)(15)).

(F) Applicants for relief and benefits under the Immigration and Nationality Act pursuant to the amendments made by the Violence Against Women Act of 2000 (division B of Public Law 106-386).

(G) Unaccompanied alien children (as defined by 462(g) of the Homeland Security Act (6 U.S.C. 279(g))).

SEC. 04. RECORDING SECONDARY INSPECTION INTERVIEWS.

(a) **IN GENERAL.**—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by Department of Homeland Security employees exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act.

(b) **FACTORS RELATING TO SWORN STATEMENTS.**—Any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act shall be accompanied by a recording of the interview which served as the basis for that sworn statement. Nothing in this section shall be construed to require the recording of an interview conducted by a government employee in any context other than that of a proceeding pursuant to 235(b)(1)(A) of the Immigration and Nationality Act.

(c) **RECORDINGS.**—

(1) **IN GENERAL.**—The recording of the interview shall also include the written statement, in its entirety, being read back to the alien in a language which the alien claims to understand, and the alien affirming the accuracy of the statement or making any corrections thereto.

(2) **FORMAT.**—The recordings shall be made in video, audio, or other equally reliable format.

(d) **INTERPRETERS.**—The Secretary shall ensure professional certified interpreters are used when the interviewing officer does not speak a language understood by the alien.

(e) **RECORDINGS IN IMMIGRATION PROCEEDINGS.**—Recordings of interviews of aliens subject to expedited removal shall be included in the record of proceeding and may be considered as evidence in any further proceedings involving the alien.

SEC. 05. PROCEDURES GOVERNING DETENTION DECISIONS.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) in the first sentence by striking “Attorney General” and inserting “Secretary of Homeland Security”;

(ii) by striking “(c)” and inserting “(d)”;

and

(iii) in the second sentence by striking “Attorney General” and inserting “Secretary”.

(B) in paragraph (2)—

(i) by striking “Attorney General” in subparagraph (A) and inserting “Secretary”;

(ii) by striking “or” at the end of subparagraph (A);

(iii) by striking “but” at the end of subparagraph (B); and

(iv) by inserting after subparagraph (B) the following:

“(C) the alien’s own recognizance; or

“(D) a secure alternatives program as provided for in section ____09 of this title; but”;

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (g), respectively;

(3) by inserting after subsection (a) the following new subsection:

“(b) **CUSTODY DECISIONS.**—

“(1) **IN GENERAL.**—In the case of a decision under subsection (a) or (c), the following shall apply:

“(A) The decision shall be made in writing and shall be served upon the alien. A decision to continue detention without bond or parole shall specify in writing the reasons for that decision.

“(B) The decision shall be served upon the alien within 72 hours of the alien’s detention or, in the case of an alien subject to section 235 or 241(a)(5) who must establish a credible or reasonable fear of persecution in order to proceed in immigration court, within 72 hours of a positive credible or reasonable fear determination.

“(C) An alien subject to this section may at any time after being served with the Secretary’s decision under subsections (a) or (c) request a redetermination of that decision by an Immigration Judge. All decisions by the Secretary to detain without bond or parole shall be subject to redetermination by an Immigration Judge within 2 weeks from the time the alien was served with the decision, unless waived by the alien. The alien may request a further redetermination upon a showing of a material change in circumstances since the last redetermination hearing.

“(2) **CRITERIA TO BE CONSIDERED.**—The criteria to be considered by the Secretary and the Attorney General in making a custody decision shall include—

“(A) whether the alien poses a risk to public safety or national security;

“(B) whether the alien is likely to appear for immigration proceedings; and

“(C) any other relevant factors.

“(3) **APPLICATION OF SUBSECTIONS (a) AND (b).**—This subsection and subsection (a) shall apply to all aliens in the custody of the Department of Homeland Security, except those who are subject to mandatory detention under section 235(b)(1)(B)(iii)(IV), 236(c), or 236A or who have a final order of removal and have no proceedings pending before the Executive Office for Immigration Review.”;

(4) in subsection (c), as redesignated—

(A) by striking “Attorney General” and inserting “Secretary”; and

(B) by striking “or parole” and inserting “, parole, or decision to release”;

(5) in subsection (d), as redesignated—

(A) by striking “Attorney General” and inserting “Secretary” each place it appears; and

(B) in paragraph (2), by inserting “or for humanitarian reasons,” after “such an investigation.”;

(6) in subsection (e), as redesignated, by striking “Attorney General” and inserting “Secretary”;

(7) by inserting after subparagraph (e), as redesignated, the following new subparagraph:

“(f) **ADMINISTRATIVE REVIEW.**—If an Immigration Judge’s custody decision has been stayed by the action of the Department of Homeland Security, the stay shall expire in

30 days, unless the Board of Immigration Appeals before that time, and upon motion, enters an order continuing the stay.”; and

(8) in subsection (g), as redesignated, by striking “Attorney General” and inserting “Secretary” each place it appears..

SEC. 06. LEGAL ORIENTATION PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall ensure that all detained aliens in immigration and asylum proceedings receive legal orientation through a program administered by the Department of Justice Executive Office for Immigration Review.

(b) CONTENT OF PROGRAM.—The legal orientation program developed pursuant to this subsection shall be implemented by the Executive Office for Immigration Review and shall be based on the Legal Orientation Program in existence on the date of the enactment of this Act.

(c) EXPANSION OF LEGAL ASSISTANCE.—The Secretary shall ensure the expansion through the United States Citizenship and Immigration Service of public-private partnerships that facilitate pro bono counseling and legal assistance for asylum seekers awaiting a credible fear interview. The pro bono counseling and legal assistance programs developed pursuant to this subsection shall be based on the pilot program developed in Arlington, Virginia by the United States Citizenship and Immigration Service.

SEC. 07. CONDITIONS OF DETENTION.

(a) IN GENERAL.—The Secretary shall ensure that standards governing conditions and procedures at detention facilities are fully implemented and enforced, and that all detention facilities comply with the standards.

(b) PROCEDURES AND STANDARDS.—The Secretary shall promulgate new standards, or modify existing detention standards, to improve conditions in detention facilities. The improvements shall address at a minimum the following policies and procedures:

(1) FAIR AND HUMANE TREATMENT.—Procedures to ensure that detainees are not subject to degrading or inhumane treatment such as verbal or physical abuse or harassment, sexual abuse or harassment, or arbitrary punishment.

(2) LIMITATIONS ON SHACKLING.—Procedures limiting the use of shackling, handcuffing, solitary confinement, and strip searches of detainees to situations where it is necessitated by security interests or other extraordinary circumstances.

(3) INVESTIGATION OF GRIEVANCES.—Procedures for the prompt and effective investigation of grievances raised by detainees, including review of grievances by officials of the Department who do not work at the same detention facility where the detainee filing the grievance is detained.

(4) ACCESS TO TELEPHONES.—Procedures permitting detainees sufficient access to telephones, and the ability to contact, free of charge, legal representatives, the immigration courts, the Board of Immigration Appeals, and the Federal courts through confidential toll-free numbers.

(5) LOCATION OF FACILITIES.—Location of detention facilities, to the extent practicable, near sources of free or low cost legal representation with expertise in asylum or immigration law.

(6) PROCEDURES GOVERNING TRANSFERS OF DETAINEES.—Procedures governing the transfer of a detainee that take into account—

(A) the detainee's access to legal representatives; and

(B) the proximity of the facility to the venue of the asylum or removal proceeding.

(7) QUALITY OF MEDICAL CARE.—Prompt and adequate medical care provided at no cost to the detainee, including dental care, eye care, mental health care, individual and group

counseling, medical dietary needs, and other medically necessary specialized care. Medical facilities in all detention facilities used by the Department maintain current accreditation by the National Commission on Correctional Health Care (NCHC). Requirements that each medical facility that is not accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) will seek to obtain such accreditation. Maintenance of complete medical records for every detainee which shall be made available upon request to a detainee, his legal representative, or other authorized individuals.

(8) TRANSLATION CAPABILITIES.—The employment of detention facility staff that, to the extent practicable, are qualified in the languages represented in the population of detainees at a detention facility, and the provision of alternative translation services when necessary.

(9) RECREATIONAL PROGRAMS AND ACTIVITIES.—Daily access to indoor and outdoor recreational programs and activities.

(c) SPECIAL STANDARDS FOR NONCRIMINAL DETAINEES.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the special characteristics of noncriminal, nonviolent detainees, and ensure that procedures and conditions of detention are appropriate for a noncriminal population; and

(2) ensure that noncriminal detainees are separated from inmates with criminal convictions, pretrial inmates facing criminal prosecution, and those inmates exhibiting violent behavior while in detention.

(d) SPECIAL STANDARDS FOR VULNERABLE POPULATIONS.—The Secretary shall promulgate new standards, or modifications to existing standards, that—

(1) recognize the unique needs of asylum seekers, victims of torture and trafficking, families with children, detainees who do not speak English, detainees with special religious, cultural or spiritual considerations, and other vulnerable populations; and

(2) ensure that procedures and conditions of detention are appropriate for the populations listed in this subsection.

(e) TRAINING OF PERSONNEL.—

(1) IN GENERAL.—The Secretary shall ensure that personnel in detention facilities are given specialized training to better understand and work with the population of detainees held at the facilities where they work. The training should address the unique needs of—

(A) asylum seekers;

(B) victims of torture or other trauma; and

(C) other vulnerable populations.

(2) SPECIALIZED TRAINING.—The training required by this subsection shall be designed to better enable personnel to work with detainees from different countries, and detainees who cannot speak English. The training shall emphasize that many detainees have no criminal records and are being held for civil violations.

SEC. 08. OFFICE OF DETENTION OVERSIGHT.

(a) ESTABLISHMENT OF THE OFFICE.—

(1) IN GENERAL.—There shall be established within the Department an Office of Detention Oversight (in this title referred to as the “Office”).

(2) HEAD OF THE OFFICE.—There shall be at the head of the Office an Administrator who shall be appointed by, and report to, the Secretary.

(3) EFFECTIVE DATE.—The Office shall be established and the head of the Office appointed not later than 6 months after the date of the enactment of this Act.

(b) RESPONSIBILITIES OF THE OFFICE.—

(1) INSPECTIONS OF DETENTION CENTERS.—The Office shall—

(A) undertake frequent and unannounced inspections of all detention facilities;

(B) develop a procedure for any detainee or the detainee's representative to file a written complaint directly with the Office; and

(C) report to the Secretary and to the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement all findings of a detention facility's non-compliance with detention standards.

(2) INVESTIGATIONS.—The Office shall—

(A) initiate investigations, as appropriate, into allegations of systemic problems at detention facilities or incidents that constitute serious violations of detention standards;

(B) report to the Secretary and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement the results of all investigations; and

(C) refer matters, where appropriate, for further action to—

(i) the Department of Justice;

(ii) the Office of the Inspector General of the Department of Homeland Security;

(iii) the Civil Rights Office of the Department of Homeland Security; or

(iv) any other relevant office of agency.

(3) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Office shall annually submit a report on its findings on detention conditions and the results of its investigations to the Secretary, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives.

(B) CONTENTS OF REPORT.—

(i) ACTIONS TAKEN.—The report described in subparagraph (A) shall also describe the actions to remedy findings of noncompliance or other problems that are taken by the Secretary, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, and each detention facility found to be in noncompliance.

(ii) RESULTS OF ACTIONS.—The report shall also include information regarding whether the actions taken were successful and resulted in compliance with detention standards.

(4) REVIEW OF COMPLAINTS BY DETAINEES.—The Office shall establish procedures to receive and review complaints of violations of the detention standards promulgated by the Secretary. The procedures shall protect the anonymity of the claimant, including detainees, employees or others, from retaliation.

(c) COOPERATION WITH OTHER OFFICES AND AGENCIES.—Whenever appropriate, the Office shall cooperate and coordinate its activities with—

(1) the Office of the Inspector General of the Department of Homeland Security;

(2) the Civil Rights Office of the Department of Homeland Security;

(3) the Privacy Officer of the Department of Homeland Security;

(4) the Civil Rights Section of the Department of Justice; and

(5) any other relevant office or agency.

SEC. 09. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a secure alternatives program. For purposes of this subsection, the secure alternatives program means a program under which aliens may be released under enhanced supervision to prevent them from absconding, and to ensure that they make required appearances.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the development of the secure alternatives program on a nationwide basis, as a continuation of existing

pilot programs such as the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

(2) **UTILIZATION OF ALTERNATIVES.**—The program shall utilize a continuum of alternatives based on the alien's need for supervision, including placement of the alien with an individual or organizational sponsor, or in a supervised group home.

(3) **ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.**—

(A) **IN GENERAL.**—Aliens who would otherwise be subject to detention based on a consideration of the release criteria in section 236(b)(2), or who are released pursuant to section 236(d)(2), shall be considered for the secure alternatives program.

(B) **DESIGN OF PROGRAMS.**—Secure alternatives programs shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(4) **CONTRACTS.**—The Department shall enter into contracts with qualified non-governmental entities to implement the secure alternatives program. In designing the program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute and the Intensive Supervision Appearance Program (ISAP) developed by the Department of Homeland Security.

SEC. 10. LESS RESTRICTIVE DETENTION FACILITIES.

(a) **CONSTRUCTION.**—The Secretary shall facilitate the construction or use of secure but less restrictive detention facilities.

(b) **CRITERIA.**—In developing detention facilities pursuant to this section, the Secretary shall—

(1) consider the design, operation, and conditions of existing secure but less restrictive detention facilities, such as the Department of Homeland Security detention facilities in Broward County, Florida, and Berks County, Pennsylvania;

(2) to the extent practicable, construct or use detention facilities where—

(A) movement within and between indoor and outdoor areas of the facility is subject to minimal restrictions;

(B) detainees have ready access to social, psychological, and medical services;

(C) detainees with special needs, including those who have experienced trauma or torture, have ready access to services and treatment addressing their needs;

(D) detainees have ready access to meaningful programmatic and recreational activities;

(E) detainees are permitted contact visits with legal representatives, family members, and others;

(F) detainees have access to private toilet and shower facilities;

(G) prison-style uniforms or jumpsuits are not required; and

(H) special facilities are provided to families with children.

(c) **FACILITIES FOR FAMILIES WITH CHILDREN.**—For situations where release or secure alternatives programs are not an option, the Secretary shall ensure that special detention facilities are specifically designed to house parents with their minor children, including ensuring that—

(1) procedures and conditions of detention are appropriate for families with minor children; and

(2) living and sleeping quarters for parents and minor children are not physically separated.

(d) **PLACEMENT IN NONPUNITIVE FACILITIES.**—Priority for placement in less restrictive facilities shall be given to asylum seekers, families with minor children, vulnerable

populations, and nonviolent criminal detainees.

(e) **PROCEDURES AND STANDARDS.**—Where necessary, the Secretary shall promulgate new standards, or modify existing detention standards, to promote the development of less restrictive detention facilities.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 12. EFFECTIVE DATE.

Except as otherwise provided, this title shall take effect 6 months after the date of the enactment of this Act.

SA 4061. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 479. ESTABLISHMENT OF THE OFFICE OF IMMIGRATION POLICY.

(a) **IN GENERAL.**—Subtitle F of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) is amended by adding at the end the following:

“SEC. 479. OFFICE OF IMMIGRATION POLICY.

“(a) **ESTABLISHMENT.**—There is established within the Department the Office of Immigration Policy (referred to in this section as the ‘Office’).

“(b) **PURPOSE.**—The Office shall coordinate all Department policies and programs relating to immigration and border security.

“(c) **DIRECTOR.**—

“(1) **APPOINTMENT.**—The Office shall be headed by a Director, who shall—

“(A) be appointed by the Secretary; and

“(B) report to the Assistant Secretary for Policy.

“(2) **RESPONSIBILITIES.**—The Director shall—

“(A) advise the Secretary and the Assistant Secretary for Policy regarding all aspects of Department programs relating to immigration and border security;

“(B) develop Department-wide policies regarding immigration and border security;

“(C) coordinate the immigration and border security policies and programs of the Department with other executive agencies; and

“(D) coordinate all policies and programs of the Department relating to immigration and border security among United States Immigration and Customs Enforcement, United States Customs and Border Protection, United States Citizenship and Immigration Services, and other agencies of the Department.”.

(b) **CLERICAL AMENDMENT.**—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 478 the following:

“Sec. 479. Office of Immigration Policy.”.

SA 4062. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 479. RESIDENCY REQUIREMENTS FOR CERTAIN ALIEN SPOUSES.

Notwithstanding any other provision of law, for purposes of determining eligibility for naturalization under section 319 of the

Immigration and Nationality Act with respect to an alien spouse who is married to a citizen spouse who was stationed abroad on orders from the United States Government for a period of not less than 1 year and reassigned to the United States thereafter, the following rules shall apply:

(1) The citizen spouse shall be treated as regularly scheduled abroad without regard to whether the citizen spouse is reassigned to duty in the United States.

(2) Any period of time during which the alien spouse is living abroad with his or her citizen spouse shall be treated as residency within the United States for purposes of meeting the residency requirements under section 319 of the Immigration and Nationality Act, even if the citizen spouse is reassigned to duty in the United States at the time the alien spouse files an application for naturalization.

SA 4063. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 479. PEACE GARDEN PASS.

(a) **AUTHORIZATION.**—Notwithstanding section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458), the Secretary, in consultation with the Director of the Bureau of Citizenship and Immigration Services, shall develop a travel document (referred to in this section as the ‘Peace Garden Pass’) to allow citizens and nationals of the United States to travel to the International Peace Garden.

(b) **ADMITTANCE.**—The Peace Garden Pass shall be issued to, and shall authorize the admittance of, any person who enters the International Peace Garden from the United States and exits the International Peace Garden into the United States without having been granted entry into Canada.

(c) **IDENTIFICATION.**—The Secretary of State, in consultation with the Secretary, shall—

(1) determine what form of identification (other than a passport, passport card, or similar alternative to a passport) will be required to be presented by individuals applying for the Peace Garden Pass; and

(2) ensure that cards are only issued to—

(A) individuals providing the identification required under paragraph (1); or

(B) individuals under 18 years of age who are accompanied by an individual described in subparagraph (A).

(d) **LIMITATION.**—The Peace Garden Pass shall not grant entry into Canada.

(e) **DURATION.**—Each Peace Garden Pass shall be valid for a period not to exceed 14 days. The actual period of validity shall be determined by the issuer depending on the individual circumstances of the applicant and shall be clearly indicated on the pass.

(f) **COST.**—The Secretary may not charge a fee for the issuance of a Peace Garden Pass.

SA 4064. Mr. INHOFE (for himself, Mr. BYRD, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. COBURN, Mr. ENZI, Mr. SESSIONS, and Mr. GRAHAM) proposed an amendment to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 295, line 22, strike “the alien—” and all that follows through page 296, line 5, and insert “the alien meets the requirements of section 312.”.

On page 352, line 3, strike “either—” and all that follows through line 15, and insert “meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).”.

On page 614, after line 5, insert the following:

SEC. 766. ENGLISH AS NATIONAL LANGUAGE

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

“CHAPTER 6—LANGUAGE OF THE GOVERNMENT

“Sec.

“161. Declaration of national language

“162. Preserving and enhancing the role of the national language

“§ 161. Declaration of official language

“English is the national language of the United States

§ 162. Preserving and enhancing the role of the national language

“The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.”.

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following: “6. Language of the Government 161”.

SEC. 767. REQUIREMENTS FOR NATURALIZATION.

(a) FINDINGS.—The Senate makes the following findings:

(1). Under United States law (8 U.S.C. 1423 (a)), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, demonstrate an understanding of the English language, United States history and Government, to become citizens of the United States.

(2). The Department of Homeland Security is currently conducting a review of the testing process used to ensure prospective United States citizens demonstrate said knowledge of the English language and United States history and government for the purpose of redesigning said test.

(b) DEFINITIONS.—For purposes of this section only, the following words are defined:

(1) KEY DOCUMENT.—The term “key documents” means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(2) KEY EVENTS.—The term “key events” means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(3) KEY IDEAS.—The term “key ideas” means the ideas that shaped the democratic

institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(4) KEY PERSONS.—The term “key persons” means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(c) GOALS FOR CITIZENSHIP TEST REDESIGN.—The Department of Homeland Security shall establish as goals of the testing process designed to comply with provisions of [8 U.S.C. 1423 (a)] that prospective citizens:

1. demonstrate a sufficient understanding of the English language for usage in everyday life;

2. demonstrate an understanding of American common values and traditions, including the principles of the Constitution of the United States, the Pledge of Allegiance, respect for the flag of the United States, the National Anthem, and voting in public elections;

3. demonstrate an understanding of the history of the United States, including the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States;

4. demonstrate an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States; and

5. Demonstrate an understanding of the rights and responsibilities of citizenship in the United States.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall implement changes to the testing process designed to ensure compliance with [8 U.S.C. 1423 (a)] not later than January 1, 2008.

SA 4065. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On Page 295, strike lines 14 through 16 and insert the following:

“(B) by the alien, if—

“(i) the alien has maintained such non-immigrant status in the United States for a cumulative period of not less than 4 years of employment;

“(ii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position, and

“(iii) an employer attests that the employer will employ the alien in the offered job position; or

“(iv) the alien shall submit at least 2 of the following documents for current employment, which shall be considered evidence of such current employment:

“(aa) Records maintained by the Social Security Administration.

“(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

“(cc) Records maintained by Internal Revenue Service.

“(dd) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.”

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the infor-

mation of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, May 25, 2006, at 10 a.m. in room SD-366 of the Dirksen Building.

The purpose of the hearing is to receive testimony regarding the outlook for growth of coal fired electric generation and whether sufficient supplies of coal will be available to supply electric generators on a timely basis both in the near term and in the future.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Kellie Donnelly, John Peschke, or Shannon Ewan.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that S. 2788, a bill to direct the exchange of certain land in Grand, San Juan and Uintah Counties, Utah, and for other purposes has been added to the agenda of the hearing scheduled before the Subcommittee on Public Lands and Forests scheduled for Wednesday, May 24, at 2:30 p.m. in room SD-366. This will replace S. 1135 which has been removed from the agenda.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Frank Gladics, Dick Bouts, or Sara Zecher.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a full committee hearing during the session of the Senate on Wednesday, May 17, 2006 at 10:30 a.m. in SR-328A, Russell Senate Office Building. The purpose of this hearing will be to review the United States Department of Agriculture Rural Utilities Service Broadband Program.

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

COMMITTEE ON ARMED SERVICES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the