

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 7. Concurrent resolution providing for a joint session of Congress to receive a message from the President.

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

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2015

The Committee resumed its sitting.

Ms. ROYBAL-ALLARD. Madam Chairwoman, I yield myself such time as I may consume.

Madam Chairwoman, I want to make it clear that I support the original bipartisan Homeland Security bill and oppose the majority's radical anti-immigrant amendments. These amendments pollute the bipartisan bill both Republicans and Democrats have carefully crafted to protect the American people.

Our clean Homeland Security bill provides the funds needed to protect our country. It invests in border security and prioritizes the detention and deportation of dangerous criminals.

The clean, bipartisan Homeland Security bill provides funds for new grants to State and local first responders, who are our first line of defense against homegrown terrorism. It invests in the Coast Guard's eighth National Security Cutter and additional Fast Response Cutters to help protect our ports. The bill also provides critical funds to hire new Secret Service agents to make essential security improvements at the White House.

These are just a few examples of why this bill is so important. Unfortunately, instead of bringing the clean, bipartisan bill for a vote, the majority is proposing several poison pill amendments that will jeopardize the bill's ability to become law. It is unconscionable to put our Nation's security at risk simply for the purpose of appeasing those who want to undermine President Obama's reasonable and lawful executive action to fix our broken immigration system in light of the fact that this House has not acted.

Current funding for DHS is set to run out at the end of February. The recent horrors in Paris are the latest reminder of why America needs Congress to pass the negotiated bipartisan Homeland Security bill that can become law and defeat the anti-immigrant poison pill amendments being proposed by the majority.

I urge my colleagues to vote "no" on the amendments and to vote "yes" on the original bill to protect the homeland, and I reserve the balance of my time.

Mr. CARTER of Texas. Madam Chairwoman, I yield 2 minutes to the gentleman from Tennessee (Mr.

FLEISCHMANN), a member of our subcommittee.

Mr. FLEISCHMANN. Madam Chairman, I rise in support of the 2015 Department of Homeland Security Appropriations Act. Our subcommittee has worked diligently on this legislation, and I want to thank Chairman CARTER and the entire staff for countless hours they have put in crafting the bill before us today. This legislation prioritizes our national security and strengthens border security, while addressing numerous issues that have arisen in the past year.

Last year, tens of thousands of unaccompanied alien children entered the United States illegally while the administration sat on its hands. Rather than deal with the crisis, the President further exacerbated the problem and encouraged more people to try to bypass the legal immigration process when he granted executive amnesty to millions of illegal immigrants.

Today, the House has the opportunity to correct these mistakes by passing this legislation. In addition to the responsible and deliberate funding levels laid out in the bill, House Republicans are offering key amendments to completely defund the President's executive actions and restore order to the legal administration process by ensuring that those who came here illegally will not be allowed to bypass those who sought to come here through the right and legal way.

I urge my colleagues to vote for these provisions and the underlying bill.

Ms. ROYBAL-ALLARD. Madam Chairwoman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. I thank the gentlewoman for yielding.

Madam Chairwoman, I rise to thank my colleagues on the Appropriations Committee. I am a ranking member also. I know what type of work it takes to put together a \$39.7 billion expenditure to protect all of the entities of domestic homeland security. It is a good bill. It was worked out last year. For all the new Members coming, I am shocked that they have to go through this learning process about how we take a good thing and screw it up.

This bill has bipartisan support. I think if we voted on it tonight, the underlying bill would pass overwhelmingly. I don't even know if there would be a negative vote. But tomorrow morning on this floor amendments are going to be made to this bill. I understand the other side already has them, and I wish the people who are thinking about voting for those amendments and those that are proposing them had listened to the people that we are funding in Homeland Security, because the last thing they would tell you is that America is going to be less secure with those amendments.

There isn't going to be a college campus or university that isn't going to be in revolt when you try to deport the students who are there. Your wives, your families are going to be upset

when you try to deport your gardener or somebody taking care of your house. Our faith-based communities are going to be hiding these people from deportation.

You are coming in and creating this ugly government that is going to go around and round up people who have not committed a crime and deport them.

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That doesn't make America more secure. In fact, it makes us ugly all over the world. So, I can't, for the life of me—when we go to such hard work to get such a great, balanced bill, to spend \$39.7 billion on the Department of Homeland Security, then want to make sure that it doesn't work.

The President has said he is going to veto it. He is going to veto it because you are mad at him for providing leadership.

Thank you, Mr. President, for providing that leadership. The House should have joined with the Senate and adopted a comprehensive immigration bill, but we didn't. We sat on that for 2 years, did absolutely nothing, and now we are attacking you.

Shame, shame on the House. Defeat those amendments.

Mr. CARTER of Texas. Madam Chairman, I now yield 2 minutes to the gentleman from California (Mr. CALVERT), a member of our committee.

Mr. CALVERT. Madam Chairman, I rise today in strong support of the fiscal year 2015 Homeland Security Appropriations Act, as well as the amendments that will be offered to put the brakes on President Obama's executive overreach on illegal immigration.

My constituents are depending on the House and the Senate to send a strong message to the White House that their attempt to grant amnesty through executive action is an affront to the democratic process that has served our Nation well for more than 200 years.

The reason people are fleeing from south to north is that this side of the border, we have the rule of law, not men.

I want to thank Homeland Security Subcommittee Chairman JOHN CARTER, Chairman HAL ROGERS, and the rest of my colleagues on the Appropriations Committee for putting together a responsible bill that provides the funds for our Homeland Security personnel and the need to carry out their mission.

Specifically, the bill provides significant funding for our Border Patrol and Immigration and Customs Enforcement to ensure both agencies have the ability to stem large flows of illegal immigration like we witnessed last summer in Texas.

Another important tool in tackling illegal immigration is the increased use of E-Verify, which remains the only and best way for employers to confirm that the employees that they hire are in this country legally. The underlying bill contains full funding

for the E-Verify funding and will allow employers to continue to use this program in a free and efficient manner.

When it comes to patrolling our land, air, and sea, Homeland Security officials consistently rely on the awareness and insights that are provided by assets operated by the Air and Marine Operations Center, or AMOC. In fact, AMOC, which is located in Riverside County, California, is the Nation's only Federal law enforcement center tasked to coordinate interdiction operations in the Western Hemisphere.

The FY15 bill fully funds the operations of AMOC and ensures that our law enforcement agencies will continue to benefit from their contributions.

Again, I want to thank Judge CARTER for his leadership, and I encourage all of my colleagues to vote for the FY15 Homeland Security Appropriations bill.

Ms. ROYBAL-ALLARD. Madam Chair, I yield 4 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Madam Chair, I rise in strong opposition to the FY 2015 Homeland Security Appropriations Act because House Republicans are littering the bill with provisions that have nothing to do with homeland security but have everything to do with harming families and keeping our immigration system dysfunctional, risking our national security in the process.

I too serve as a ranking member on the Appropriations Committee and craft a bill and work in a bipartisan spirit, and I had an opportunity to work in a bipartisan spirit on this bill as well. So it is truly unfortunate that this bill is being poisoned by amendments that are really going to jeopardize our national security.

I reluctantly stand in opposition because the overall bill is "must-pass" legislation, and it includes very important measures to bolster our national security, including additional funding that I fought for and secured to protect children from online predators.

Many of my colleagues are in a similar situation; too many poison pills are set to be slipped in that make this legislation's passage unacceptable.

House Republicans are willfully driving us toward a partial government shutdown that jeopardizes our security at home, all just for the chance to further destabilize our immigration system, make it harder to secure the border, punish young people who have known no other country other than this one, and separate families in the process.

Now, how did we get here?

Because the extreme elements of the GOP became apoplectic when the President announced that he would move ahead with his legal executive actions to fix our broken immigration system. And everyone will recall, of course, that he did so due to this body's repeated unwillingness to pass comprehensive immigration reform legislation.

Now, as we debated the so-called CR/Omnibus legislation last year, House Republicans put their cards on the table with temporary DHS funding. And with this bill being debated today, they are ready to gamble on our Nation's security and America's safety to satisfy their rightwing base.

This is not governing in good faith at the outset of a new Congress, with the opportunity we have to set aside differences and work together for the betterment of the country.

And this isn't just politics as usual from the other side of the aisle. Some of it is alarmingly personal and targeted.

Part of the President's executive action is intended to keep families together and support the educational and employment aspirations of millions of undocumented individuals.

Some of the amendments attached to this bill would, in fact, tear families apart, deporting thousands of so-called DREAMers and even revictimizing women already subjected to domestic violence by targeting them for removal.

The point of these games is to satisfy the anti-immigrant, extremist elements within the Republican party. But to what end?

Where is the sense of reality?

Though he has flip-flopped several times on the issue, even former Governor Jeb Bush, from my home State of Florida, has said as far back as 10 years ago that a policy that ignores that they are here is a policy of denial.

So where is the thoughtful policymaking our constituents sent us to Washington to engage in?

And quite frankly, where is the compassion?

I have held numerous meetings and events in south Florida recently, and to say that we are past due for comprehensive immigration reform is a gross understatement.

I have met so many workers and students who have made meaningful contributions to our community but who live in a constant state of uncertainty about their future, ranging from questions about their schooling and jobs to fearing deportation and separation from their loved ones.

Leoni, a high school valedictorian; Maria, a mother of DREAMers who has formed a support group for people in similar situations; and Cosmin, a father only seeking a permanent work permit to be able to better provide for his young daughter who is a citizen—these are real people with real stories, and our actions and inactions in Washington have real consequences for them.

Madam Chair, it is not too late to engage in bipartisan and comprehensive immigration reform. We can reintroduce and debate the legislation that was passed by a strong bipartisan majority in the Senate in 2013 and supported by diverse business, faith, legal, and community groups across the Nation.

That is the most effective way to legally and morally respond to the needs of immigration reform. It is practical. It is wide-ranging, and it speaks to our values as a Nation.

Or we could even sit down together and come up with a new comprehensive bill. But this is immoral and wrong, and we should reject it so that we can come together and do something that is reflective of the values of this country.

Mr. CARTER of Texas. Madam Chairman, at this time I am pleased to yield 3 minutes to my good friend and colleague from Texas (Mr. POE), a colleague not only of this House but of the judiciary prior to that time.

Mr. POE of Texas. I thank the gentleman for yielding.

Madam Chair, "America is a Nation of laws, which means, I, as the President, am obligated to enforce the law. I don't have a choice about that. That is part of my job.

"With respect to the notion that I can just suspend deportations through executive order, that is just not the case, because there are laws on the books that Congress has passed.

"There are enough laws on the books by Congress that are very clear in terms of how we have to enforce our immigration system that for me to simply, through executive order, ignore those congressional mandates, would not conform with my appropriate role as President."

Those are the words of the former constitutional law professor, and now President, on March 28, 2011. Those very words condemn executive amnesty.

The United States is ruled by law, not by one person. The United States is not a monarchy. If it were, we would have kept King George III.

The executive amnesty is not only unconstitutional, Madam Chair, it is at cross-purposes to security. The Department of Homeland Security cannot secure the U.S. border, no matter how many programs and how much money we spend on homeland security, as long as the Executive undermines law and security by unilaterally ignoring those very security laws.

We can give all the money we want to the Department of Homeland Security, but that doesn't do any good if we do not make sure the law is enforced.

Madam Chairman, we will use this example that has already been used by my friend, Mr. CULBERSON. We have tax laws in this country. God knows we have too many tax laws in this country.

But if the Executive makes a decision, I am just going to ignore these tax laws for a certain group of people, none of us would like that. The Executive doesn't have that authority to just ignore law for whatever reason, even if it is a good reason, because that does not establish the constitutional power of who the Executive is.

Madam Chair, those of us in Texas have a vested interest in homeland security. The United States border with

Mexico is almost 2,000 miles. Sixty percent of the border is in Texas. Forty-five percent of the entire border is in one Member's district, Mr. WILL HURD.

The Texas border with Mexico is the distance from New Orleans to Washington, D.C. We have got a vested interest in border security and the rule of law, because failure to enforce the rule of law affects people on the border. It affects American citizens. It affects legal immigrants.

Now, there is a lot that has been said about immigration. I am for immigration. We do need some changes in immigration. The United States allows a million people to legally come into the United States. But when laws are enforced, there is order. When law is not enforced, there is chaos.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CARTER of Texas. I yield the gentleman another minute.

Mr. POE of Texas. I thank the gentleman.

When laws are not enforced, there is chaos, especially if the security laws are not enforced.

So Madam Chair, as the President said, I am obligated to enforce the law because, Madam Chairman, the Constitution is not a mere suggestion, whether the other side likes it or not. And that is just the way it is.

Ms. ROYBAL-ALLARD. Madam Chair, I yield 3 minutes to the gentleman from New York (Mr. SERRANO).

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

Mr. SERRANO. I thank the gentleman.

Madam Chair, this is one of those moments where the best thing you can do is kind of scratch your head and say, What the heck are they thinking?

We have a bipartisan bill, a Homeland Security bill that, as was said before by Mr. FARR, if it was put up for a vote, would pass almost unanimously, if not unanimously.

But no, they couldn't help themselves. They had to take one more shot at the President and a bigger shot at immigrants. And so the bill is weighted down with attacks on immigrants. Mostly Latino immigrants, I would say, would be affected, and that is personal to me.

So what this bill now would say if it gets all these amendments on it—and, by the way, I want to say that I am opposed to the bill with the amendments and not opposed to the bill in its clean fashion, and I think that is the way most Members think.

What this bill now says is that, for instance, if you are in the military, serving our country, your spouse can be deported while you are away. That is really sad and insulting.

We are going to have now new bumper stickers on the other side on their cars that will say, "Support our troops and deport the spouses." It will be sad, and it will be horrible what we are doing.

Now, our opportunity here is to defeat these amendments. Our opportunity here is to understand that if we have a gripe with the President using his constitutional power, deal with that. But don't take it out on every immigrant in the Nation.

Incidentally, nothing that the President did is outside the law. We have a Constitution, and what he did is constitutional. It is within his powers as our Chief Executive in this Nation.

This President waited and waited and waited for the majority party to do something about immigration. It refused to do something. You are upset that he took action on immigration. His action was due to your inaction on immigration. That is why we have this situation.

So these 2 days will probably go down in history as two of the saddest days in this House, and I have been here 25 years, starting this January, because we will go after a group of people, and we will say to the DREAMers, you can't dream anymore, and we will say to the spouses, you are in danger of being deported.

We will say to those who serve our country, we don't respect you anymore. And we will say to the whole world, we are not the Nation of immigrants; we are the Nation that doesn't want any more immigrants.

This is sad. This is it not the way to go, and we should really rethink this before we take a final vote.

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The Acting CHAIR (Mr. SMITH of Nebraska). Members are reminded to address their remarks to the Chair.

Mr. CARTER of Texas. Mr. Chair, before I proceed, may I ask how much time is left on both sides, please?

The Acting CHAIR. There are 21 minutes remaining for the gentleman from Texas, and there are 25 minutes remaining for the gentlewoman from California.

Mr. CARTER of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BABIN), one of our new Members of the 114th Congress.

Mr. BABIN. Mr. Chairman, the United States is a nation of immigrants. It is also a nation of laws, and our Nation's leaders have a sworn duty to abide by those laws. On countless occasions, President Obama said that he lacked the authority to grant broad amnesty; however, in November, he reversed his course and unilaterally declared amnesty.

I rise in strong opposition to his executive amnesty and in strong support of legislation to defund his unlawful and unconstitutional actions.

Changes in immigration law—or in any law for that matter—rest with the legislative branch of the government, the United States Congress. Granting amnesty through unilateral executive action makes a mockery of our laws, and Congress must rein it in.

I am a cosponsor of H.R. 191, the Repeal Executive Amnesty Act. Key pro-

visions of this bill will be offered as amendments to this appropriations bill. We will deny the administration funding to implement his amnesty.

As a past mayor, a hospital staff member for many years, and a local school board member, I know firsthand how this administration's plan is taxing the budgets of our local governments, including our schools, our hospitals, and our jails. This massive unfunded mandate must be repealed.

Amnesty also undermines our national security by perpetuating open borders, making Americans less safe. Finally, it leaves behind millions of American citizens who are unemployed at this time, making it even harder for them to find good-paying jobs.

To make the United States stronger, we must rein in this President. We must repeal unilateral amnesty, and we must return to the rule of law. I call on my colleagues to support H.R. 240 and the Aderholt amendment and to pass the underlying legislation.

Ms. ROYBAL-ALLARD. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of a clean Homeland Security Appropriations bill.

We are just a week into the new Congress, and the Republicans are already back to their old games, but this time, they are playing politics with the security and safety of the Nation.

We get it. They are frustrated with the President's executive order which attempts to reunite families and bring a rational, priority-based approach to our immigration system. Given the Constitution, the laws, and the legal precedents, the President's actions are clearly well within his executive powers.

If they don't like it, they can pass an immigration bill, which would clearly supercede the actions of the President, but they wouldn't even try. That is what this is all about. It is about making false statements about the President, demonizing immigrants and their families, and trying to score political points back home. That is a disgrace, but it gets even worse.

Not only are the Republicans stalling on immigration reform and leaving millions of families in limbo, but they are holding up funding for the entire Homeland Security Department. They are threatening the safety of Americans at our airports. They are making our borders less secure and are potentially leaving us more vulnerable to attack. This is particularly shocking, given the tragic events in Paris last week.

Holding the security of the American people hostage to the demands of the anti-immigration fringe of their party is totally irresponsible. This is not the time for political games. We live in a dangerous world, and the security of the Nation is serious business. Reject this political stunt.

Pass a clean Homeland Security bill that we all agree on. Then, if you want to, pass an immigration bill that would supersede what the President has done; but don't give us all of this nonsense about blackmailing the country by threatening our safety and saying, "Unless we get the immigration provisions we want," which we know the President won't sign, "there will be no Homeland Security bill, potentially no Homeland Security Department funding, and no guards at our borders." That is absurd.

Mr. CARTER of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HURD), another Member of the 114th Congress, a man who probably has more of the southern border of the United States than any other Member of Congress.

Mr. HURD of Texas. Mr. Chairman, I have taken an oath of office to uphold our Constitution twice: the first time as an undercover officer in the CIA and, just last week, I took that oath again as I was sworn in as a Member of this body.

This bill is about upholding our Constitution and protecting it from executive overreach, but we can't forget that immigration and legal immigrants are an asset to our Nation, not a liability.

Everyone knows that our immigration system is broken and that executive action that incentivizes illegal immigration just makes it worse. We need a long-term solution that protects American workers and fosters economic growth.

Our Nation has, for many decades, benefited from the "brain drain" from other countries, and we need to make sure that continues. I also want our Nation to benefit from a "hardworking drain," too. If you are going to be a productive member of our society, let's keep you here or get you here, but we must do it legally.

There is a long-term solution to our immigration problems. I am ready to work with my colleagues on both sides of the aisle and with the President to find it.

Ms. ROYBAL-ALLARD. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. I thank the gentlewoman.

Mr. Chairman, I believe it is important for us to focus on what we are discussing here today: Paris, 17 dead; Canada; Australia; Boko Haram, 2,000 dead, a 10-year-old suicide bomber; and, of course, 9/11.

This is the Homeland Security Appropriations. I have had the privilege of serving on the authorizing committee since its creation, and every day we go to that committee, we know that the commitment is to secure the American people.

This is not a forum to battle one's agreements or disagreements with the Constitution and with the President's executive authority or to battle your disagreements with the idea of deporting felons over families—that debate

can be had—but, tonight, we are wrongly jeopardizing the national security of the American people.

We do it on the basis, our Republican friends, of failing to even read the Constitution, for it is clear, as it is stated in the Constitution under article II, section 3, that the President can have the authority, "shall take care that the laws be faithfully executed."

In essence, he has the right to make sure that we are treating persons fairly and that prosecutorial discretion is exercised in a fair manner.

Nothing that is in the executive actions of the President violates any law; but what it does do, as we are debating today with the poison pill amendments, is to take the inhumanity of some viewpoints and to throw it against people who have come to this country by no fault of their own, who have come to this country to do us not harm but good, who have come to this country to work hard and to help build this great Nation.

I am saddened by the fact that, because of this debate, the Coast Guard will suffer, that the Secret Service will suffer, that the airport and aviation security will suffer. Why? Because we will not have a bill.

I believe that this challenge for all of us is to raise the question of whether our Republican friends have come here to govern. The only thing I see is that they are using this Homeland Security bill for extreme positions that they want to foster over security.

Why would they want to defund DACA? Why would they want to capture the basic infrastructure of the funding of Homeland Security? It has worked over the years, the fees that have supported the Border Patrol agents, Customs and Border Protection, Transportation and Security; yet they want to capture these dollars and cripple Homeland Security. They want to make sure we don't have enough Secret Service agents as we move forward into the election year.

The Acting CHAIR. The time of the gentlewoman has expired.

Ms. ROYBAL-ALLARD. I yield the gentlewoman an additional 1 minute.

Ms. JACKSON LEE. Thank you.

Mr. Chairman, the Homeland Security Department has been entrusted by the United States Congress and the American people to give guidance to the security and the protection of their families. It is not families who, by chance, are considered undocumented; it is all families.

What the President did in his executive action is to define for America who is here in this country; not only that, he gave an economic engine by providing for fines and fees in order to get in regular order.

By the way, Mr. Chairman, these individuals are not getting in front of those who have been standing in line through the legal immigration process. They have a separate process that simply gives them status, not immigration status. He is not bestowing upon them immigration status.

As I close, I ask: Is there any heart and warmth to those who are debating these questions? First, do we understand family, and do we understand we are a nation of immigrants?

What has been established is an infrastructure of law to help them be established in regular order. What we are doing is undermining the national security of this Nation to cast against those who are innocent. I ask my colleagues to defeat these amendments and to vote for a clean Homeland Security bill. Let's support the national security of Americans.

Mr. Chair, while it is not perfect, I would support H.R. 240, the Fiscal Year 2015 Homeland Security Appropriations Act, as originally introduced because it provides adequate funding of the Department of Homeland Security, including support for important federal cybersecurity initiatives, disaster relief and recovery programs, and essential law enforcement activities that are critical for ensuring the Department can help keep our Nation safe from harm.

But I cannot support the bill on final passage if it contains any of the "poison pill" amendments made in order by the Rules Committee.

Those amendments are simply the latest attempt by House Republicans to prohibit the executive branch from exempting or deferring from deportation any immigrants considered to be unlawfully present in the United States under U.S. immigration law, and to prohibit the administration from treating those immigrants as if they were lawfully present or had lawful immigration status.

I oppose all of the amendments made in order by the Rules Committee because their inclusion will spell certain doom for the bill and needlessly put the security of the homeland at risk at a time when things are so perilous in the world.

The recent terrorist attacks in Paris and by Boko Haram in Nigeria given heightened urgency to the words of Appropriations Committee Chairman ROGERS that we need to get a clean Homeland Security spending bill "to the president's desk so we can get a signature funding Homeland Security at a very tedious time in the world."

Sending this bill to the president with the Republican poison pill amendments will result in a presidential veto rather the signature needed for the bill to become law.

In addition, were the bill to become law with the poison pill amendments intact, it would inflict tremendous damage to the nation's economy and the economy of my home state of Texas.

According to an analysis conducted by the Council of Economic Advisors, the executive actions taken by the President to mitigate the damage caused by our broken immigration system would grow the U.S. economy by \$90 billion to \$210 billion over the next ten years.

And they would grow the GDP of my home state of Texas by \$8.2 billion to \$19.2 billion over that same period and increase Texas state revenues by \$770 million to \$1.8 billion.

I cannot and will not support a bill that would do such harm to our efforts to protect the homeland and expand the economy so that it creates jobs for all who seek employment at wages that will enable workers to provide for their families and their retirement, buy

and keep their homes, and send their children to college.

I urge my colleagues to reject all of the amendments made in order by the Rules Committee and pass the bill as originally introduced by Chairman ROGERS.

There are many good things in that bill that are worthy of support, including the following:

1. \$39.7 billion in regular discretionary appropriations for Department of Homeland Security (DHS) in fiscal year 2015;

2. \$12.6 billion for Customs and Border Protection (CBP); DHS would be required to accelerate the hiring of CBP officers;

3. \$5.96 billion for Immigration and Customs Enforcement (ICE) plus an additional \$345 million from the agency's fee funded accounts, bringing the total to \$6.3 billion;

4. \$553.6 million in funding to manage the influx of unaccompanied alien children, or "UAC," entering the U.S.; the funding would be used to interdict migrants, care for and transport approximately 58,000 undocumented children to the custody of Health and Human Services (HHS), and facilitate the movement of undocumented families through removal proceedings after crossing the U.S. border;

5. \$1.9 billion for both domestic and international investigations, including increases to combat human trafficking, child exploitation, cyber-crime, and drug smuggling, and to expand visa vetting capabilities;

6. \$4.8 billion for the Transportation Security Administration (TSA);

7. \$10 billion for the U.S. Coast Guard;

8. \$753.2 million for cybersecurity operations in the National Programs and Protection Directorate to fund and sustain improvements to the Federal Network Security and Network Security Deployment programs;

9. \$1.7 billion for the U.S. Secret Service—an increase of \$80.5 million above the fiscal year 2014 enacted level—to begin preparation and training for candidate protection for the 2016 presidential election and to address critical failures in communications and training at the White House Complex;

10. \$7 billion for disaster relief—fully funding FEMA's stated requirement; and

11. \$1.1 billion for Science and Technology, \$32.1 million above the President's request.

The White House has announced that the President will sign H.R. 240 as originally introduced but he will veto the bill if it contains any of the irresponsible and reckless amendments made in order by the Rules Committee.

I urge all my colleagues to join me in voting against all of the amendments and sending a clean Homeland Security funding bill that will receive the presidential signature needed to become and law provide the resources needed to keep our homeland safe.

Mr. CARTER of Texas. Mr. Chairman, I yield 2 minutes to my distinguished colleague from California (Mr. McCLINTOCK).

Mr. McCLINTOCK. I thank the gentleman for yielding.

Mr. Chairman, this is Placer County Sheriff's Deputy Michael Davis, Jr. You may have heard of him. He was gunned down on October 24 of last year in one of the most shocking murder rampages in the history of that county. He was murdered on the 26th anniversary of the day that he lost his father, a Riverside County sheriff's deputy, in the line of duty.

The suspect, who also killed a Sacramento sheriff's deputy and wounded an innocent bystander, should never have been here. He was a convicted felon who had entered our country illegally from Mexico. He had been twice deported for his crimes, only to reenter time and again over our unsecured border.

I met with Michael Davis' grieving family this weekend, including his remarkable mother, Debbie, and his sole surviving brother, Jason, who also serves as a Placer County sheriff's deputy. The message they asked me to convey today is that this is not about immigration—in fact, Jason spends his free time working with at-risk Latino children, many from immigrant families—rather, this is about the rule of law, including respect for our immigration laws for which this family has sacrificed so much.

We pride ourselves on being a nation of laws and not of men. That means the President is sworn to enforce the laws, not to make them. He doesn't get to change or to repeal laws by decree or decide who must obey the law and who gets to live above it; yet that is precisely what he has done.

In so doing, he has placed the public safety and the Nation's security at great risk. This measure begins to walk back these unconstitutional orders, secure our borders, repair our Nation's sovereignty, and recover the rule of law.

Michael Davis died for these principles. The least we can do is to vote to restore them.

Ms. ROYBAL-ALLARD. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, some claim the President's actions are unconstitutional. That is not true.

I submit for the RECORD a letter signed by 135 law professors and confirmed by four former chief counsels for Immigration about why his action was lawful.

25 NOVEMBER 2014.

We write as scholars and teachers of immigration law who have reviewed the executive actions announced by the President on November 20, 2014. It is our considered view that the expansion of the Deferred Action for Childhood Arrivals (DACA) and establishment of the Deferred Action for Parental Accountability (DAPA) programs are within the legal authority of the executive branch of the government of the United States. To explain, we cite federal statutes, regulations, and historical precedents. We do not express any views on the policy aspects of these two executive actions.

This letter updates a letter transmitted by 136 law professors to the White House on September 3, 2014, on the role of executive action in immigration law. We focus on the legal basis for granting certain noncitizens in the United States "deferred action" status as a temporary reprieve from deportation. One of these programs, Deferred Action for Childhood Arrivals (DACA), was established by executive action in June 2012. On November 20, the President announced the expansion of eligibility criteria for DACA and the creation of a new program, Deferred Action for Parental Accountability (DAPA).

#### PROSECUTORIAL DISCRETION IN IMMIGRATION LAW ENFORCEMENT

Both November 20 executive actions relating to deferred action are exercises of prosecutorial discretion. Prosecutorial discretion refers to the authority of the Department of Homeland Security to decide how the immigration laws should be applied. Prosecutorial discretion is a long-accepted legal practice in practically every law enforcement context, unavoidable whenever the appropriated resources do not permit 100 percent enforcement. In immigration enforcement, prosecutorial discretion covers both agency decisions to refrain from acting on enforcement, like cancelling or not serving or filing a charging document or Notice to Appear with the immigration court, as well as decisions to provide a discretionary remedy like granting a stay of removal, parole, or deferred action.

Prosecutorial discretion provides a temporary reprieve from deportation. Some forms of prosecutorial discretion, like deferred action, confer "lawful presence" and the ability to apply for work authorization. However, the benefits of the deferred action programs announced on November 20 are not unlimited. The DACA and DAPA programs, like any other exercise of prosecutorial discretion do not provide an independent means to obtain permanent residence in the United States, nor do they allow a noncitizen to acquire eligibility to apply for naturalization as a U.S. citizen. As the President has emphasized, only Congress can prescribe the qualifications for permanent resident status or citizenship.

#### STATUTORY AUTHORITY AND LONG-STANDING AGENCY PRACTICE

Focusing first on statutes enacted by Congress, 103(a) of the Immigration and Nationality Act ("INA" or the "Act"), clearly empowers the Department of Homeland Security (DHS) to make choices about immigration enforcement. That section provides: "The Secretary of Homeland Security shall be charged with the administration and enforcement of this Act and all other laws relating to the immigration and naturalization of aliens. . . ." INA §242(g) recognizes the executive branch's legal authority to exercise prosecutorial discretion, specifically by barring judicial review of three particular types of prosecutorial discretion decisions: to commence removal proceedings, to adjudicate cases, and to execute removal orders. In other sections of the Act, Congress has explicitly recognized deferred action by name, as a tool that the executive branch may use, in the exercise of its prosecutorial discretion, to protect certain victims of abuse, crime or trafficking. Another statutory provision, INA §274A(h)(3), recognizes executive branch authority to authorize employment for noncitizens who do not otherwise receive it automatically by virtue of their particular immigration status. This provision (and the formal regulations noted below) confer the work authorization eligibility that is part of both the DACA and DAPA programs.

Based on this statutory foundation, the application of prosecutorial discretion to individuals or groups has been part of the immigration system for many years. Long-standing provisions of the formal regulations promulgated under the Act (which have the force of law) reflect the prominence of prosecutorial discretion in immigration law. Deferred action is expressly defined in one regulation as "an act of administrative convenience to the government which gives some cases lower priority" and goes on to authorize work permits for those who receive deferred action. Agency memoranda further reaffirm the role of prosecutorial discretion in immigration law. In 1976, President Ford's

Immigration and Naturalization Service (INS) General Counsel Sam Bernsen stated in a legal opinion, “The reasons for the exercise of prosecutorial discretion are both practical and humanitarian. There simply are not enough resources to enforce all of the rules and regulations presently on the books.” In 2000, a memorandum on prosecutorial discretion in immigration matters issued by INS Commissioner Doris Meissner provided that “[s]ervice officers are not only authorized by law but expected to exercise discretion in a judicious manner at all stages of the enforcement process,” and spelled out the factors that should guide those decisions. In 2011, Immigration and Customs Enforcement in the Department of Homeland Security published guidance known as the “Morton Memo,” outlining more than one dozen factors, including humanitarian factors, for employees to consider in deciding whether prosecutorial discretion should be exercised. These factors—now updated by the November 20 executive actions—include tender or elderly age, long-time lawful permanent residence, and serious health conditions.

#### JUDICIAL RECOGNITION OF EXECUTIVE BRANCH PROSECUTORIAL DISCRETION IN IMMIGRATION CASES

Federal courts have also explicitly recognized prosecutorial discretion in general and deferred action in particular. Notably, the U.S. Supreme Court noted in its *Arizona v. United States* decision in 2012: “A principal feature of the removal system is the broad discretion exercised by immigration officials. . . . Federal officials, as an initial matter, must decide whether it makes sense to pursue removal at all. . . .” In its 1999 decision in *Reno v. American-Arab Anti-Discrimination Committee*, the Supreme Court explicitly recognized deferred action by name. This affirmation of the role of discretion is consistent with congressional appropriations for immigration enforcement, which are at an annual level that would allow for the arrest, detention, and deportation of fewer than 4 percent of the noncitizens in the United States who lack lawful immigration status.

Based on statutory authority, U.S. immigration agencies have a long history of exercising prosecutorial discretion for a range of reasons that include economic or humanitarian considerations, especially—albeit not only—when the noncitizens involved have strong family ties or long-term residence in the United States. Prosecutorial discretion, including deferred action, has been made available on both a case-by-case basis and a group basis, as are true under DACA and DAPA. But even when a program like deferred action has been aimed at a particular group of people, individuals must apply, and the agency must exercise its discretion based on the facts of each individual case. Both DACA and DAPA explicitly incorporate that requirement.

#### HISTORICAL PRECEDENTS FOR DEFERRED ACTION AND SIMILAR PROGRAMS FOR INDIVIDUALS AND GROUPS

As examples of the exercise of prosecutorial discretion, numerous administrations have issued directives providing deferred action or functionally similar forms of prosecutorial discretion to groups of noncitizens, often to large groups. The administrations of Presidents Ronald Reagan and George H.W. Bush deferred the deportations of a then-predicted (though ultimately much lower) 1.5 million noncitizen spouses and children of immigrants who qualified for legalization under the Immigration Reform and Control Act (IRCA) of 1986, authorizing work permits for the spouses. Presidents Reagan and Bush took these actions, even though Congress had decided to exclude them from IRCA.

Among the many other examples of significant deferred action or similar programs are two during the George W. Bush administration: a deferred action program in 2005 for foreign academic students affected by Hurricane Katrina, and “Deferred Enforcement Departure” for certain Liberians in 2007. Several decades earlier, the Reagan administration issued a form of prosecutorial discretion called “Extended Voluntary Departure” in 1981 to thousands of Polish nationals. The legal sources and historical examples of immigration prosecutorial discretion described above are by no means exhaustive, but they underscore the legal authority for an administration to apply prosecutorial discretion to both individuals and groups.

Some have suggested that the size of the group who may “benefit” from an act of prosecutorial discretion is relevant to its legality. We are unaware of any legal authority for such an assumption. Notably, the Reagan-Bush programs of the late 1980s and early 1990s were based on an initial estimated percentage of the unauthorized population (about 40 percent) that is comparable to the initial estimated percentage for the November 20 executive actions. The President could conceivably decide to cap the number of people who can receive prosecutorial discretion or make the conditions restrictive enough to keep the numbers small, but this would be a policy choice, not a legal issue. For all of these reasons, the President is not “re-writing” the immigration laws, as some of his critics have suggested. He is doing precisely the opposite—exercising a discretion conferred by the immigration laws and settled general principles of enforcement discretion.

#### THE CONSTITUTION AND IMMIGRATION ENFORCEMENT DISCRETION

Critics have also suggested that the deferred action programs announced on November 20 violate the President’s constitutional duty to “take Care that the Laws be faithfully executed.” A serious legal question would therefore arise if the executive branch were to halt all immigration enforcement, or even if the Administration were to refuse to substantially spend the resources appropriated by Congress. In either of those scenarios, the justification based on resource limitations would not apply. But the Obama administration has fully utilized all the enforcement resources Congress has appropriated. It has enforced the immigration law at record levels through apprehensions, investigations, and detentions that have resulted in over two million removals. At the same time that the President announced the November 20 executive actions that we discuss here, he also announced revised enforcement priorities to focus on removing the most serious criminal offenders and further shoring up the southern border. Nothing in the President’s actions will prevent him from continuing to remove as many violators as the resources Congress has given him permit.

Moreover, when prosecutorial discretion is exercised, particularly when the numbers are large, there is no legal barrier to formalizing that policy decision through sound procedures that include a formal application and dissemination of the relevant criteria to the officers charged with implementing the program and to the public. As DACA has shown, those kinds of procedures assure that important policy decisions are made at the leadership level, help officers to implement policy decisions fairly and consistently, and offer the public the transparency that government priority decisions require in a democracy.

Hiroshi Motomura & Susan Westerberg Prager, University of California, Los Angeles, School of Law; Shoba Sivaprasad

Wadhia, Pennsylvania State University Dickinson School of Law; Stephen H. Legomsky, Washington University School of Law; David Abraham, University of Miami School of Law; Raquel Aldana, University of the Pacific, McGeorge School of Law; Farrin R. Anello, Seton Hall University School of Law; Deborah Anker, Harvard Law School; Sabrineh Ardalan, Harvard Law School; David C. Baluarte, Washington and Lee University School of Law; Melynda Barnhart, New York Law School; Jon Bauer, University of Connecticut School of Law; Lenni B. Benson, New York Law School; Jacqueline Bhabha, Harvard Law School; Linda Bosniak, Rutgers University School of Law-Camden; Richard A. Boswell, U.C. Hastings College of the Law; Jason A. Cade, University of Georgia Law School; Janet Calvo, CUNY School of Law, New York; Kristina M. Campbell, University of the District of Columbia David A. Clarke School of Law; Stacy Caplow, Brooklyn Law School; Benjamin Casper, University of Minnesota Law School; Linus Chan, University of Minnesota; Howard F. Chang, University of Pennsylvania Law School; Michael J. Churgin, University of Texas at Austin; Marisa Cianciarulo, Chapman University Dale E. Fowler School of Law; Evelyn Cruz, Arizona State University; Ingrid Eagly, UCLA School of Law; Phillip Eichorn, Cleveland State—Cleveland Marshall School of Law; Bram T. Elias, University of Iowa College of Law; Stella Burch Elias, University of Iowa College of Law; Jill E. Family, Widener University School of Law; Niels Frenzen, University of Southern California; Maryellen Fullerton, Brooklyn Law School; César Cuauhtimoc García Hernández, University of Denver Sturm College of Law; Lauren Gilbert, St. Thomas University School of Law; Denise L. Gilman, University of Texas School of Law; John F. Gossart, Jr., University of Maryland School of Law; P. Gulasekaram, Santa Clara University; Anju Gupta, Rutgers School of Law—Newark; Susan R. Gzesh, University of Chicago; Jonathan Hafetz, Seton Hall University; Dina Francesca Haynes, New England Law, Boston; Susan Hazelden, Cornell Law School; Ernesto Hernández-López, Chapman University; Laura A. Hernandez, Baylor Law School; Michael Heyman, John Marshall Law School; Barbara Hines, University of Texas School of Law; Laila L. Hlass, Boston University School of Law; Geoffrey Hoffman, University of Houston Law Center; Mary Holper, Boston College Law School; Alan Hyde, Rutgers University School of Law—Newark; Kate Jastram, University of California, Berkeley, School of Law; Kit Johnson, University of Oklahoma College of Law; Anil Kalhan, Drexel University Kline School of Law; Daniel Kanstroom, Boston College Law School; Elizabeth Keyes, University of Baltimore School of Law; Kathleen Kim, Loyola Law School Los Angeles; David C. Koelsch, University of Detroit Mercy School of Law; Jennifer Lee Koh, Western State College of Law; Kevin Lapp, Loyola Law School, Los Angeles; Christopher Lasch, University of Denver Sturm College of Law; Jennifer J. Lee, Temple University Beasley School of Law; Stephen Lee, University of California, Irvine; Christine Lin, University of California, Hastings College of the Law; Beth Lyon, Villanova University School of Law; Stephen Manning, Lewis & Clark College; Lynn Marcus, University of Arizona James E. Rogers College of Law; Miriam H. Marton, University of Tulsa College of Law; Elizabeth McCormick, University of Tulsa College of Law; M. Isabel Medina, Loyola University New Orleans College of Law; Stephen Meili, University of Minnesota Law School; Vanessa Merton, Pace University School of Law; Andrew Moore, University of Detroit Mercy School of Law; Jennifer Moore, University of New Mexico School of Law; Daniel

I. Morales, DePaul University College of Law; Nancy Morawetz, NYU School of Law; Karen Musalo, U.C. Hastings College of the Law; Elizabeth Newman, CUNY School of Law; Noah Novogrodsky, University of Wyoming College of Law; Fernando A. Nuñez, Charlotte School of Law; Mariela Olivares, Howard University School of Law; Michael A. Olivas, University of Houston Law Center; Patrick D. O'Neill, Esq., University of Puerto Rico School of Law; Sarah Paoletti, University of Pennsylvania Law School; Sumita Patel, American University, Washington College of Law; Huyen Pham, Texas A&M University School of Law; Michele R. Pistone, Villanova University School of Law; Luis F.B. Plascencia, Arizona State University; Polly J. Price, Emory University School of Law; Doris Marie Provine, Arizona State University; Nina Rabin, James E. Rogers College of Law, University of Arizona; Jaya Ramji-Nogales, Temple University, Beasley School of Law; Renee C. Redman, University of Connecticut School of Law; Ediberto Roman, Florida International University; Victor C. Romero, Penn State Law; Joseph H. Rosen, Atlanta's John Marshall Law School; Carrie Rosenbaum, Golden Gate University School of Law; Rachel E. Rosenbloom, Northeastern University School of Law; Rubén G. Rumbaut, University of California, Irvine; Ted Ruthizer, Columbia Law School; Leticia M. Saucedo, UC Davis School of Law; Heather Scavone, Elon University School of Law; Andrew I. Schoenholtz, Georgetown Law; Philip Schrag, Georgetown University Law Center; Bijal Shah, NYU School of Law; Ragini Shah, Suffolk University Law School; Careen Shannon, Yeshiva University, Benjamin N. Cardozo School of Law; Anna Williams Shavers, University of Nebraska College of Law; Bryn Siegel, Pacific Coast University School of Law; Anita Sinha, American University, Washington College of Law; Dan R. Smulian, Brooklyn Law School; Gemma Solimene, Fordham University School of Law; Jayashri Srikantiah, Stanford Law School; Juliet Stumpf, Lewis & Clark Law School; Maureen A. Sweeney, University of Maryland Carey School of Law; Barbara Szweida, Lincoln Memorial University Duncan School of Law; Margaret H. Taylor, Wake Forest University School of Law; David Thronson, Michigan State University College of Law; Allison Brownell Tirres, DePaul University College of Law; Scott Titshaw, Mercer University School of Law; Phil Torrey, Harvard Law School; Enid Trucios-Haynes, Louis D. Brandeis School of Law, University of Louisville; Diane Uchimiya, University of La Verne College of Law; Gloria Valencia-Weber, University of New Mexico School of Law; Sheila I. Vélez Martínez, University of Pittsburgh School of Law; Alex Vernon, Ave Maria School of Law; Rose Cuisson Villazor, University of California at Davis School of Law; Leti Volpp, University of California, Berkeley; Jonathan Weinberg, Wayne State University; Deborah M. Weissman, University of North Carolina at Chapel Hill; Lisa Weissman-Ward, Stanford Law School; Anna R. Welch, University of Maine School of Law; Virgil O. Wiebe, University of St. Thomas School of Law, Minneapolis; Michael J. Wishnie, Yale Law School; Stephen Yale-Loehr, Cornell University Law School; Elizabeth Lee Young, University of Arkansas School of Law.

\* all institutional affiliations are for identification purposes only

#### CONCLUSION

Our conclusion is that the expansion of the DACA program and the establishment of Deferred Action for Parental Accountability are legal exercises of prosecutorial discretion. Both executive actions are well within

the legal authority of the executive branch of the government of the United States.

NOVEMBER 29, 2014.

HON. PATRICK LEAHY,  
HON. CHUCK GRASSLEY,  
HON. BOB GOODLATTE,  
HON. JOHN CONYERS, JR.

We are writing as former General Counsels of the Immigration and Naturalization Service or former Chief Counsels of U.S. Citizenship and Immigration Services. As you know, the President on November 20 announced a package of measures designed to deploy his limited immigration enforcement resources in the most effective way. These measures included an expansion of Deferred Action for Childhood Arrivals (DACA) and the creation of Deferred Action for Parental Accountability (DAPA). We take no positions on the policy judgments that those actions reflect, but we have all studied the relevant legal parameters and wish to express our collective view that the President's actions are well within his legal authority.

Some 135 law professors who currently teach or write in the area of immigration law signed a November 25, 2014 letter to the same effect. Rather than repeat the points made in that letter, we simply attach it here and go on record as stating that we agree wholeheartedly with its legal analysis and its conclusions.

Respectfully,

STEPHEN LEGOMSKY,  
*The John S. Lehmann  
University Professor,  
Washington University  
School of Law,  
Former Chief Counsel,  
U.S. Citizenship  
and Immigration  
Services.*

ROXANA BACON,  
*Former Chief Counsel,  
U.S. Citizenship and  
Immigration Services.*

PAUL W. VIRTUE,  
*Partner, Mayer Brown  
LLP, Former General  
Counsel, Immigration and  
Naturalization Service.*

BO COOPER,  
*Partner, Fragomen,  
Del Rey, Bernsen &  
Loew, Former General  
Counsel, Immigration and  
Naturalization Service.*

Ms. LOFGREN. I note also that a lawsuit is currently pending to challenge the constitutionality.

Why don't Republicans just wait and see what the judicial branch has to say, what they decide?

The amendments being offered are poison pills and should be defeated. The first amendment is meant to block all but one of the President's actions on immigration. This includes the temporary protection from deportation for parents of U.S. citizens and the expansion of temporary relief for people brought to the country as kids.

This would break apart families, hurt more communities, deport the parents of U.S. citizens, and send thousands of American children into foster care.

□ 1945

But the amendment does more damage. In the interest of time, I will touch on just a few examples. It pre-

vents improving the provisional waiver of the 3-year and 10-year unlawful presence bars created by Congress in 1996 to prevent U.S. citizens from experiencing "extreme hardship." Ironically, the changes the administration intends would actually make the waiver align more closely to what Congress enacted.

It would stop actions to help capitalize on the innovation of job-creating entrepreneurs and increase job opportunities. It would block initiatives designed to promote the integration of immigrants and to promote citizenship. The only action not blocked is a pay raise for ICE agents.

The second amendment would block further implementation of the 2012 DACA memo and any additional efforts to save DREAM Act kids from deportation. In the past, there was confusion about what amendments did. But this one is very clear. It is a straight up-or-down vote on whether to deport hundreds of thousands of young people who came forward, passed background checks, received DACA, and followed the rule. It would deport the DREAMERS.

The third amendment looks reasonable at first, as it requires that those convicted of sex offenses and domestic violence be the highest priority for enforcement. But the point is, the President's actions already make those criminals a priority for deportation, and they are prohibited from getting any deportation relief.

The amendment is not only unnecessary, but it also endangers victims of domestic violence. How? It overturns the DHS policy of inquiry into whether a person convicted of misdemeanor domestic violence was actually the victim, not the perpetrators of the crime. This amendment is opposed by the National Task Force to End Sexual and Domestic Violence, the U.S. Conference of Catholic Bishops, the American Immigration Lawyers Association, and law enforcement.

I will now place into the RECORD a letter from 14 sheriffs and police chiefs asking that we oppose the DeSantis amendment.

JANUARY 13, 2015.

Re H.R. 240, The Department of Homeland Security Appropriations Act, 2015.

DEAR REPRESENTATIVE: We, the undersigned law enforcement officers, write to express our opposition to various proposals under consideration in the House of Representatives that seek to override aspects of the Obama Administration's immigration policies.

While acknowledging that there is good-faith disagreement over certain aspects of the administration's immigration policies, several of the proposals under consideration by the House of Representatives would represent a step backward, lead to uncertainty in our immigration enforcement system, and make it harder for state and local law enforcement to police our communities.

The 114th Congress has a tremendous opportunity to fix our broken immigration system, advancing reforms that will help the economy and secure our borders. While we are encouraged by proposals that would secure our borders and reform outdated visa programs, we are concerned by reports of

various proposals in the House that do not appear to have bipartisan support and could unnecessarily threaten a partial governmental shutdown affecting the Department of Homeland Security (DHS). As law enforcement officers, we regularly work with DHS and its component agencies and fear that an unfunded DHS will sow confusion and uncertainty.

We are also concerned about proposed substantive changes that would undercut existing protections for victims of domestic violence, undermine law enforcement's ability to focus on catching and deporting dangerous criminals, compel state and local law enforcement to hold low-level offenders without probable cause, and threaten long-established and necessary federal programs and funding that have long aided state and local law enforcement. We oppose proposals that (1) make law-abiding immigrants feel less safe in our communities, (2) focus federal law enforcement away from catching serious criminals and security threats, (3) increase the state and local role in immigration enforcement, and (4) threaten needed federal resources and funding used by state and local law enforcement.

1. WHEN IMMIGRANTS FEEL SAFE IN THEIR COMMUNITIES, WE ARE ALL SAFER

When immigrants feel safe in their communities, including immigrant victims of domestic violence, we are all safer. We oppose amendments that remove key protections from domestic violence victims and undermine the executive branch's ability to prioritize criminals over otherwise law-abiding immigrants.

One proposal under consideration by the House would scrap DHS's entire existing enforcement framework, because it does not treat "any alien convicted of any offense involving domestic violence, sexual abuse, child molestation, or child exploitation as within the categories of aliens subject to the Department of Homeland Security's highest civil immigration enforcement priorities."

While the amendment is intuitively appealing and directed toward protecting domestic violence victims, it actually has the opposite effect in many cases. By guaranteeing "highest" priority treatment of all domestic violence cases, the amendment raises the stakes for any report of domestic violence—a single report of domestic violence could lead to removal proceedings and deportation.

Immigrant victims are particularly vulnerable to being arrested and prosecuted for domestic violence, even when they are not the primary perpetrator of violence in the relationship, due to language and cultural barriers. Once in custody and/or facing trial, and desperate to be released and reunited with their children, these same factors—combined with poor legal counsel, may lead to deportation of wrongly accused victims who may have pled to or been unfairly convicted of domestic violence charges. Currently, federal authorities have flexibility in separating victims from perpetrators in dual arrest situations. The proposed amendment would remove this flexibility, leading to the deportation of victims of domestic violence.

2. LAW ENFORCEMENT SHOULD REFOCUS ITS PRIORITIES TOWARD CATCHING SERIOUS CRIMINALS AND SECURITY THREATS

Federal immigration agencies, including Immigration and Customs Enforcement (ICE), do not have the capacity or resources to remove all undocumented immigrants. Existing federal policies prioritize the removal of immigrants with criminal records over those who pose no threat to the community. We believe that law enforcement agencies should spend their limited time and resources focusing on pursuing truly dangerous

criminals, not otherwise law-abiding members of the community.

Various amendments would seek to override these longstanding priorities. We oppose such amendments.

3. IMMIGRATION ENFORCEMENT IS A FEDERAL RESPONSIBILITY

We believe that immigration enforcement on the state and local levels diverts limited resources away from public safety and undermines trust within immigrant communities. State and local law enforcement agencies face tight budgets and often do not have the capacity or resources to duplicate the federal government's work in enforcing federal immigration laws. Rather than apprehending and removing immigrants who have no criminal background or affiliation and are merely seeking to work or reunite with family, it is more important for state and local law enforcement to focus limited resources and funding on true threats to public safety and security.

Various amendments would seek to foist additional enforcement responsibilities onto state and local law enforcement, including amendments that would reinstitute and codify the Secure Communities program. Some proposals also would impose a federal mandate on state and local law enforcement agencies to hold suspects even in the absence of probable cause, an action that raises serious constitutional and legal questions and would risk creating legal liability for state and local law enforcement agencies. We oppose such amendments.

4. STATE AND LOCAL LAW ENFORCEMENT NEED ADEQUATE RESOURCES

To the extent that state and local law enforcement play a role in immigration enforcement, the federal government must provide adequate funding in line with these responsibilities.

Some proposals under consideration by the House would place needed federal funding to state and local law enforcement at risk. These proposals, including proposed amendments that would condition significant federal funding on holding suspects in the absence of probable cause, raise serious concerns. We oppose such amendments.

Additionally, as referenced above, we call on Congress to fund DHS, including valuable DHS programs that provide needed funding to state and local law enforcement. We support legislation to fully fund this crucial agency for the entire 2015 fiscal year.

CONCLUSION

As law enforcement officers, we believe that the 114th Congress has a tremendous opportunity to fix our broken immigration system, advance reforms that will help the economy and secure our borders. Any executive actions taken by the executive branch are temporary and limited—by themselves they will not fix a broken system, nor will their repeal fix a broken system.

We continue to recognize that what our broken system truly needs is a permanent legislative solution. It is our hope that DHS funding legislation passes promptly and without any of the shortcomings we flagged above. Passing such legislation opens the door for this Congress to work constructively towards necessary immigration reform legislation.

Sincerely,

Chief Richard Biehl, Dayton Police Department, Dayton, Ohio;

Sheriff Clarence Dupnik, Pima County Sheriff's Office, Pima County, Arizona; Sheriff Tony Estrada, Santa Cruz County Sheriff's Office, Santa Cruz County, Arizona;

Chief Randy Gaber, Madison Police Department, Madison, Wisconsin;

Chief Ronald Haddad, Dearborn Police Department, Dearborn, Michigan; Chief James Hawkins, Garden City Police Department, Garden City, Kansas; Chief Mike Koval, City of Madison Police Department, Madison, Wisconsin; Chief Jose Lopez, Durham Police Department, Durham, North Carolina; Sheriff Leon Lott, Richland County Sheriff's, Department Richland County, South Carolina; Chief Thomas Manger, Montgomery County Police Department, Montgomery County, Maryland; Sheriff William McCarthy, Polk County Sheriff's Office, Polk County, Iowa; Lt. Andy Norris, Tuscaloosa County Sheriff's Office, Tuscaloosa County, Alabama; Chief Mike Tupper, Marshalltown Police Department, Marshalltown, Iowa; Sheriff Lupe Valdez, Dallas County Sheriff's Office, Dallas County, Texas.

Ms. LOFGREN. The final amendment also creates problems. It says that USCIS should adjudicate petitions of individuals in lawful status before adjudicating petitions of individuals in unlawful status. But that is too broad. There are many petitions filed by people in unlawful status that we would not want to delay: green cards for the wives and husbands of American citizens; requests for U visas and T visas from crime victims or sex-trafficking victims; immigrant visa petitions filed by domestic violence victims. These are all people who would be harmed by the amendment.

I would note that the fourth amendment is based on the falsehood that the President's immigration actions created an incentive for employers to hire deferred action recipients instead of American workers. This is simply not true.

Now, we need to have a serious conversation about immigration policy in the House, but threatening to shut down the Department of Homeland Security is not the way to do that. These amendments are foolish and a step backwards, and not funding DHS is dumb and dangerous.

Mr. CARTER of Texas. Mr. Chairman, at this time, I will yield 2 minutes to the gentleman from the State of Pennsylvania (Mr. ROTHFUS).

Mr. ROTHFUS. I thank the chairman.

Mr. Chair, this important legislation fulfills our promise to the American people to responsibly fund our Homeland Security Department while also stopping President Obama's unconstitutional actions. This is the clear will of the American people, which was expressed this past November.

Sadly, the President is ignoring the results of that election, with administration officials saying he will veto any bill we pass out of Congress that would end his illegal amnesty order and hold him accountable.

Consider that threat: a President would shut down the Department of Homeland Security, whose mission is to protect the American people, just to continue implementing a policy that he admitted on more than 20 occasions



he did not have the legal authority to do.

I seriously hope he will not.

Continuing to defend his unauthorized and unconstitutional order by vetoing this bill would be more than reckless. It would confirm beyond any reasonable doubt that President Obama believes he is above the law.

I hope the Senate will join this House and not abdicate on the shared responsibility we have to preserve Congress' prerogatives to defend the Constitution and to stop the abuse of power happening under this President.

Let's get this amended bill to the President's desk immediately and see whether he is capable of putting the will of the American people and the Constitution ahead of his own self-serving agenda.

The Acting CHAIR. The Chair will remind Members to refrain from engaging in personalities toward the President.

Ms. ROYBAL-ALLARD. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. RUIZ).

Mr. RUIZ. I thank the gentlewoman for yielding.

Mr. Chairman, House Republican leadership has chosen to play political games with the security and safety of our Nation by including extreme partisan poison pill amendments to this Homeland Security funding bill. Rather than putting country before party, House Republican leaders have chosen to advance an extreme agenda instead of doing what needs to be done to protect Americans.

This bill is a farce that puts scoring political points above safeguarding our communities. This is precisely the type of political gimmick people in the Coachella Valley and across the country are sick of.

The terrorist attacks in Paris last week demonstrate how critical it is that the men and women of our law enforcement agencies have the funding necessary to do their jobs and keep us safe.

That is why I urge House Republican leadership to allow a vote on a clean, bipartisan Homeland Security bill that ensures law enforcement, the Coast Guard, and the Secret Service have the resources they need to protect our communities.

It is time to end the political bickering and work toward sensible, pragmatic solutions to keep our homeland secure.

Mr. CARTER of Texas. At this time, I yield 2 minutes to the gentleman from North Carolina (Mr. PITTENGER).

Mr. PITTENGER. I thank the gentleman from Texas, Chairman CARTER, for his tremendous leadership, this important legislation, and for yielding me this time.

Mr. Chairman, tonight I am reminded of Thomas Jefferson, who once said: "Experience hath shown, that even under the best forms of government, those entrusted with power have, in time, and by slow operations, perverted it."

Mr. Chairman, we have heard repeatedly from our leader, our President, that he has said he is not king, he is not emperor, and that his powers, as President, are restricted. But his actions speak louder than words. Republicans are committed to holding the President accountable for his overreaching executive actions.

We have achieved remarkable success in this country because we are a Nation governed by the rule of law, not by the decrees of monarchs.

As recent events around the world have tragically reminded us, there are those who are still committed to destroying our way of life.

The Homeland Security Appropriations bill we are debating tonight supports the needs of the brave men and women who protect us each day and meets the requirements to keep us safe.

The amendments accompanying this legislation ensure we continue to be a Nation governed by laws and prevents any funds from being used to implement the President's unconstitutional decrees of amnesty while it prevents further implementation of DACA, which led to the crisis at the border last summer.

I urge all of my colleagues to join me in supporting this legislation to protect our great Nation and supporting the amendments to protect the rule of law.

Ms. ROYBAL-ALLARD. I reserve the balance of my time.

Mr. CARTER of Texas. Mr. Chairman, at this time, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MARINO).

Mr. MARINO. Mr. Chairman, I rise in support of H.R. 240, the Department of Homeland Security Appropriations Act, and the amendments that go with it.

Now let's get to the facts. My colleagues on the other side of the aisle conveniently leave these facts out.

First of all, this has nothing to do with shutting down Homeland Security. Second of all, the total budget for Homeland Security is \$39.7 billion. That is \$1.3 billion over the President's request. That is \$400 million over last year.

Our amendments prevent the President from using any moneys—no matter from where—on amnesty.

There is no reason to shut down Homeland Security. If Homeland Security is shut down, it is due to the Democrats and President Barack Obama because he has more money for Homeland Security than he asked for.

I encourage my colleagues to join me in voting for H.R. 240 and the amendments.

President Obama released amnesty plans in November that include changes to border security, status of persons currently living in the United States unlawfully, and future legal immigration policy changes—all of which are directly under the purview of the legislative branch, not the executive branch.

In addition this President's executive order included several other changes that directly result in amnesty.

To be clear, democracy in this country was built on the foundation of a three branch federal government.

Our founding fathers saw the importance of checks and balances to prevent any branch from becoming all-powerful and exceeding its constitutional authority.

Furthermore, our Constitution specifically grants all lawmaking authority to Congress, and instead gives the executive branch the role of executing the laws passed.

The President's overreach in granting amnesty has left Congress with no choice but to exercise the power of the purse today to restore the Federal Government to one of balance, within the confines of the Constitution.

Last week I introduced the Defund Amnesty Act to ensure this type of change, and I applaud the leadership for bringing legislation to the floor to boldly put an end to the President's executive order on amnesty.

Ms. ROYBAL-ALLARD. Mr. Chairman, I will continue to reserve the balance of my time.

Mr. CARTER of Texas. At this time, I yield 1 minute to the gentleman from Utah (Mr. STEWART).

Mr. STEWART. I thank the gentleman for yielding.

Mr. Chair, I would like to be very clear: this debate is not about immigration. This debate is about something much more, much more important than that. This is a generational conflict over something that is very clear. It is not about Presidential prerogative or Presidential arrogance.

As a military officer for 14 years, I had the honor of serving my country. Prior to doing that, I took a sacred oath of office, which is very similar to the oath that all of us took last week, to defend the Constitution of the United States. That is what this legislation is about. That is why this piece of legislation is so important.

This legislation seeks to restore the balance of powers. It seeks to conform that vision that our Founding Fathers had, that miracle that was created in Philadelphia that summer. It seeks to conform and to preserve the principles that so many people have died for.

The President is not a king. Congress is tasked to create the law. That is what this legislation is about. That is why it is so important that we support it.

Ms. ROYBAL-ALLARD. I reserve the balance of my time.

Mr. CARTER of Texas. At this time, Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky (Mr. BARR).

Mr. BARR. I thank the chairman for yielding.

Mr. Chair, today I rise in support of H.R. 240, providing appropriations for the Department of Homeland Security for the remainder of this fiscal year. This legislation provides the funding necessary to ensure that all of the Department's critical missions have the resources necessary to be dutifully executed.

But I also rise in support of the amendments to this legislation. And when considering the amendments that were made in order, I am reminded of

the feelings of pride and patriotism that I witness when I attend naturalization ceremonies in my home district. When new citizens raise their right hand and recite the Oath of Allegiance, the aura of achievement and opportunity is palpable. These immigrants-turned-citizens have come to the country the right way. They have followed the rules, and they have earned that feeling of achievement.

But it is America that benefits. These immigrants embody and have displayed the values we hold most dear: hard work, integrity, perseverance, and a commitment to be a contributing member of the American society.

I strongly support these amendments because we are expressing the sense of Congress in these amendments that we respect naturalized citizens; we honor their hard work and dedication to the legal immigration and naturalization process. We should hold these new citizens up as models for how to immigrate to this country the right way. We should not punish them by using their very processing fees that they paid to accommodate illegal immigrants hiding from the rule of law. And that is why the President's unilateral executive action is so destructive.

So I proudly join my colleagues not only in voting to defund the President's unconstitutional executive action but also to call upon his administration and the U.S. Citizenship and Immigration Services to stop putting the interests of unlawful immigrants ahead of legal immigrants. Let's reward those who come to this country the right way, not those who have broken the law.

In conclusion, Mr. Chair, I again thank the Appropriations Committee and the chairman for this important work vindicating legal immigration.

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Ms. ROYBAL-ALLARD. Mr. Chairman, the security of the United States and the American people must be our top priority. I urge the majority to defeat the poison pill amendments that will prevent this bill from becoming law and to support a clean Homeland Security bill that will provide the resources that are needed to provide our great Nation with the protections that they need.

I yield back the balance of my time.

Mr. CARTER of Texas. Mr. Chairman, I believe we have no further speakers, so at this time, I am prepared to close.

I would just like to clarify a few things. Nobody is going to lose a paycheck, no agency is going to go broke, as we have this constitutional discussion and this constitutional debate that has taken place today and will probably take place tomorrow, when the amendments will actually be before this august body for a determination of whether they will be included or not included in this bill.

There has been some confusion, I think, that some may think these

things are already here, but we will follow the regular process tomorrow on the amendments that have been made in order.

No one is trying to put the security of the United States at risk in this bill, and we will have a normal debate, as we do here. What better body to address constitutional issues than the Congress of the United States?

With that, I yield back the balance of my time.

Mr. CONYERS. Mr. Chair, today the Majority has chosen to hold the Department of Homeland Security hostage with their extreme anti-immigrant policies. Rather than pass a bipartisan bill that would fund the agency tasked with securing our border and protecting our citizens from terrorism and violence—the Majority will consider poison pill amendments to appease an extreme faction of their party.

Playing politics with our national security is not responsible governance.

First, the Republican party is playing politics with the lives, safety and security of the American people. In the wake of the recent Paris tragedy, it is all too apparent that we need smart enforcement policies that protect the American people and root out any terror threats. The Department of Homeland Security plays a central role in our fight against terror, both in the United States and around the world and we should fully fund their efforts as soon as possible. We should not be debating "poison pill" amendments that have no chance of becoming law and will only further delay the funding of DHS.

Second, the Republican party is showing the American people that they only immigration policy they believe in is "mass deportation." They have attached several policy riders to this appropriations bill that would further separate families, including the families of military service members and U.S. citizens.

Third, the amendments that we will later consider will prevent DHS from implementing smart enforcement policies, including ones that prioritize deporting felons before families. These smart policies allow DHS to focus valuable resources on individuals with criminal convictions and not immigrants with U.S. citizen and legal permanent resident family members.

I urge my colleagues on the other side of the aisle to stop playing politics with our national security and start governing.

Mr. CONAWAY. Mr. Chair, this legislation funds the Department of Homeland Security for the remainder of the current fiscal year at \$39.7 billion, an increase of \$400 million compared to the FY2014 enacted level.

Mr. Chair, I rise today in strong support of H.R. 240, the Homeland Security Appropriations Act.

This legislation is critically important to keeping our nation safe:

It provides vital funding for the Department of Homeland Security for the remainder of the current fiscal year

It also prioritizes frontline security efforts, while reducing unnecessary spending on overhead costs

While there are many important programs that will receive funding through this legislation, I'd like to address just a few critically important areas:

Last November, President Obama through executive fiat granted amnesty to as many as

five million illegal immigrants. His decision to circumvent the proper legislative process was not the right way to handle this important issue. The President himself even admitted that he did not have the legal authority to issue an executive notice of this nature. We made a promise to our constituents that one of the first things we would do this Congress would be to prevent the President's unconstitutional executive action from becoming our nation's de facto immigration policy. This legislation does just that.

Next, this bill increases funding for Customs and Border Protection in order to make our border more secure. This increase will support a greater number of Border Patrol agents and officers, and provides them with the technologies they need to ensure around-the-clock surveillance of air, land and sea approaches to our nation.

And finally, this legislation includes important provisions that will allow the Coast Guard to continue operations without the cuts proposed by the President that would have greatly harmed the Coast Guard's operational abilities.

This bill prioritizes spending in a way that will better protect our country.

It is imperative that we pass this legislation to prevent the President's unconstitutional actions and to support the men and women who protect our borders.

Mr. LEVIN. Mr. Chair, we need to be clear about what is happening here today. The Republican Majority in the House is putting our national security at risk by threatening to shut down the Department of Homeland in order to advance their mean-spirited, anti-immigrant agenda.

House Republicans don't like President Obama. We get it. The Majority also disagrees with the actions the President has taken on immigration.

Look, if you disagree with the President on immigration, let's hear your plan to fix our nation's broken immigration system. Bring your bill to the Floor and let's debate it. But we shouldn't let down our guard on national security by playing games with the bill that funds border security, immigrations and customs enforcement, FEMA, and the Coast Guard.

We have a bipartisan Homeland Security funding bill that could easily pass the House and Senate. We could pass that bill today and the President would sign it into law. Instead, the Republican Majority is preparing to load up the bill with a number of divisive, poison pill amendments that the President will never agree to. Unless House Republicans change course, funding for the entire Department of Homeland Security will cut off on February 27.

So the message to my Republican colleagues is clear. Stop playing politics with our national security and send the President a clean Homeland Security funding bill.

Mr. THOMPSON of Mississippi. Mr. Chair, I thank the Gentlewoman from New York, Ms. LOWEY, for yielding me time.

Mr. Chair, I rise to voice my opposition to the anti-immigration amendments that will be considered later this afternoon.

These poison-pill amendments were not drafted with an eye toward making our nation safer, but rather scoring political points against the President.

As Ranking Member of the Committee on Homeland Security, I am disturbed that some of my colleagues are willing to play partisan politics with national security.

Over the past month, we have seen major cyber-attacks at American companies and radicalized terrorists wreak havoc on the streets of Sydney and Paris.

Yet the amendments the Majority insists on attaching to DHS' funding bill have nothing to do with cybersecurity.

And they have nothing to do with keeping Americans safe from lone-wolf terrorists or other radicalized individuals.

Rather, the amendments are being considered to satisfy the far-right fringe contingency of the Republican Party who have amassed disproportionate influence over the past few years.

The Amendments we are considering today could force DHS to use its limited resources to remove law-abiding children brought to the country through no fault of their own before deporting those who pose a threat to our safety or security.

Similarly, the Blackburn Amendment would end the Deferred Action for Childhood Arrivals program, setting in motion the deportation of those who have already come forward, paid the relevant fees and submitted to background checks, from America—the only home most of them have ever known.

In light of global terrorist events that occurred in recent months, the notion that we would remove individuals—who are known to, and have been vetted by, DHS—before focusing on those who may do us harm runs counter to common-sense and contradicts our risk-based approach to homeland security.

I urge my colleagues to reject the anti-immigration amendments that will be considered later this afternoon.

Instead, we should be voting on a clean DHS funding bill.

Mr. CARTER of Texas. Mr. Chairman, I move the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BARR) having assumed the chair, Mr. SMITH of Nebraska, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 240) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2015, and for other purposes, had come to no resolution thereon.

#### PROMOTING JOB CREATION AND REDUCING SMALL BUSINESS BURDENS ACT

Mr. HENSARLING. Mr. Speaker, pursuant to House Resolution 27, I call up the bill (H.R. 37) to make technical corrections to the Dodd-Frank Wall Street Reform and Consumer Protection Act, to enhance the ability of small and emerging growth companies to access capital through public and private markets, to reduce regulatory burdens, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 37

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Promoting Job Creation and Reducing Small Business Burdens Act”.

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—BUSINESS RISK MITIGATION AND PRICE STABILIZATION ACT

Sec. 101. Margin requirements.

Sec. 102. Implementation.

#### TITLE II—TREATMENT OF AFFILIATE TRANSACTIONS

Sec. 201. Treatment of affiliate transactions.

#### TITLE III—HOLDING COMPANY REGISTRATION THRESHOLD EQUALIZATION ACT

Sec. 301. Registration threshold for savings and loan holding companies.

#### TITLE IV—SMALL BUSINESS MERGERS, ACQUISITIONS, SALES, AND BROKERAGE SIMPLIFICATION ACT

Sec. 401. Registration exemption for merger and acquisition brokers.

Sec. 402. Effective date.

#### TITLE V—SWAP DATA REPOSITORY AND CLEARINGHOUSE INDEMNIFICATION CORRECTIONS

Sec. 501. Repeal of indemnification requirements.

#### TITLE VI—IMPROVING ACCESS TO CAPITAL FOR EMERGING GROWTH COMPANIES ACT

Sec. 601. Filing requirement for public filing prior to public offering.

Sec. 602. Grace period for change of status of emerging growth companies.

Sec. 603. Simplified disclosure requirements for emerging growth companies.

#### TITLE VII—SMALL COMPANY DISCLOSURE SIMPLIFICATION ACT

Sec. 701. Exemption from XBRL requirements for emerging growth companies and other smaller companies.

Sec. 702. Analysis by the SEC.

Sec. 703. Report to Congress.

Sec. 704. Definitions.

#### TITLE VIII—RESTORING PROVEN FINANCING FOR AMERICAN EMPLOYERS ACT

Sec. 801. Rules of construction relating to collateralized loan obligations.

#### TITLE IX—SBIC ADVISERS RELIEF ACT

Sec. 901. Advisers of SBICs and venture capital funds.

Sec. 902. Advisers of SBICs and private funds.

Sec. 903. Relationship to State law.

#### TITLE X—DISCLOSURE MODERNIZATION AND SIMPLIFICATION ACT

Sec. 1001. Summary page for form 10-K.

Sec. 1002. Improvement of regulation S-K.

Sec. 1003. Study on modernization and simplification of regulation S-K.

#### TITLE XI—ENCOURAGING EMPLOYEE OWNERSHIP ACT

Sec. 1101. Increased threshold for disclosures relating to compensatory benefit plans.

#### TITLE I—BUSINESS RISK MITIGATION AND PRICE STABILIZATION ACT

##### SEC. 101. MARGIN REQUIREMENTS.

(a) COMMODITY EXCHANGE ACT AMENDMENT.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)), as added by section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is

amended by adding at the end the following new paragraph:

“(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The requirements of paragraphs (2)(A)(ii) and (2)(B)(ii), including the initial and variation margin requirements imposed by rules adopted pursuant to paragraphs (2)(A)(ii) and (2)(B)(ii), shall not apply to a swap in which a counterparty qualifies for an exception under section 2(h)(7)(A), or an exemption issued under section 4(c)(1) from the requirements of section 2(h)(1)(A) for cooperative entities as defined in such exemption, or satisfies the criteria in section 2(h)(7)(D).”.

(b) SECURITIES EXCHANGE ACT AMENDMENT.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(e)), as added by section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following new paragraph:

“(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The requirements of paragraphs (2)(A)(ii) and (2)(B)(ii) shall not apply to a security-based swap in which a counterparty qualifies for an exception under section 3C(g)(1) or satisfies the criteria in section 3C(g)(4).”.

##### SEC. 102. IMPLEMENTATION.

The amendments made by this title to the Commodity Exchange Act shall be implemented—

(1) without regard to—

(A) chapter 35 of title 44, United States Code; and

(B) the notice and comment provisions of section 553 of title 5, United States Code;

(2) through the promulgation of an interim final rule, pursuant to which public comment will be sought before a final rule is issued; and

(3) such that paragraph (1) shall apply solely to changes to rules and regulations, or proposed rules and regulations, that are limited to and directly a consequence of such amendments.

#### TITLE II—TREATMENT OF AFFILIATE TRANSACTIONS

##### SEC. 201. TREATMENT OF AFFILIATE TRANSACTIONS.

(a) IN GENERAL.—

(1) COMMODITY EXCHANGE ACT AMENDMENT.—Section 2(h)(7)(D)(i) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(D)(i)) is amended to read as follows:

“(i) IN GENERAL.—An affiliate of a person that qualifies for an exception under subparagraph (A) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the hedge or mitigation of such commercial risk is addressed by entering into a swap with a swap dealer or major swap participant, an appropriate credit support measure or other mechanism must be utilized.”.

(2) SECURITIES EXCHANGE ACT OF 1934 AMENDMENT.—Section 3C(g)(4)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3(g)(4)(A)) is amended to read as follows:

“(A) IN GENERAL.—An affiliate of a person that qualifies for an exception under paragraph (1) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the security-based swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the hedge