

(2) Paragraph (16) of section 4975(d) is amended—

(A) in subparagraph (A), by inserting “or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))” after “a bank (as defined in section 581)”, and

(B) in subparagraph (C), by inserting “or company” after “such bank”.

(b) AMENDMENT RELATED TO SECTION 237 OF THE ACT.—Subparagraph (F) of section 1362(d)(3) is amended by striking “a bank holding company” and all that follows through “section 2(p) of such Act)” and inserting “a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))”.

(c) AMENDMENTS RELATED TO SECTION 239 OF THE ACT.—Paragraph (3) of section 1361(b) is amended—

(1) in subparagraph (A), by striking “and in the case of information returns required under part III of subchapter A of chapter 61”, and

(2) by adding at the end the following new subparagraph:

“(E) INFORMATION RETURNS.—Except to the extent provided by the Secretary, this paragraph shall not apply to part III of subchapter A of chapter 61 (relating to information returns).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

Subtitle B—Trade Technicals

SEC. 421. TECHNICAL CORRECTIONS TO REGIONAL VALUE-CONTENT METHODS FOR RULES OF ORIGIN UNDER PUBLIC LAW 109-53.

Section 203(c) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109-53; 19 U.S.C. 4033(c)) is amended as follows:

(1) In paragraph (2)(A), by striking all that follows “the following build-down method:” and inserting the following:

AV—VNM

“RVC = ——— 100”.

AV

(2) In paragraph (3)(A), by striking all that follows “the following build-up method:” and inserting the following:

VOM

“RVC = ——— 100”.

AV

(3) In paragraph (4)(A), by striking all that follows “the following net cost method:” and inserting the following:

NC—VNM

“RVC = ——— 100”.

NC

TITLE V—EMERGENCY REQUIREMENT

SEC. 501. EMERGENCY REQUIREMENT.

Any provision of this Act causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Mr. MCCRERY (during the reading). Madam Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

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

Mr. JEFFERSON. Madam Speaker, I do not object, but I reserve the right to object.

Madam Speaker, I want to say to the Speaker and this entire House, to my colleague from Louisiana, Mr. MCCRERY, to the ranking member, CHARLES RANGEL, to our chairman, BILL THOMAS, of the Ways and Means Committee, to all our Members who worked so hard to arrive at this piece of legislation at this time, we are, in our part of the world, extraordinarily grateful to the House and Senate for what it has done here. It will help to get our local government back on our feet and get our businesses incentivized to come back into our area. We believe that it will make a huge contribution to restoring and rebuilding our city.

Madam Speaker, I appreciate the good work that my colleague has done, and I thank the House.

Mr. MCCRERY. Madam Speaker, will the gentleman yield?

Mr. JEFFERSON. I yield to the gentleman from Louisiana.

Mr. MCCRERY. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I, too, want to thank the gentleman from Louisiana, my colleague on the Ways and Means Committee, the chairman of the Ways and Means Committee, the ranking member and the staff who have worked so hard to help us provide incentives for businesses to come back and reinvest in the devastated areas along our gulf coast.

The gentleman from Louisiana and Members of the House should know that members of the other body have placed a document prepared by the Joint Committee on Taxation in the CONGRESSIONAL RECORD that explains the legislative intent with respect to H.R. 4440, as amended. The Joint Committee will also make this explanation public. This document expresses our understanding of the bill now before us, and it will be a useful reference in understanding the legislation.

Mr. JEFFERSON. Madam Speaker, I withdraw my reservation of objection.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCCRERY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 4440.

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

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative

days within which to revise and extend their remarks and include extraneous material on H.R. 4437 to be considered shortly.

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

There was no objection.

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

The SPEAKER pro tempore (Mr. UPTON). Pursuant to House Resolution 621 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4437.

□ 1512

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4437) to amend the Immigration and Nationality Act to strengthen enforcement of the immigration laws, to enhance border security, and for other purposes, with Mrs. EMERSON (Acting Chairman) in the Chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose on Thursday December 15, 2005, amendment No. 12 printed in part B of House Report 109-347 by the gentleman from Oregon (Mr. DEFAZIO) had been disposed of.

Pursuant to House Resolution 621, no further general debate is in order and remaining proceedings pursuant to House Resolution 610 are subsumed by House Resolution 621.

Pursuant to House Resolution 621, no further amendment is in order except those printed in House Report 109-350. Each further amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GOODLATTE

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 109-350 offered by Mr. GOODLATTE:

At the end of the bill, add the following new title:

TITLE IX—SECURITY AND FAIRNESS ENHANCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as—

(1) the “Security and Fairness Enhancement for America Act of 2005”; or

(2) the “SAFE for America Act”.

SEC. 902. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.

(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

- (1) in subsection (a)—
- (A) by inserting “and” at the end of paragraph (1);
- (B) by striking “; and” at the end of paragraph (2) and inserting a period; and
- (C) by striking paragraph (3); and
- (2) by striking subsection (e).
- (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—Section 203 of such Act (8 U.S.C. 1153) is amended—
- (1) by striking subsection (c);
- (2) in subsection (d), by striking “(a), (b), or (c),” and inserting “(a) or (b),”;
- (3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);
- (4) in subsection (f), by striking “(a), (b), or (c)” and inserting “(a) or (b),”;
- (5) in subsection (g), by striking “(a), (b), and (c)” and inserting “(a) and (b)”.
- (c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C. 1154) is amended—
- (1) by striking subsection (a)(1)(I); and
- (2) in subsection (e), by striking “(a), (b), or (c)” and inserting “(a) or (b)”.
- (d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006.

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, each year, the United States Government chooses the names of 50,000 people who will be given the status of legal permanent resident, not based on family or employer sponsorship nor based on any rationale reason, but based only pure luck through a random lottery. My amendment would eliminate the controversial visa lottery program. The visa lottery program presents a serious national security threat.

A perfect example of the system gone awry is the case of Hesham Mohamed Hadayet, the Egyptian national who killed two and wounded three during a shooting spree at Los Angeles International Airport in July of 2002. He was allowed to apply for legal permanent resident status in 1997 because of his wife's status as a visa lottery winner.

□ 1515

The State Department's Inspector General has even testified before Congress this year that the Office of Inspector General continues to believe that the Diversity Visa Program contains significant risks to national security from hostile intelligence officers, criminals and terrorists attempting to use the program for entry into the United States as permanent residents.

Do not gamble with national security. Join me in eliminating the visa lottery program.

Madam Chairman, I reserve the balance of my time.

Mr. CONYERS. Madam Chairman, I yield myself 2 minutes. I ask that the House carefully consider this amendment because it may in one respect represent a not-so-subtle attempt to

dismantle the only program that guarantees that at least 4 percent of the new immigrants have a chance to come to this country from under-represented nations.

The Diversity Visa Program is the chance for many people of color around the world to immigrate to the United States and pursue the same American dream that many of the ancestors of the Members here were able to pursue.

There is no time in our Nation's history when race and ethnicity were not primary factors. So what we are asking here is that just as many great Americans have come to this country as refugees, I have no doubt that many great Americans have and are coming through the diversity program. You need only to look at the promise of young Freddie Adu, the teenage boy who is the newest star on the National Soccer League and the youngest professional player in the United States. He has got great promise, and but for his entry to the United States on the Diversity Visa Program, that promise might not have been realized.

I urge my colleagues to consider this amendment carefully. I hope that it will be turned back. Let us not dismantle an important and valuable program.

Madam Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Madam Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Madam Chairman, I rise in support of this amendment. I wanted to make a couple of points.

First of all, the visa lottery system has been susceptible to fraud. Doing away with it would do away with fraud. Secondly, the visa lottery system does not give visas to people from “over-represented countries,” and that includes Mexico. So no Mexican is eligible to get a visa on the visa lottery system. I think that is discriminatory.

Also, the visa lottery system is unfair because the winners go ahead of spouses and children of lawful permanent residents, including Mexicans, and married sons and daughters of citizens who have waited for visas, in some instances for years. It also is used as a potential for aliens who pose a danger to Americans.

I think that with all these problems in the visa lottery system, the best thing to do is pass this amendment and get rid of it.

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

Madam Chairman, the problem about fraud in this program is that people apply multiple times when the rules only allow one application a year per person. In some cases, multiple applications are the result of people trying to cheat the system; but in other cases, people may apply not understanding that, unlike many other lotteries, mul-

tiple applications are not allowed and do not really improve your chances.

The State Department has already addressed this in several ways. This program, I want to emphasize to the membership, is extremely valuable for those countries that have so very few people coming in under the regular system, and I would not want us to take this out of the present law. It is working well. We have had many success stories, and we think that there is not a serious history of fraud in the program.

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

Mr. CONYERS. I yield to the gentleman from California.

Ms. ZOE LOFGREN of California. Madam Chairman, I would just note, according to the State Department Visa Bulletin for next month, really this is primarily numerically the greatest number of individuals who benefit are from the continent of Africa. And because of immigration patterns, this is an important element of an opportunity for the American dream for would-be Americans who are coming from the continent of Africa. I thank the gentleman for yielding.

Mr. CONYERS. Reclaiming my time, I appreciate the gentlewoman's remarks.

Madam Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Madam Chairman, I yield 1 minute to the gentlewoman from South Dakota (Ms. HERSETH). This bipartisan amendment is based upon legislation introduced by myself and the gentlewoman.

Ms. HERSETH. Madam Chairman, I rise today in strong support of this important amendment to eliminate the Diversity Visa Program, otherwise known as the visa lottery. I thank my good friend, the gentleman from Virginia, for the time.

Chairman GOODLATTE and Chairman SENSENBRENNER have effectively outlined the serious security risk posed by the visa lottery program and the flaws in the administration of the program, so I will not repeat them at this time. But I would like to address a question raised by some of my colleagues: whether it would be possible to reallocate the visas currently utilized by the visa lottery program and add them to the family-sponsored and employer-based categories.

Although the amendment we are offering today does not reallocate the diversity visas, I am committed to working with Chairman GOODLATTE and our colleagues in the Senate to do just that.

I believe strongly that the elimination of the visa lottery program will strengthen our national security, that our amendment is an appropriate and necessary step towards resolution of this issue. I believe strongly that if our

amendment passes today, we can negotiate a compromise that will ensure reallocation of some or all of the immigrant visas available under this outdated and problematic program which has deviated from its original purpose.

I encourage my colleagues to join me in voting in favor of this amendment.

Mr. CONYERS. Madam Chairman, how much time remains on both sides?

The Acting CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) has 1 minute remaining. The gentleman from Virginia (Mr. GOODLATTE) has 2 minutes remaining.

Mr. CONYERS. Madam Chairman, as we have the right to close, I will reserve the balance of my time.

Mr. GOODLATTE. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Chairman, I want to thank Chairman GOODLATTE and Ms. HERSETH for offering this amendment to eliminate the Diversity Visa Program. This program discriminates against people from Mexico and six other countries. It is susceptible to rampant fraud. It allows 50,000 people to enter the country whether or not they have family ties or needed skills and is unfair to immigrants who play by the rules.

Immigrant visas are usually issued to foreign nationals who have connections to U.S. employers or family members lawfully residing in the United States. Under the visa lottery program, though, visas are awarded to immigrants at random without meeting any of these criteria.

Most family-sponsored immigrants currently face a wait of years to obtain visas. Yet the lottery program pushes 50,000 randomly picked immigrants ahead of those who are sponsored by family and employers.

Madam Chairman, we should not have an immigration program that violates the principles of common sense, fairness and non-discrimination.

Mr. CONYERS. Madam Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Let me make a simple statement. This is legal immigration; that is what we are trying to promote here in this Congress. The State Department has already testified that this program is a program that is improved, and it works internationally to bring in our developing nations as friends of the United States.

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

Mr. GOODLATTE. Madam Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. BOUCHER), another of the bipartisan supporters of this legislation.

Mr. BOUCHER. Madam Chairman, I thank the gentleman for yielding me time. I rise in support of his amendment.

The visa lottery is an affront both to logic and to the effective functioning of the visa system. Based upon nothing other than pure luck, 50,000 permanent

resident visas are annually awarded. Lottery winners are admitted ahead of deserving family members who have played by the rules and endured long waits. It is a flawed system. The time to end it has come. I support the Goodlatte amendment which would end this system. I urge its adoption by the House.

Mr. GOODLATTE. Madam Chairman, I yield 30 seconds to the gentleman from Oregon (Mr. DEFAZIO) to close the debate.

Mr. DEFAZIO. Madam Chairman, certainly there is a better way to engender diversity. We could perhaps reallocate these visas to the families of those who have won the lottery previously who have become good citizens.

But the point is, does America want to have a lottery to get the best, the most skilled people from around the world or the most diverse people from around the world? And I think not.

It has been subject to fraud. My office every day deals with people whose families have been waiting 5, 6, 7, 8 years patiently in line around the world to come here from the Philippines, from Mexico, from India and other countries. Should they get bumped to the back while some random person comes first? I think not.

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

This amendment, I think, has been mischaracterized seriously. To allow 4 percent of new immigrants to have a chance to come to the country from under-represented nations is a way of addressing the imbalance that I do not think anybody would disagree with that exists in the immigration patterns, whether they are accidental or purposeful.

There has been no time when race and ethnicity were not primary factors in immigration policy. Please, I think this is a very important provision. The Diversity Visa Program should be sustained, and I hope that the amendment will be turned away.

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

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

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

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

The point of no quorum is considered withdrawn.

AMENDMENT NO. 2 OFFERED BY MR. FILNER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 109-350 offered by Mr. FILNER:

Section 1546(a) of title 18, United States Code, is amended in the first paragraph by inserting "distributes (or intends to distribute)," before "or falsely" the first place it appears.

Section 1546(a) of title 18, United States Code, is amended in the first paragraph by inserting "distributed," before "or falsely" the second place it appears.

The CHAIRMAN. Pursuant to House Resolution 621, the gentleman from California (Mr. FILNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

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

Madam Chairman, I appreciate the majority's acceptance of this amendment for discussion. I did have other amendments which I thought were more important and more helpful to this bill. For example, in this bill, in section 607, we compensate various local law enforcement agencies of border counties, of which I represent two, for detaining, housing and transporting undocumented persons. The biggest problem for the counties on the border is the emergency health care providers who are not reimbursed for treatment of undocumented.

□ 1530

My amendment, introduced in the House as H.R. 2934, is called "PayUp," Pay for All Your Undocumented Procedures. It authorizes the Federal Government to make payment to emergency ambulance and medical services for the cost of uncompensated care of undocumented persons that come to their facility aided by the Border Patrol or any other Federal immigration agency. Unfortunately, that amendment was not accepted for discussion.

Another amendment would have allowed children in Mexico who have serious medical problems, for example birth defects, to come across the border as they did before 9/11 with 1-day visas for emergency treatment. For the 40 years before 9/11, we were able to give lives back to about 125,000 young children, poor children who were treated in my city of Calexico at the Valley Orthopedic Center. After 9/11, these 1-day visas were prohibited. That would have helped not only our relationship between our two countries but allowed our medical technology to help poor and young people who are living in Mexico. That amendment was not accepted.

What was accepted is a technical correction that I will briefly explain, because the bill in most respects takes a wrong approach toward our illegal immigration problem.

In this case, instead of making it a criminal act to sell and distribute fraudulent documents, the bill targets those who are trying to stay in the United States. My amendment fixes this fundamental problem by making the distribution or intent to distribute false, fake, or counterfeit immigration documents as much of a crime as creating or using them. Let us be clear.

We are talking about the sale and distribution of illegal documents. I represent the whole California-Mexico border. There is an industry dedicated to the counterfeiting and distribution of these documents. These are the people we ought to go after, and these are the people who, because of a loophole in the bill, are exempted. We have arrested people in San Diego for distributing false documents, but there is a loophole which allows them to escape that charge.

This is a crime that we ought to be going after. The current government statutes that deal with fraudulent documents completely ignore the distribution of passports, visas, and other permits, which, in my opinion, is the true crime. We should go after the real criminals who are profiting by the sale and distribution of these documents. It is a simple correction of the law that will strengthen penalties. While we might disagree about broader immigration policy, we all agree that the selling of fake and fraudulent and illegal documents should be stopped. I urge the adoption of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Chairman, I rise to claim the time in opposition, even though I am not against the amendment.

The Acting CHAIRMAN (Mrs. EMERSON). Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

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

Madam Chairman, I rise in support of this amendment which adds distribution of fraudulent immigration documents to the list of criminal offenses.

Document fraud is a serious offense that enables our immigration laws to be violated and creates a national security threat. Controlling the production and distribution of false immigration documents is a critical component to effective immigration reform. Currently, the criminal code provides stiff penalties for those who forge, counterfeit, or alter visas, border-crossing cards, or other similar types of documents.

However, the statute does not currently mention distribution of fraudulent documents among the enumerated offenses. This amendment would help prosecutors go after those who are not necessarily producing the fake documents, but those who are making them available on the black market. Those who distribute or sell false documents deserve the same harsh penalties as those who forge or counterfeit the documents. I urge my colleagues to support this amendment.

Madam Chairman, since I have the right to close, I reserve the balance of my time.

The Acting CHAIRMAN. The gentleman will not have the right to close since he is not opposed to the amendment.

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

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

Madam Chairman, I thank the chairman for accepting this amendment and for his common sense approach to this issue. I hope that you will look at the two other common sense amendments I mentioned when you get to conference. Not allowing children to cross for emergency medical procedures makes no sense at all. These are not terrorists; these are young children. We are giving them back their futures, and we ought to change the law to allow medical treatment.

In addition, you ought to put emergency medical providers on the list of people to be compensated when they deal with undocumented persons. I hope you will extend that common sense and courtesy that you have given me in this amendment and extend it to the others, too.

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

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

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. HAYWORTH

Mr. HAYWORTH. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 printed in House Report 109-350 offered by Mr. HAYWORTH:

At the end of the bill, insert the following:

TITLE IX—AMENDMENTS TO VISA NUMBERS

SEC. 901. ELIMINATION OF FAMILY 4TH PREFERENCE VISA CATEGORY FOR ADULT SIBLINGS OF CITIZENS.

(a) IN GENERAL.—Section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) is amended—

(1) in paragraph (1), by striking “paragraph (4)” and inserting “paragraph (3)”; and

(2) by striking paragraph (4).

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act is amended—

(1) in section 201(c)(1)(A)(i) (8 U.S.C. 1151(c)(1)(A)(i)), by striking “480,000” and inserting “415,000”;

(2) in section 204(a)(1)(A)(i) (8 U.S.C. 1154(a)(1)(A)(i)), by striking “(1), (3), or (4)” and inserting “(1) or (3)”; and

(3) in section 212(d)(11) (8 U.S.C. 1182(d)(11)), by striking “(other than paragraph (4) thereof)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to visa numbers for fiscal years beginning with the first fiscal year beginning after the date of the enactment of this Act.

SEC. 902. INCREASE IN EMPLOYMENT BASED VISAS.

(a) IN GENERAL.—Section 201(d)(1)(A) of the Immigration and Nationality Act is amended by striking “140,000” and inserting “205,000”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with the first fiscal year that begins after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman

from Arizona (Mr. HAYWORTH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

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

Madam Chairman, the amendment I plan to offer today simply cannot be considered outside a comprehensive immigration reform effort, which, respectfully, this bill is not. Therefore, I would like to use my time to discuss the principle reflected in my amendment, one that thus far has been absent from this debate.

Madam Chairman, as we consider ways to meet our legitimate labor needs, the choice before us is not limited to doing nothing or jumping into a guest worker plan we all know will never work and I promise we will one day regret. There is another way.

Madam Chairman, we already have an immigration system in place that we can amend and change to reconcile economic demands with other important priorities, such as diversity of admissions. The worker scheme is based on the same defeatist notion that we cannot stop it, so we might as well legalize it, used by proponents of legalizing drugs and prostitution. Legalization has not worked for those vices and it will not work for illegal immigration.

Some have the audacity to claim a guest worker plan is not amnesty because it does not, in the President's words, place undocumented workers on an automatic path to citizenship. Madam Chairman, what does citizenship have to do with it? Most illegals do not come here with a copy of the Constitution in their back pockets yearning to become Americans. They come here mostly for one reason: a job. You can call it legalization or earned status adjustment or regularization, but a guest worker plan that lets illegals keep their jobs is amnesty.

Madam Chairman, do not take my word for it. Here is what the President of the National Council of La Raza said of the distinction between legalization and amnesty: “The net effect is the same.”

Madam Chairman, under a guest worker plan, illegal aliens would be pardoned for all their document and employment-related crimes, get credit toward Social Security benefits for what they have earned illegally, and get to bring in their families and unfairly gain for their children born here one of the most coveted distinctions on Earth, that of American citizenship.

Madam Chairman, my colleagues, as we consider ways to stop illegal immigration, we should be guided by two principles: number one, do not reward law breakers, including illegal aliens or those who hire them; number two, do not create incentives for even more illegal immigration.

A guest worker scheme violates both. It also has something else going

against it, Madam Chairman: history. There has never been a successful guest worker program, not here, not in Europe, not anywhere. Those rioting in France are the children of temporary workers who never left. Saudi Arabia's 6 million guest workers live under conditions that have been called modern-day slavery. A guest worker plan would likewise create an American caste system that would insult our heritage. Our own bracero programs were ended because they lowered wages for American workers, exploited foreign workers and illegal immigration.

Guest worker proponents say our economy needs illegal alien workers; but under a guest worker plan, they would have to leave in 6 years.

Madam Chairman, are we supposed to believe we will stop needing them at that time? And what happens when guest workers do not leave as required? Will all those now promoting this discredited idea be out there leading the cause to round them up, or will they instead move to grant them citizenship?

Madam Chairman, if we are feeble enough to allow a guest worker plan to be added to this bill, it will be 1986 all over again: amnesty now, enforcement never, and an unending wave of illegal immigration.

Again, there is a better way: reform our legal immigration system to attract the kind of high-skilled workers that our economy really needs.

Madam Chairman, immigration must serve the national interests, not just the interests of businesses hooked on cheap labor or left wing political activists out to reshape American politics and culture.

Madam Chairman, I ask unanimous consent that my amendment be withdrawn.

Mr. BERMAN. Madam Chairman, reserving the right to object, and I do not intend to object, might I ask the author of the amendment, as he was speaking I was wondering what was going on. It sounded like he was giving a very articulate and reasoned, I disagree with some of the points, but reasoned position for an amendment that he was not allowed to offer under this rule.

I am wondering whether he thought it might have been appropriate that a coequal branch of the Congress, the House of Representatives, on an issue as fundamental as the one he has just spoken to might have been allowed to have had a couple of amendments in order for this issue to be discussed and voted on in this body. Would that have been a sensible way to approach this issue?

Mr. HAYWORTH. Madam Chairman, will the gentleman yield.

Mr. BERMAN. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Madam Chairman, I thank my friend from California.

Madam Chairman, I would say to my friend from California, my votes on procedural questions speak for them-

selves in this regard. I thank the gentleman for his time.

Mr. BERMAN. Madam Chairman, further reserving the right to object, in case anyone noticed, the gentleman from Arizona did not support rules which prevented us from discussing maybe the most important issue involved in the context of whether or not to pursue comprehensive immigration reform.

Madam Chairman, I withdraw my reservation.

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

There was no objection.

AMENDMENT NO. 4 OFFERED BY MR.

SENSENBRENNER

Mr. SENSENBRENNER. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 109-350 offered by Mr. SENSENBRENNER:

In section 102—

(1) in subsection (b), in the matter before paragraph (1), strike "Committee on Homeland Security of the House of Representatives" and insert "appropriate congressional committees";

(2) in subsection (b)(3), insert ", except for ports of entry and facilities subject to vulnerability assessments under section 70102 or 70103 of title 46, United States Code," after "borders of the United States";

(3) amend subsection (d) to read as follows:

(d) COORDINATION.—The National Strategy for Border Security described in subsection (b) shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13.

(4) in subsection (f), strike "Committee on Homeland Security of the House of Representatives, such Committee shall promptly report to the House" and insert "appropriate congressional committees, such committees shall promptly report to their respective House";

(5) in subsection (g), insert "and section 301(b)" after "this title"; and

(6) add at the end the following new subsection:

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter, impact, diminish, or in any way undermine the authority of the Administrator of the Federal Aviation Administration to oversee, regulate, and control the safe and efficient use of the airspace of the United States.

In section 111, strike "Committee on Homeland Security of the House of Representatives" and insert "appropriate congressional committees".

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

SEC. 118. VOLUNTARY RELOCATION PROGRAM EXTENSION.

Section 5739(e) of title 5, United States Code, is amended by striking "7" and inserting "12".

In section 203, amend paragraph (3) to read as follows:

(3) by amending subsection (c) to read as follows:

"(c)(1) Whoever—

"(A) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

"(B) knowingly misrepresents the existence or circumstances of a marriage—

"(i) in an application or document arising under or authorized by the immigration laws

of the United States or the regulations prescribed thereunder, or

"(ii) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals); shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

"(2) Whoever—

"(A) knowingly enters into two or more marriages for the purpose of evading any provision of the immigration laws; or

"(B) knowingly arranges, supports, or facilitates two or more marriages designed or intended to evade any provision of the immigration laws;

shall be fined under title 18, United States Code, imprisoned not less than 2 years nor more than 20 years, or both.

"(3) An offense under this subsection continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

"(4) For purposes of this section, the term 'proceeding' includes an adjudication, interview, hearing, or review."

In section 275(e)(1) of the Immigration and Nationality Act, proposed to be inserted by section 203(5)—

(1) in subparagraph (A), strike "(other than an aggravated felony)"; and

(2) strike subparagraph (B) and insert the following:

(B) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 30 months or more, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

(C) whose violation was subsequent to conviction for a felony for which the alien received a sentence of 60 months or more, shall be fined under title 18, United States Code, imprisoned not more than 20 years, or both.

In proposed section 275(e)(3) of the Immigration and Nationality Act, as inserted by section 203(5)—

(1) strike "(A) or (B)" and insert "(A), (B), or (C)"; and

(2) strike "an aggravated felony or other qualifying crime" and insert "a qualifying crime".

Strike section 210, and insert the following:

SEC. 210. ESTABLISHMENT OF THE FORENSIC DOCUMENTS LABORATORY.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a Fraudulent Documents Center (to be known as the Forensic Document Laboratory) to carry out the following:

(1) Collect information from Federal, State, and local law enforcement agencies, and foreign governments on the production, sale, distribution, and use of fraudulent documents intended to be used to enter, travel, or remain within the United States unlawfully.

(2) Maintain the information described in paragraph (1) in a comprehensive database.

(3) Maintain a repository of genuine and fraudulent travel and identity document exemplars.

(4) Convert the information collected into reports that provide guidance to government officials in identifying fraudulent documents being used to enter into, travel within, or remain in the United States.

(5) Develop a system for distributing these reports on an ongoing basis to appropriate Federal, State, and local law enforcement agencies.

(b) DISTRIBUTION OF INFORMATION.—The Forensic Document Laboratory shall distribute its reports to appropriate Federal, State, and

local law enforcement agencies on an ongoing basis.

At the end of title II, add the following new sections:

SEC. 211. MOTIONS TO REOPEN OR RECONSIDER.

(a) EXERCISE OF DISCRETION.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)) is amended—

(1) by adding at the end of paragraph (5) the following new subparagraph:

“(D) DISCRETION.—The decision to grant or deny a motion to reconsider is committed to the Attorney General’s discretion.”; and

(2) by adding at the end of paragraph (6) the following new subparagraph:

“(D) DISCRETION.—The decision to grant or deny a motion to reopen is committed to the Attorney General’s discretion.”.

(b) PRIMA FACIE ELIGIBILITY FOR PROTECTION FROM REMOVAL TO ALTERNATIVE COUNTRY OF REMOVAL NOT PREVIOUSLY CONSIDERED.—Section 240(c) of the Immigration and Nationality Act (8 U.S.C. 1229a) is further amended by adding at the end of paragraph (6) the following new subparagraph:

“(E) SPECIAL RULE FOR ALTERNATIVE COUNTRIES OF REMOVAL.—The time and numerical limitations specified in this paragraph shall not apply if—

“(i) the Secretary seeks to remove the alien to an alternative or additional country of removal under subparagraph (D) or (E) of section 241(b)(2) that had not been considered during the alien’s prior removal proceedings;

“(ii) the alien’s motion to reopen is filed within 30 days after the date the alien receives notice of the Secretary’s intention to remove the alien to that country; and

“(iii) the alien establishes a prima facie case that the alien is entitled by law to withholding of removal under section 241(b)(3) or protection under the Convention Against Torture with respect to that particular country.”.

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall apply to motions to reopen and reconsider that are filed on or after the date of the enactment of this Act in removal, deportation, or exclusion proceedings, regardless of whether a final administrative order is entered before, on, or after such date.

SEC. 212. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

Chapter 75 of title 18, United States Code is amended to read as follows:

“CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

“1541. Trafficking in passports.

“1542. False statement in an application for a passport.

“1543. Forgery and unlawful production of a passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Attempts and conspiracies.

“1548. Increased penalties for certain offenses.

“1549. Seizure and forfeiture.

“1550. Additional jurisdiction.

“1551. Additional venue.

“1552. Definitions.

“1553. Authorized law enforcement activities.

“§ 1541. Trafficking in passports

“(a) Whoever, during any three-year period—

“(1) knowingly and without lawful authority produces, issues, or transfers 10 or more passports; or

“(2) knowingly forges, counterfeits, alters, or falsely makes 10 or more passports; or

“(3) knowingly secures, possesses, uses, receives, buys, or sells 10 or more passports, knowing the passports to be forged, counter-

feited, altered, falsely made, stolen, procured by fraud, issued, or designed for the use of another, or produced or issued without lawful authority; or

“(4) knowingly completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation) knowing the applications to contain any false statement or representation;

shall be fined under this title, imprisoned not less than 3 years nor more than 20 years, or both.

“(b) Whoever knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not less than 3 years nor more than 20 years, or both.

“§ 1542. False statement in an application for a passport

“Whoever knowingly—

“(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation); or

“(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing it to contain any false statement or representation; or

“(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), when such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports; shall be fined under this title, imprisoned not more than 15 years, or both.

“§ 1543. Forgery and unlawful production of a passport

“(a) Whoever—

“(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

“(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority; shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) Whoever knowingly and without lawful authority—

“(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport; or

“(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

“(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed;

shall be fined under this title, imprisoned not more than 15 years, or both.

“§ 1544. Misuse of a passport

“(a) Whoever—

“(1) knowingly uses any passport issued or designed for the use of another; or

“(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport; or

“(3) knowingly secures, possesses, uses, receives, buys, or sells any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

“(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States;

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) Whoever knowingly uses any passport—

“(1) to enter or to attempt to enter the United States, or

“(2) to defraud an agency of the United States, a State, or a political subdivision of a State,

knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another, shall be fined under this title, imprisoned not less than 6 months nor more than 15 years, or both.

“§ 1545. Schemes to defraud aliens

“(a) Whoever knowingly defrauds any person in connection with—

“(1) any matter that is authorized by or arises under the immigration laws of the United States, or

“(2) any matter the offender claims or represents is authorized by or arises under the immigration laws of the United States, shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) Whoever knowingly and falsely represents himself to be an attorney in any matter authorized by or arising under the immigration laws of the United States shall be fined under this title, imprisoned not more than 15 years, or both.

“§ 1546. Immigration and visa fraud

“(a) Whoever—

“(1) knowingly uses any immigration document issued or designed for the use of another; or

“(2) knowingly forges, counterfeits, alters, or falsely makes any immigration document; or

“(3) knowingly completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation; or

“(4) knowingly secures, possesses, uses, transfers, receives, buys, or sells any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, issued or designed for another, or produced or issued without lawful authority; or

“(5) knowingly adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

“(6) knowingly and without lawful authority transfers or furnishes an immigration document to a person for use when such person is not the person for whom the immigration document was issued or designed;

shall be fined under this title, imprisoned not more than 15 years, or both.

“(b) Whoever, during any three-year period—

“(1) knowingly and without lawful authority produces, issues, or transfers 10 or more immigration documents; or

“(2) knowingly forges, counterfeits, alters, or falsely makes 10 or more immigration documents; or

“(3) knowingly secures, possesses, uses, buys, or sells 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or issued or designed for the use of another, or produced or issued without lawful authority; or

“(4) knowingly completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation;

shall be fined under this title, imprisoned not less than 2 years nor more than 20 years, or both.

“(c) Whoever knowingly and without lawful authority produces, counterfeits, secures,

possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make an immigration document shall be fined under this title, imprisoned not less than 2 years nor more than 20 years, or both.

“§ 1547. Attempts and conspiracies

“Whoever attempts or conspires to violate any section within this chapter shall be punished in the same manner as a completed violation of that section. An attempt offense under this chapter is a general intent crime.

“§ 1548. Increased penalties for certain offenses

“(a) Whoever violates any of the sections within this chapter with the intent to facilitate an act of international terrorism (as defined in section 2331 of this title) shall be fined under this title, imprisoned not less than 7 years nor more than 25 years, or both.

“(b) Whoever violates any section in this chapter with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year, shall be fined under this title, imprisoned not less than 3 years nor more than 20 years, or both.

“§ 1549. Seizure and forfeiture

“(a) Any property, real or personal, that has been used to commit or facilitate the commission of a violation of any section within this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

“(b) Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of this title, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

“§ 1550. Additional jurisdiction

“(a) Whoever commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided by that offense.

“(b) Whoever commits an offense under this chapter outside the United States shall be punished as provided by that offense if—

“(1) the offense involves a United States immigration document (or any document purporting to be the same) or any matter, right, or benefit arising under or authorized by the immigration laws of the United States or the regulations prescribed thereunder; or

“(2) the offense is in or affects foreign commerce; or

“(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of the immigration laws of the United States, or the national security of the United States; or

“(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331 of this title) or a drug trafficking crime (as defined in section 929(a) of this title) that affects or would affect the national security of the United States; or

“(5) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. § 1001(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. § 1001(a)(20))); or

“(6) an offender is a stateless person whose habitual residence is in the United States.

“§ 1551. Additional venue

“An offense under section 1542 of this chapter may be prosecuted in—

“(1) any district in which the false statement or representation was made; or

“(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

“(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

Nothing in this section limits the venue otherwise available under sections 3237 and 3238 of this title.

“§ 1552. Definitions

“For purposes of this chapter:

“(1) The term ‘falsely make’ means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

“(A) contains a statement or representation that is false, fictitious, or fraudulent;

“(B) has no basis in fact or law; or

“(C) otherwise fails to state a fact that is material to the purpose for which the document was created, designed, or submitted.

“(2) The term a ‘false statement or representation’ includes a personation or an omission.

“(3) The term ‘felony’ means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

“(4) The term ‘immigration document’ means—

“(A) any passport or visa; or

“(B) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States.

Such term includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

“(5) The term ‘immigration laws’ includes—

“(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

“(B) the laws relating to the issuance and use of passports; and

“(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2) of this subsection.

“(6) A person does not exercise ‘lawful authority’ if the person abuses or improperly exercises lawful authority the person otherwise holds.

“(7) The term ‘passport’ means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

“(8) The term ‘produce’ means to make, prepare, assemble, issue, print, authenticate, or alter.

“(9) The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

“§ 1553. Authorized law enforcement activities

“The sections in this chapter do not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an in-

telligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).”

SEC. 213. CRIMINAL DETENTION OF ALIENS.

(a) Section 3142(e) of title 18, United States Code, is amended by inserting at the end the following:

“Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person is an alien and that the person—

“(1) has no lawful immigration status in the United States;

“(2) is the subject of a final order of removal; or

“(3) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, or any section of chapters 75 and 77 of this title, or section 243, 274, 275, 276, 277, or 278, of the Immigration and Nationality Act.”

(b) Section 3142(g)(3) of title 18, United States Code, is amended by striking “and” at the end of subparagraph (A) and by adding at the end the following new subparagraph:

“(C) the person’s immigration status; and”

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

Section 3291 of title 18, United States Code, is amended to read as follows:

“SEC. 3291. IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

“No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons) of this title (or for attempt or conspiracy to violate any such section), or for a violation of any criminal provision of sections 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (or for attempt or conspiracy to violate any such section), unless the indictment is returned or the information filed within ten years after the commission of the offense.”

SEC. 215. CONFORMING AMENDMENT.

Subparagraph (P) of section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking “(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of Title 18 or is described in section 1546(a) of such title (relating to document fraud) and (ii)” and inserting “which is described in any section of chapter 75 of title 18, United States Code,”; and

(2) by inserting after “first offense” the following: “(i) that is not described in section 1548 (relating to increased penalties), and (ii)”

SEC. 216. INADMISSIBILITY FOR PASSPORT AND IMMIGRATION FRAUD.

(a) IN GENERAL.—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

(1) by striking “or” at the end of subclause (I);

(2) by inserting “or” at the end of subclause (II); and

(3) by inserting the following new subparagraph:

“(III) a violation of (or a conspiracy or attempt to violate) any section of chapter 75 of title 18, United States Code.”

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

SEC. 217. REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD.

(a) IN GENERAL.—Clause (iii) of section 237(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C.1227(a)(3)(B)) is amended to read as follows “(iii) of a violation of, or an attempt or a conspiracy to violate, any section of chapter 75 of title 18, United States Code.”

(b) EFFECTIVE DATE.—This amendment made by subsection (a) shall apply to proceedings pending on or after the date of the enactment of this Act

In section 301—

(1) in subsection (b), in the matter preceding paragraph (1), strike “Congress” and insert “appropriate congressional committees (as defined in section 102(g))”; and

(2) in subsection (c), strike “RULE OF CONSTRUCTION” and insert “RULES OF CONSTRUCTION”, insert “(1)” before “Nothing” and add at the end the following new paragraph:

(2) Nothing in this section shall be construed to alter, impact, diminish, or in any way undermine the authority of the Administrator of the Federal Aviation Administration to oversee, regulate, and control the safe and efficient use of the airspace of the United States.

In section 305(a), in the matter before paragraph (1), strike “any activity” and insert “any terrorism prevention or deterrence activity”.

At the end of title III, add the following new section:

SEC. 308. RED ZONE DEFENSE BORDER INTELLIGENCE PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Homeland Security and the Director of National Intelligence shall jointly establish a pilot program to improve the coordination and management of intelligence and homeland security information provided to or utilized by the Department of Homeland Security relating to the southwest international land and maritime border of the United States.

(b) PILOT AREA.—The Secretary of Homeland Security and the Director of National Intelligence shall designate a geographic area along the southwest international land and maritime border of the United States centered on Cochise County, Arizona, to be the pilot area for the pilot program established pursuant to subsection (a).

(c) PROGRAM.—The pilot program established pursuant to subsection (a) shall—

(1) coordinate and facilitate the sharing of intelligence and homeland security information related to border security within the pilot area designated pursuant to subsection (b) among Federal, State, local, and tribal governments, including relevant intelligence and homeland security information provided to the Department of Homeland Security by the intelligence community and relevant intelligence and homeland security information gathered by the Department of Homeland Security from other sources;

(2) to the maximum extent possible, provide for persistent surveillance of such pilot area;

(3) to the maximum extent possible, utilize aircraft, aerostats, and existing unmanned aerial vehicles to provide for surveillance of such pilot area;

(4) to the maximum extent possible, fully utilize the capabilities of underutilized assets currently available to conduct surveillance of such pilot area;

(5) where practicable, utilize the capabilities of existing operational and analytical centers that analyze intelligence and homeland security information relating to such pilot area from multiple sources and improve the interoperability of such centers;

(6) consistent with applicable security requirements, disseminate actionable intel-

ligence and homeland security information relating to border security within such pilot area to the appropriate Federal, State, local, tribal, and foreign governments to support operational activities relating to border security within such pilot area;

(7) provide for direct transmission of such actionable intelligence and homeland security information to operational and analytical centers included in the pilot program;

(8) provide for a representative of the Department of Homeland Security to be assigned to each operational and analytical center to facilitate the immediate utilization, where practicable, of such actionable intelligence and homeland security information; and

(9) develop metrics to assess the capability of such pilot program to improve border security.

(d) STRATEGY COORDINATION.—In establishing the pilot program under subsection (a), the Director of National Intelligence shall coordinate the intelligence activities of the pilot program with the relevant activities and programs of other elements of the intelligence community.

(e) HEADQUARTERS.—The Secretary of Homeland Security and the Director of National Intelligence may establish a headquarters for the pilot program established pursuant to subsection (a) within the area designated as the pilot area pursuant to subsection (b).

(f) DURATION.—The pilot program established pursuant to subsection (a) shall last a minimum of two years.

(g) REPORT.—Not later than one year after the establishment of the pilot program pursuant to subsection (a), the Secretary of Homeland Security and the Director of National Intelligence shall submit to Congress a report containing—

(1) the lessons learned from such pilot program based on the metrics developed pursuant to subsection (c)(9);

(2) recommendations for enhancing the provision and sharing of intelligence and homeland security information relating to border security under the National Strategy for Border Security submitted pursuant to section 102(b) and with other programs of the intelligence community relating to border security; and

(3) an identification of any provisions of law that may impede effective coordination of intelligence and homeland security information relating to the southwest international land and maritime border of the United States.

(h) DEFINITIONS.—In this section:

(1) HOMELAND SECURITY INFORMATION.—The term “homeland security information” has the meaning given the term in section 892(f)(1) of the Homeland Security Act of 2002 (6 U.S.C. 482(f)(1)).

(2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

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

In section 401(c), add at the end the following paragraph:

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Homeland Security, in the Secretary’s sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

In section 431(e) of the Homeland Security Act of 2002, as added by section 502(a), insert

“the Department of Transportation,” after “Justice.”

Amend clause (vi) of section 601(a)(1)(B) to read as follows:

(vi) by striking the last sentence and inserting the following: “The Secretary of Homeland Security shall waive the application of clause (v) in the case of removal of an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

In section 602(a)—

(1) in section 241(a)(8) of the Immigration and Nationality Act, inserted by paragraph (8)

(A) strike “procedures described” and insert “rules set forth”; and

(B) strike the dash and “(A)” and strike “, and” and all that follows up to the period at the end; and

(2) in section 241(j) of such Act, inserted by paragraph (9)—

(A) in paragraph (1), strike “procedures described” and insert “rules set forth”; and

(B) in paragraph (3)(B)(i) strike “subparagraph (A) if” and all the follows through “apply.” and insert the following:

“subparagraph (A)—

“(I) until the alien is removed if the conditions described in subparagraph (A) or (B) of paragraph (4) apply; or

“(II) pending a determination as provided in subparagraph (C) of paragraph (4).”

In section 241(j)(3)(B)(ii) of the Immigration and Nationality Act, inserted by section 602(a)(9), strike “paragraph (4)(A)” and insert “paragraph (4)(B)”.

In section 611—

(1) strike “section 103(d)(1)” and insert “sections 103(d)(1) and 105(a)(2)(A)”; and

(2) strike “is amended” and insert “are each amended”.

Add at the end of title VI, the following new sections:

SEC. 615. REPORT ON CRIMINAL ALIEN PROSECUTION.

Not later than one year after the date of the enactment of this Act and annually thereafter, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the status of criminal alien prosecutions, including prosecutions of human smugglers.

SEC. 616. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning 2 years after the date of the enactment of this Act, the office of the United States attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act; and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant’s alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

The determination under paragraph (1) shall be made in accordance with guidelines of the

Executive Office for Immigration Review of the Department of Justice.

(b) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in paragraph (2) of subsection (a).

(2) DATA ENTRIES.—Beginning 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with the Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2012, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

In section 274A(h)(4) of the Immigration and Nationality Act, as added by section 705—

(1) amend the heading to read: “**RECRUITMENT AND REFERRAL**”;

(2) amend the third sentence to read as follows: “However, labor service agencies, whether public, private, for-profit, or non-profit, that refer, dispatch, or otherwise facilitate the hiring of workers for any period of time by a third party are included in the definition whether or not they receive remuneration.”; and

(3) amend the sixth sentence to read as follows: “However, labor service agencies, whether public, private, for-profit, or non-profit, that refer, dispatch, or otherwise facilitate the hiring of workers for any period of time by a third party are included in the definition whether or not they receive remuneration.”.

Redesignate section 708 as 709, and insert after section 707 the following new section:

SEC. 708. EXTENSION OF PREEMPTION TO REQUIRED CONSTRUCTION OF DAY LABORER SHELTERS.

Paragraph 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended—

(1) by striking “imposing”, and inserting a dash and “(A) imposing”;

(2) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(B) Requiring as a condition of conducting, continuing, or expanding a business that a business entity—

“(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

“(ii) take other steps that facilitate the employment of day laborers by others.”.

At the end of title VIII add the following:

SEC. 807. CLARIFICATION OF JURISDICTION ON REVIEW.

(a) REVIEW OF DISCRETIONARY DETERMINATIONS.—Section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)) is amended—

(1) by inserting before “no court” the following: “and regardless of whether the individual determination, decision, or action is made in removal proceedings.”;

(2) in clause (i), by striking “any judgment” and inserting “any individual determination”; and

(3) in clause (ii)—

(A) by inserting “discretionary” after “any other”;

(B) by striking “the authority for which is specified under this title to be in the discretion of the Attorney General or the Secretary of Homeland Security,” and inserting “under this title or the regulations promulgated hereunder.”; and

(C) by striking the period at the end and inserting the following: “, irrespective of whether such decision or action is guided or informed by standards, regulatory or otherwise.”.

(b) REVIEW OF ORDERS AGAINST CRIMINAL ALIENS.—Section 242(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(C)) is amended by inserting after “of removal” the following: “(irrespective of whether relief or protection was denied on the basis of the alien’s having committed a criminal offense)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions for review that are pending on or after the date of the enactment of this Act.

SEC. 808. FEES AND EXPENSES IN JUDICIAL PROCEEDINGS.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

“(i) Notwithstanding any other provision of law, a court shall not award fees or other expenses to an alien based upon the alien’s status as a prevailing party in any proceedings relating to an order of removal issued under this Act, unless the court of appeals concludes that the Attorney General’s determination that the alien was removable under section 212 or 237 was not substantially justified.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fees or other expenses awarded on or after the date of the enactment of this Act.

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin.

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

Madam Chairman, for purposes of clarification, before I summarize the provisions within the manager’s amendment, I will highlight what the amendment does not contain.

The amendment does not contain a sense of Congress on foreign workers; nor does it decrease the criminal penalties for illegal entry and illegal presence. The latter issue will be addressed in a separate amendment I will soon offer.

I will now summarize the provisions of the manager’s amendment within the jurisdiction of the Judiciary Committee.

First, the amendment contains a provision drafted by the gentleman from Utah (Mr. CANNON) that will prohibit localities from requiring businesses to set up day labor sites as a condition for conducting or expanding a business. No business should be compelled to facilitate the hiring of illegal aliens by establishing labor sites on or near their premises, and this amendment will prohibit this practice.

The amendment also contains a provision drafted by the gentleman from California (Mr. ISSA) that requires the Attorney General to report on the status of criminal alien prosecutions, including prosecutions of smugglers. Mr. ISSA is rightly concerned about the lack of sufficient prosecutions of alien smugglers who prey upon the most vulnerable.

The amendment also includes a number of important provisions that will facilitate the ability of the Departments of Justice and Homeland Security to combat illegal immigration. Specifically, the amendment sets mandatory minimum sentences for repeated marriage fraud; improved sentencing enhancements for aliens who enter illegally after criminal convictions; clarifies that the Board of Immigration Appeals’ decisions on motions to reopen removal proceedings are not subject to judicial review; increases penalties for passport and immigration fraud and penalizes fraud against aliens applying for immigration benefits; makes criminal defendants’ immigration status an express consideration in determining whether they should be released on bond; extends the statute of limitations for all immigration-related fraud; makes passport fraud a ground of inadmissibility and deportability; and abolishes attorneys’ fee awards to removable aliens under the Equal Access to Justice Act.

□ 1545

Madam Chairman, I urge my colleagues to support this amendment, and I reserve the balance of my time.

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

Madam Chairman, we come to the floor with a 39-page manager’s amendment that has never been considered in the committee during the rather lengthy number of times that we have held hearings at the subcommittee and full committee level. And while there are fortunately some parts of it that I can agree to, I have counted approximately nine parts of it that present very serious problems.

One is that the punishment does not fit the crime. The manager’s amendment would expand the definition of aggravated felony to include a wide range of passport and related document offenses, even if the person never spent a day in jail. As I have previously stated, the consequences of an aggravated felony conviction are severe. They include, among other things, mandatory detention, permanent deportation and

ineligibility for any type of relief. And so I think that is a very serious criticism. It criminalizes the most vulnerable of our populations.

This manager's amendment, with regard to passport fraud, would criminalize trafficking victims, victims of domestic violence or abuse, victims of animals, coyotes, and others who often do not have control over what documents are presented to immigration officials on their behalf.

Madam Chairman, I yield 1 minute to the gentleman from California (Mr. BERMAN), a member of the committee.

Mr. BERMAN. Madam Chairman, I thank the gentleman for yielding me this time, and I would ask the chairman to consider one specific thing about one very discrete narrow part of the manager's amendment.

In the fantasy world we are in, should this bill ever actually become a law, the issue on the passport violations that the gentleman from Michigan just spoke to, there are limited situations where someone that you and I and everyone around would agree truly was a refugee, with a well-founded fear of persecution, escaping from a politically repressive regime took advantage of some kind of falsified and altered passport in order to escape.

The only question I have, as we look at the manager's amendment now, there should be some discretion here in the context of either criminalizing or deportation to allow a situation where that was the purpose; the person met the full test of a refugee and that that not become a basis for deporting him or her back to the regime or incarcerating that person or charging them with a criminal offense.

Mr. CONYERS. Madam Chairman, I would be pleased to yield 30 seconds to the chairman of the committee.

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

First, on the hypothetical the gentleman from California raised, there is this thing called prosecutorial discretion. It seems to me we should have more faith in our prosecutors not to prosecute genuine refugees, but continue the law on the books as proposed in the manager's amendment that will get at the people who use passport fraud to cover the transportation of a lot of people who are not refugees and who should not enter the United States.

Mr. CONYERS. Madam Chairman, I yield 15 seconds to the gentleman from California.

Mr. BERMAN. Madam Chairman, I felt that answer was not totally satisfactory from my point of view.

Would somewhere in the context of the language of that provision or the report language indicate that it is not our intent in that situation, with your classic refugee purpose?

Mr. SENSENBRENNER. Madam Chairman, I yield myself 30 seconds to say that, should this matter survive conference, there will be a statement

that it is not intended to include the situation in the statement on the part of the managers. And I can say, as the floor manager of this bill and the author of the manager's amendment, it does not either.

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

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

The other point that we would like to make, and there are so many, but the manager's amendment punishes amazingly battered immigrant women who would suffer some very harsh consequences when they are frequently forced by their batterers to use fraudulent travel documents.

Under the Violence Against Women Act, battered immigrants are entitled to self-petition for immigration status, independent of their abusive U.S. citizen and lawful permanent residence spouse. So this would be a huge step backwards for those of us who have been working in this area.

So I urge and I hope that because there has been insufficient attention given in the committee and since we did not know these were going to come up, that the manager's amendment will be turned back and that we be given an opportunity to examine this more than a dozen objections that we raise.

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

The Acting CHAIRMAN (Mrs. EMERSON). The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. PRICE OF GEORGIA

Mr. PRICE of Georgia. Madam Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 printed in House Report 109-350 offered by Mr. PRICE of Georgia:

In section 101(a), in the matter preceding paragraph (1), strike "The Secretary" insert "Not later than 18 months after the date of the enactment of this Act, the Secretary".

In section 101(b), strike "the entry into the United States of" and insert "all unlawful entries into the United States, including entries by".

In section 101, add at the end the following new subsection:

(c) REPORT.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary shall submit to Congress a report on the progress made toward achieving and maintaining operational control over the entire international land and maritime borders of the United States in accordance with this section.

In section 102(b), insert after paragraph (3) the following new paragraph (and redesignate subsequent paragraphs accordingly):

(4) An assessment of all legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman

from Georgia (Mr. PRICE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. PRICE of Georgia. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the Speaker, Chairman KING, Chairman SENSENBRENNER, the Homeland Security Committee, the Judiciary and Rules Committee, and their staffs, for their wonderful help in the preparation of this amendment and, frankly, for this debate and bringing this issue forward.

Based on my experience in representing Georgians in both the State Senate and in Congress, this chamber is now dealing with the issue of immigration reform and border security because the American people are demanding it. Recent public opinion polling confirms what we all know, and that is that illegal immigration is as important as other major issues, including the war on terror and the economy.

Such overwhelming support for border security and immigration reform is due to a general sense and knowledge that our current policy is one of benign neglect. An estimated 12 to 20 million illegal aliens live here, and the presence of so many illegal aliens undermines our rule of law.

Today, the people's body is heeding the will of the American people. Many of the ideas introduced by Members of the House, in fact, reflect very specific concerns of their constituents, and I believe that my amendment is one of those that properly reflects the voice of the populace.

This amendment sets a hard deadline, a specific date of 18 months following adoption of the legislation to achieve complete operational control over our borders. In addition, it would clarify the working definition of operational control of our border to include the prevention of all unlawful entries into the United States.

My amendment is a critical component to the border security debate because it provides the accountability portion, and it signifies to the American people that there will be no more excuses. Illegal entries into the United States will not be tolerated because our Nation is not secure unless our borders are secure.

Instead of kicking the problem down the road just a little bit, the Federal Government is given the specific goal to get the current crisis under control. This is called accountability, something that we say we all want from government. A hard deadline holds the executive branch, Congress and the bureaucracy accountable.

The House leadership, the Judiciary Committee and the Homeland Security Committee should be praised for their efforts. Stopping the influx of illegal aliens begins with solid border security and interior enforcement, and we are finally addressing the crisis that so many of our constituents rightfully believe to be of paramount importance.

I respectfully ask my colleagues to support this amendment of accountability.

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

Mr. CONYERS. Mr. Chairman, I rise to claim the time on this side, although I am not opposed to the amendment of the gentleman from Georgia.

The Acting CHAIRMAN (Mr. HAYES). Without objection, the gentleman is recognized.

There was no objection.

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

Mr. Chairman, I think our colleague from Georgia has an excellent amendment, but I think his deadline may be too generous. The Department of Homeland Security should report to Congress on the progress it is making to secure our borders, but, unfortunately, they have an unenviable record of submitting their reports to the Congress. Our ranking member of the Homeland Security Committee has written Secretary Chertoff twice on the repeated failures of the Department of Homeland Security to meet congressionally mandated deadlines.

As you have stated, we have a duty to ensure that it is protecting the American people, and to do that we must receive information to ensure that the Department is up to the task. Every day that passes in which Congress does not receive this information is another day that the terrorists gain on us if they are planning the next attack.

So I support the amendment of the gentleman from Georgia (Mr. PRICE), which gives the Homeland Security Department a lot of time, but I think we want to ride a very careful herd over these fellows in terms of where they go from this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment, and I think we ought to talk about what operational control means.

Under the amendment, it means the prevention of all unlawful entries into the United States, including by terrorists and illegal aliens, and including all narcotics shipments.

The amendment also provides that, within 90 days of enactment, the Department of Homeland Security provides the Congress a comprehensive plan for border surveillance and, within 180 days, DHS provides to Congress a national strategy for border security and a report on progress made.

□ 1600

Now these goals are obviously ambitious and the Department of Homeland Security has not been ambitious on anything, in my opinion; but it seems to me by setting deadlines, and then the two committees in their oversight functions can be on the back of the Department of Homeland Security, and

we might shame them into doing the right thing.

Mr. CONYERS. Mr. Chairman, reclaiming my time, we have had a lot of time here with the current administration to have ridden herd and call for an accounting. I think the gentleman from Georgia is forced, and we are all collectively forced, into this position. They have had plenty of time to have been far more compliant.

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

Mr. PRICE of Georgia. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from Michigan (Mr. CONYERS) for making his points, because I agree: our responsibility as a Congress is truly oversight. It concerns me greatly that we do not get many of the reports that we are due. I look forward to working with him and holding the Department of Homeland Security's feet to the fire.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Chairman, I rise in strong support of this amendment as well as the underlying legislation because its focus is law enforcement, and this is a law enforcement and a national security issue. In controlling our borders, we will win the war on terror only when we control our borders, and it is important that the country recognize that northern Mexico has become like Colombia, owned lock, stock and barrel by the drug lords whose law is "plata o plomo," silver or lead. You work in my plaza, you pay me silver or I will kill you now with lead, plomo; and we must have the rule of law and order on the border and not the rule of plata o plomo.

The chairman has rightly focused this legislation on reestablishing law and order on the border, and I applaud the gentleman from Georgia for his amendment so we can keep the Department of Homeland Security focused on giving us in Congress the information we need so we can determine whether or not the United States is properly protecting its border at a time when we are at war with terrorists who have told us repeatedly that they are going to sneak into the country using whatever means are necessary to hurt us. I urge all Members to support this amendment and the underlying bill.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me this time, and I do not oppose the amendment. In fact, I think it should be labeled from "our lips to God's ears."

If we say that by a certain date we will stop and Homeland Security will stop, using the chairman's definition, will have operational control so that no terrorists, no illegal aliens, no drug smugglers ever come into our country; if we say that and we say it strong enough, then maybe it will happen.

And after we do that, I suggest a bill that says that by a certain date we eliminate poverty, and pass that, and a few other very important goals that I think we all share here.

Mr. PRICE of Georgia. Mr. Chairman, I yield myself such time as I may consume.

This is a simple amendment regarding accountability, and I am privileged to have the opportunity to offer it. We say that we want accountability in this and other areas. Those charged with securing our borders should be held accountable as well. I urge adoption of the amendment.

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

Mr. CONYERS. Mr. Chairman, we support the Price amendment, and I yield back the balance of my time.

The Acting Chairman (Mr. HAYES). The question is on the amendment offered by the gentleman from Georgia (Mr. PRICE).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. STEARNS

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 109-350 offered by Mr. STEARNS:

At the end of title I, add the following:

SEC. 118. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

"(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, and the courts may not—

"(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence,

"(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws, or

"(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court,

until an IBIS check on the alien has been initiated at a Treasury Enforcement Communications System (TECS) access level of no less than Level 3, results from the check have been returned, and any derogatory information has been obtained and assessed, and until any other such background and security checks have been completed as the Secretary may require.

"(j) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, and the courts may not—

"(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence,

"(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws, or

"(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court,

until any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this subsection has been fully investigated and found to be unsubstantiated."

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman from Florida (Mr. STEARNS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

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

Mr. Chairman, obviously, I would like to thank the Rules Committee publicly for allowing my amendment because I know there were probably 130 amendments, and I know they had a tough job deciding which ones to allow to go forward.

In short, my amendment requires our government to ensure that the applicant is not a known criminal or terrorist before granting them immigration benefits. Pretty simple. But as the current law now stands, background checks of alien applicants are required, but the law does not specifically require these security checks to be completed before these immigration benefits are actually handed out.

This means that many unworthy people have been able to receive these crucial benefits which then enables them to move freely throughout our country before their background checks are completely finished. By the time we finally discover something questionable in their background, of course it is too late to track them down. We cannot find them.

My amendment helps to close this loophole. My amendment will prohibit the Department of Homeland Security, the Attorney General, and all courts from granting any kind of legal immigration status or benefits to an alien until, at a minimum, the alien's name is first completely checked against a database of criminal records and terrorist watch lists using the Treasury Enforcement Communication System database.

As it now stands, all three have been giving status to aliens before they get their final results back from security checks. The result is we are giving green cards, citizenship, work permits, and temporary status to terrorists, criminals, and other unsavory types under this arrangement, not always but sometimes.

For example, a new study by Janice Kephart, who was on the staff of the 9/11 Commission, looked at the immigration histories of 94 terrorists, including six of the 9/11 hijackers who had operated on U.S. soil between the 1990s and 2004. The results of this study are quite frightening. Two-thirds, that is 59, of the foreign-born terrorists studied committed immigration benefits fraud prior to or in conjunction with taking part in terrorist activity.

My amendment should go a long way towards preventing this irresponsible and dangerous loophole. I urge my colleagues to support my amendment and the underlying bill.

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

Mr. BERMAN. Mr. Chairman, I am not in opposition, but I would like to claim the time in opposition.

The Acting CHAIRMAN. Without objection, the gentleman is recognized.

There was no objection.

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

Mr. Chairman, I congratulate and agree with the notion that no immigration benefit should be given to any alien until all relevant background and security checks have been completed and any suspected fraud related to the granting of such status or benefit has been fully investigated and found to be unsubstantiated.

The gentleman from Florida is right. He has said in the context of his comments for this amendment that he believes that is happening now, and he may be right. I do not know that it is not. But all I know is that for my congressional office and for my colleagues' congressional offices, every time our staffs call regarding the processing of an immigration application, we hear there is nothing we can do. We are waiting for the FBI to get an answer. Why the FBI is just choosing the cases our congressional offices do, to hold back on providing information and denying immigration benefits, I do not know. In other words, what you say and what you ask for is correct, but the problem is not so much with the immigrant. The problem is with the bureaucracy.

The resources, the leadership to get these terrorist lists, these watch lists, the criminal database up to date so we can get this information in a quick time is very important.

I would just like to tell a quick story about the NSEERS program in Los Angeles. They had a registration date for different countries. If you are here from Iran on a nonimmigrant visa, come in on such and such date and register. People did that. Huge numbers of people flocked into the Los Angeles office of INS to do that.

The FBI was totally unable to give any clearance to the people who were coming in. Huge numbers of people were held, detained and kept overnight over a weekend thinking they were just going to file a registration form because the FBI could not get the clearance. That is a scandalous way to treat a number of people who came here as refugees fleeing the tyranny of the ayatollah because our bureaucracy failed to provide the answers.

So to me the answer here in Homeland Security and the FBI and in the other critical agencies is to get these lists and this other critical information online and accurate and quick so that we can move ahead with legitimate requests for these benefits that should be conditioned on getting that information out.

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

Mr. STEARNS. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the full Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amend-

ment. This amendment has been triggered by a recent IG report of the Department of Homeland Security that not all applicants for immigration benefits undertake an IBIS check. The excuse that was given is that not all U.S. Citizenship and Immigration Service employees have a high enough security clearance to conduct the proper checks, and some of the problems stem from simple lax management. Neither of these excuses is valid.

I am amazed that this has not always been a requirement of the law. We should conduct a thorough immigration check of anybody who seeks immigration benefits. The necessity of these checks was demonstrated by the fact that at least six of the 9/11 hijackers, murderers, ended up slipping through the cracks. I think this amendment plugs an important loophole in the current law, and I urge my colleagues to support it.

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

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

Mr. Chairman, the distinguished chairman of the Judiciary Committee used the word "amazed," and I am just amazed, too, that this amendment would even be needed at this point.

The gentleman on the other side of the aisle has talked about the resources, but we cannot even talk about the resources until we implement the procedures. And so to get this procedure in place will then determine if we have the resources and we can take the next step. But I appreciate his example and his support.

I think it can be done and should be done; and before we give these benefits, we should be sure these people are who they say they are. It is the right thing to do.

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

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

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

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

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

AMENDMENT NO. 7 OFFERED BY MR. SENSENBRENNER

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 printed in House Report 109-350 offered by Mr. SENSENBRENNER:

In section 203(2), add "and" at the end of subparagraph (B), strike "and" at the end of subparagraph (C), and strike subparagraph (D).

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman

from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from California (Ms. ZOE LOFGREN) each will control 5 minutes.

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

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

Mr. Chairman, under current law, illegal entry into the United States makes an alien subject to a Federal criminal misdemeanor with a maximum penalty of 6 months in prison. However, unlawful presence itself, such as by overstaying a visa, is not a criminal offense, but only a civil ground of inadmissibility.

Forty percent of the current illegal alien population entered legally, but overstayed their visas. The other 60 percent of the illegal alien population came here by illegal means and are therefore already subject to criminal penalties for committing a Federal criminal offense.

At the administration's request, the base bill makes unlawful presence a crime, such as unlawful entry already is. This change makes sense. Aliens who have disregarded our laws by overstaying their visas to remain in the United States illegally should be just as culpable as aliens who have broken our laws to enter and remain here illegally.

In the base bill, the maximum penalty for illegal entry was increased to a year and a day, and the same penalty was set for unlawful presence, to make the enhancements for these offenses consistent with the other penalty enhancements of the bill.

□ 1615

The administration subsequently requested the penalty for these crimes be lowered to 6 months. Making the first offense a felony, as the base bill would do, would require a grand jury indictment, a trial before a district court judge and a jury trial.

Also because it is a felony, the defendant would be able to get a lawyer at public expense if the defendant could not afford the lawyer. These requirements would mean that the government would seldom if ever actually use the new penalties. By leaving these offenses as misdemeanors, more prosecutions are likely to be brought against those aliens whose cases merit criminal prosecution.

For this reason, the amendment returns the sentence for illegal entry to its current 6 months and sets the penalty for unlawful presence at the same level. Some have argued that this provision would require 11 million prosecutions. That is not true. Prosecutorial resources are limited, and authorities would rather quickly deport an alien whose only offense is to be here unlawfully rather than to prosecute and have to detain that alien pending trial.

Even if an alien were prosecuted under this provision, a conviction of

unlawful presence would not prevent an alien from some day attaining legal status or even citizenship if the alien would otherwise qualify.

Making unlawful presence a crime, however, would serve as a greater deterrence to aliens overstaying their visas. For these reasons, I ask that the Members support this amendment.

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

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield myself such time as I may consume. Currently, illegal presence in the United States is not a crime; it is a civil violation.

People who cross the border without inspection commit a crime for improper entry but not an ongoing violation. The government can prosecute you for crossing but not for existing after having done so.

This section, section 203, makes virtually any violation of the immigration laws an ongoing criminal act. In one stroke, it would subject the entire undocumented population, estimate by some to be 11 million people, to criminal liability.

Now the amendment before us changes the degree of punishment, but it does not alter the underlying issue of criminalizing being alive in the country without documents. I would like to note that, in addition to adults, this would criminalize children who had no decision about coming to the United States.

I understand, although, I was not present in the course of the discussion in the Rules Committee, but that one of the Members of the committee raised the issue of an individual, a young student who was 17, who actually thought that he was an American citizen and found out, much to his surprise, that he was not.

That young man, under the underlying bill, would be a felon. Under the amendment, he would be a misdemeanant, but in fact, he is not a criminal at all. He is a kid who was brought here by his parents and who is in a bind right now. Making him a criminal is not going to make us any safer. It is not a reasonable thing to do. I oppose the amendment.

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

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

Mr. Chairman, I regret to say, the gentlewoman from California, whom I greatly respect, is wrong. Under the Federal juvenile statute, children cannot be prosecuted for any Federal crime, felony or misdemeanor, if it is not a crime of violence or a drug trafficking crime.

So her entire argument about making children subjected to Federal criminal prosecution simply by being here is not valid. They can be subjected if it is a crime of violence or a drug trafficking crime. What this amendment does is reduce the penalties for this type of immigration violation

from a felony in the base bill to a misdemeanor. That is all the amendment does.

And what it does do is criminalize the presence of the people here who have overstayed their visas. Now those who have entered the United States illegally, not through a port of entry and not submitting themselves to inspection by U.S. Immigration and Customs authorities commit a crime. That is a crime now. It is a Federal misdemeanor.

But if you do go through inspection and do not go home when you are supposed to, then it becomes a civil ground of inadmissibility. So we are treating illegal aliens differently. You are a potential misdemeanant if convicted if you entered the United States illegally. But if you overstayed your visa and did not go home, then you do not subject yourself to criminal prosecution.

The bill takes care of this anomaly. But it makes both offenses felonies. What this amendment does, it makes it misdemeanors. So if you are against the amendment, you want to keep it as felonies because that is in the base bill. You should be for the amendment to make it a misdemeanor for the reasons that I have stated.

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

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

In taking a look at section 203, the application of criminality is actually quite broad. If you are here in the United States holding a student visa, there are requirements, for example, that you take a certain number of units in order to maintain that status. If, for example, you fall below that, and I will say that there are many students who, for one reason or another, one quarter might fall below where they may need to be, you would be in violation of your student visa status. Under the amendment before us, you would not just be disappointing your parents who paid full tuition, you would be committing a misdemeanor.

If you are a businessman here and your return flight home is cancelled, causing your visitors visa, your B2 visa, to be expired, not only would you be in technical violation if you were 2 days late to the flight home, but you would also be committing a misdemeanor.

I do not think that is a reasonable approach. I also do not think that it has anything to do with keeping our country safer. You know, this debate started yesterday on the floor of the House. But it has been ongoing in the media for quite some time. The John and Ken show in California every day is taking about illegal immigration.

And we saw many Members, our friends on the other side of the aisle, touting that they were going to have this tough bill. And then, of course, today, we see that the Republicans are trying to back off on that a little bit.

So it is easy to say one thing to the red meat talk shows, but here, of course, we need to make some adjustments.

We think the adjustment is misguided, and it is not one that I can support.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, two of the 9/11 hijackers overstayed their visas. Under the current law, that is just a civil ground of inadmissibility. I think that that should be some type of a crime so that at least they can be detained.

The businessperson who inadvertently overstays their visa because the flight is canceled, no problem; no prosecutor is going to prosecute that person because of it. I see some games being played here. The people who are saying that this bill is too harsh want to keep these penalties as felonies. I do not know why that is. I think it will be much better to make them misdemeanors, because at least, that way, we do not have to have the taxpayers pay for a lawyer to defend them if they do not have any money. And we do not have to have the space to incarcerate them in Federal penitentiaries.

This amendment makes the bill workable. I believe it is a good amendment. I urge its adoption.

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

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. GUTIERREZ.)

Mr. GUTIERREZ. Mr. Chairman, I stand in opposition to this amendment. I think that we should move forward and make sure that we have the groundwork for a program that allows, as President Bush has stated, those who work hard, play by the rules, to come out of the darkness and come out of the shadows and come forward.

I do not think we should criminalize it at any level. We have administrative review now. We have civil penalties. We have a process. And I do not see why we should change that process, if indeed, as the chairman has said and so many people have said, that, next year, we are coming back to fix this thing.

Well, let us not cause any interruptions in fixing this thing. I said we should not criminalize this in the first place just on principle. We have civil statutes that deal with this.

So I stand, and the Hispanic Congressional Caucus has unanimously adopted a position to stand against this motion and this amendment in particular.

Ms. ZOE LOFGREN of California. Mr. Chairman, I yield the balance of the time to the gentleman from California (Mr. BERMAN) for the purpose of entering into a brief colloquy.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman for yielding.

I want to understand the state of play. If this amendment goes to a vote, a recorded vote, then am I to understand that the chairman and the Re-

publican leadership has offered a tough bill and now they are asking their colleagues on the majority side to soften the criminal penalties for illegal immigration?

Ms. ZOE LOFGREN of California. We will soon discover.

The Acting CHAIRMAN (Mr. HAYES). The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Ms. ZOE LOFGREN of California. Mr. Chairman, I demand a recorded vote.

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

AMENDMENT NO. 8 OFFERED BY MS. VELÁZQUEZ
Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 109-350 offered by Ms. VELÁZQUEZ:

At the end of title II, insert the following:
SEC. 211. REDUCTION IN IMMIGRATION BACKLOG.

(a) IN GENERAL.—The Secretary of Homeland Security shall require that, not later than six months after the date of the enactment of this Act, the Director of United States Citizenship and Immigration Services (in this section referred to as “USCIS”) undertake maximum efforts to reduce to the greatest extent practicable the backlog in the processing and adjudicative functions of USCIS.

(b) PILOT PROGRAM INITIATIVES.—

(1) IN GENERAL.—The Director is authorized to implement a pilot program for the purposes of, to the greatest extent practicable—

(A) reducing the backlog in the processing of immigration benefit applications; and
(B) preventing such backlog from recurring.

(2) INITIATIVES.—To carry out paragraph (1), initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, streamlining paperwork processes, and increasing information technology and service centers.

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

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

Mr. Chairman, I offer this amendment at a time when our immigration system continues to fail America's hardworking families, at a time when immigration laws continue to separate our Nation's families and at a time when our country is so desperately seeking fair and comprehensive immigration reform.

Millions of close family members continue to languish in a wearisome visa backlog process for years waiting to be reunited with their loved ones.

The seemingly endless application process creates desperation and homelessness for hardworking immigrants in a Nation where we hear so much about family values being a priority. We must provide relief for these families struggling to be together.

Beginning in fiscal year 2002, President Bush proposed a \$500 million initiative to eliminate the immigration processing backlog and attain a universal 6-month processing time standard for all immigration applicants within 5 years.

While this initiative has helped to reduce the backlog, the Government Accountability Office estimates that, as of June 30, 2005, USCIS still had 1.2 million cases in its backlog, and the agency was unlikely to meet the September 2006 deadline of a 6-month turnaround time for applications.

In my congressional district, we continue to have backlogged cases of over a year despite the President's proposed 6-month time standard.

Elsewhere in the country, there are people waiting up to 22 years for their applications to be processed. What is most alarming about the cases in my district is that the individuals have been mistakenly identified by the USCIS as naturalized when in fact they are not.

Not only does this create an unnecessary backlog, it poses a national security concern. My amendment, which has previously passed the House, will help address this issue. The amendment will enable the Department of Homeland Security to explore new ways of tackling this problem by authorizing the director of the USCIS to implement innovative pilot initiatives to eliminate the immigration application processing backlog and prevent further backlog from occurring.

□ 1630

It would encourage initiatives such as increasing or transferring personnel to areas with the greatest backlog, streamlining regulations and paperwork filing processes, upgrading information technology, and increasing immigration service centers throughout the country.

This amendment recognizes that there is not one specific approach toward eliminating the backlog, and therefore it encourages flexibility at the local level so pilot project sites can examine the problem in new ways. Children should not be left without the guidance of both of their parents as they face the joys and trials of school life, building friendships, and discovering their individual talents.

Mothers and fathers should not be denied the chance to watch their children grow up into young men and women, moving on to having children of their own. And couples should not be separated, leaving one parent struggling to make ends meet and serve the needs of

their children alone. We must help reunite families and ensure that immigrant families have the same opportunities as native-born families to live and work together as a complete family unit.

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

Mr. SENSENBRENNER. Mr. Chairman, I rise to claim the time in opposition, even though I support the amendment.

The Acting CHAIRMAN (Mr. HAYES). Without objection, the gentleman is recognized.

There was no objection.

Mr. SENSENBRENNER. Mr. Chairman, I support this amendment, and I want to commend the gentlewoman from New York for offering it.

One can ask all 435 Members of the House of Representatives what is the principal area of constituent complaints that caseworkers in our local offices deal with, and they will all say immigration complaints, because the immigration service legacy, as well as the component parts that it has been split into, has not been dealing with these issues properly.

This is an issue that deals with immigration benefits that legal aliens are entitled to receive. And it seems to me that if we are the welcoming country to legal aliens that we claim to be, we ought to deal with their petitions promptly and professionally. That is not being done, and we owe it to our present constituents and future constituents, as many of these people are eligible for permanent resident status and will eventually become citizens of the United States, to solve the problems of the backlog in dealing with immigration benefits.

The Government Accountability Office is about to issue a report that will deal with the effects of the U.S. Citizenship and Immigration Services to reduce the immigration application backlog that has plagued the system for years. This report will confirm that this new agency, created under the Homeland Security Act and transformed from the old Immigration and Naturalization Service, has made significant strides in reducing application backlogs since its creation in 2003.

Nevertheless, more progress needs to be made. The current backlog stands at about 1 million applications for immigration benefits. Although this figure was reduced from over 3 million applications when the new agency was formed, much of this came from definitional changes which I have publicly questioned. We must do more to challenge the Department of Homeland Security to improve. This will mean a more professional and prompt resolution of dealing with the documents that legal immigrants need to integrate themselves into American society.

I urge my colleagues to support this amendment.

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

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. BERMAN).

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding to me an additional minute.

To follow up, I support very strongly the Velázquez amendment, and I am glad that the chairman and the majority support it as well. It is very important. But as I look at the bill, I find an issue that will take a higher precedence than the problem of the backlog in terms of our constituents and in terms of our congressional offices and I think will put that far in the background in terms of things that most bother them, because under the Alien Smuggling and Related Offenses provision of the bill that we will be asked to vote on, anyone who assists, encourages, directs, or induces a person to reside in or to attempt to reside in or remain in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside or remain in the United States, is subject to penalties of up to 5 years in jail if it is not for commercial purposes. If it is for commercial purposes, understandably, it would be tougher sentences.

So when a person calls my district office and talks to my congressional staff and says, I was here on a temporary visa, the date passed, I have an immigration petition pending, is there anything I can do? if my office assists that person or suggests that person go see a lawyer and perhaps if my assistant does not call the Department of Homeland Security and tell them to pick that person up, my staffer, potentially, is subject to criminal penalties. Congressional staff do not have congressional immunity. That means I am going to have to do all the casework in my district office. I think we need a little correction of the base bill in this particular area of alien smuggling. We are sweeping very widely here.

With that, I urge adoption of this amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

Amendment No. 9 Offered by Mr. NORWOOD

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 printed in House Report 109-350 offered by Mr. NORWOOD:

At the end of title II, add the following new sections:

SEC. 211. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

(a) IN GENERAL.—Notwithstanding any other provision of law and reaffirming the

existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by Congress.

(b) CONSTRUCTION.—Nothing in this section may be construed to require law enforcement personnel of a State or political subdivision of a State to—

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary of Homeland Security for immigration enforcement purposes; or

(2) arrest such victim or witness for a violation of the immigration laws of the United States.

SEC. 212. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS.

(a) ESTABLISHMENT OF TRAINING MANUAL AND POCKET GUIDE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish—

(1) a training manual for law enforcement personnel of a State or political subdivision of a State to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

(2) an immigration enforcement pocket guide for law enforcement personnel of a State or political subdivision of a State to provide a quick reference for such personnel in the course of duty.

(b) AVAILABILITY.—The training manual and pocket guide established in accordance with subsection (a) shall be made available to all State and local law enforcement personnel.

(c) APPLICABILITY.—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide established under subsection (a)(2) with them while on duty.

(d) COSTS.—The Secretary of Homeland Security shall be responsible for any and all costs incurred in establishing the training manual and pocket guide under subsection (a).

(e) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including residential training at the Center for Domestic Preparedness, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is sealable, survivable, and can have a portal in place within 30 days, shall be made available by the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel.

(2) **FEDERAL PERSONNEL TRAINING.**—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(3) **CLARIFICATION.**—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer to assist in the enforcement of Federal immigration laws in the normal course of carrying out their normal law enforcement duties.

(f) **TRAINING LIMITATION.**—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

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

(2) in paragraph (2), by adding at the end the following: “Such training shall not exceed 14 days or 80 hours, whichever is longer.”

SEC. 213. FINANCIAL ASSISTANCE TO STATE AND LOCAL POLICE AGENCIES THAT ASSIST IN THE ENFORCEMENT OF IMMIGRATION LAWS.

(a) **GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING AND PROCESSING ILLEGAL ALIENS.**—From amounts made available to make grants under this section, the Secretary of Homeland Security shall make grants to States and political subdivisions of States for procurement of equipment, technology, facilities, and other products that facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting immigration law violators, including additional administrative costs incurred under this Act.

(b) **ELIGIBILITY.**—To be eligible to receive a grant under this section, a State or political subdivision of a State must have the authority to, and have in effect the policy and practice to, assist in the enforcement of the immigration laws of the United States in the course of carrying out such agency's routine law enforcement duties.

(c) **FUNDING.**—There is authorized to be appropriated for grants under this section \$250,000,000 for each fiscal year.

(d) **GAO AUDIT.**—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of funds distributed to States and political subdivisions of States under subsection (a).

SEC. 214. INSTITUTIONAL REMOVAL PROGRAM (IRP).

(a) **CONTINUATION AND EXPANSION.**—

(1) **IN GENERAL.**—The Department of Homeland Security shall continue to operate and implement the program known as the Institutional Removal Program (IRP) which—

(A) identifies removable criminal aliens in Federal and State correctional facilities;

(B) ensures such aliens are not released into the community; and

(C) removes such aliens from the United States after the completion of their sentences.

(2) **EXPANSION.**—The institutional removal program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens shall—

(A) cooperate with officials of the institutional removal program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such program as a condition for receiving such funds.

(b) **AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.**—Law enforcement officers of a State or political subdivision of a State have the authority to—

(1) hold an illegal alien for a period of up to 14 days after the alien has completed the

alien's State prison sentence in order to effectuate the transfer of the alien to Federal custody when the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until personnel from United States Immigration and Customs Enforcement can take the alien into custody.

(c) **TECHNOLOGY USAGE.**—Technology such as video conferencing shall be used to the maximum extent possible in order to make the Institutional Removal Program (IRP) available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out the institutional removal program—

- (1) \$100,000,000 for fiscal year 2007;
- (2) \$115,000,000 for fiscal year 2008;
- (3) \$130,000,000 for fiscal year 2009;
- (4) \$145,000,000 for fiscal year 2010; and
- (5) \$160,000,000 for fiscal year 2011.

SEC. 215. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended by inserting before the period at the end the following: “and \$1,000,000,000 for each subsequent fiscal year”.

SEC. 216. STATE AUTHORIZATION FOR ASSISTANCE IN THE ENFORCEMENT OF IMMIGRATION LAWS ENCOURAGED.

(a) **IN GENERAL.**—Effective 2 years after the date of the enactment of this Act, a State (or political subdivision of a State) that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision within the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers' routine law enforcement duties shall not receive any of the funds that would otherwise be allocated to the State under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)).

(b) **CONSTRUCTION.**—Nothing in this section shall require law enforcement officials from States or political subdivisions of States to report or arrest victims or witnesses of a criminal offense.

(c) **REALLOCATION OF FUNDS.**—Any funds that are not allocated to a State or political subdivision of a State due to the failure of the State to comply with subsection (a) shall be reallocated to States that comply with such subsection.

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

SEC. 408. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) **PROVISION OF INFORMATION TO THE NCIC.**—Not later than 180 days after the date of the enactment of this Act, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on any and all aliens against whom a final order of removal has been issued, any and all aliens who have signed a voluntary departure agreement, any and all aliens who have overstayed their authorized period of stay, and any and all aliens whose visas have been revoked. Such information shall be provided to the National Crime Information Center, and the National Crime Information Center shall enter such information into the Immigration

Violators File of the National Crime Information Center database, regardless of whether—

(1) the alien received notice of a final order of removal;

(2) the alien has already been removed; or

(3) sufficient identifying information is available on the alien.

(b) **INCLUSION OF INFORMATION IN THE NCIC DATABASE.**—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States, regardless of whether the alien has received notice of the violation or whether sufficient identifying information is available on the alien and even if the alien has already been removed; and

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman from Georgia (Mr. NORWOOD) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

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

Mr. Chairman, I want to thank Chairman SENSENBRENNER, Chairman KING, the Speaker, and the Rules Committee for allowing me to bring this amendment.

It is part of the CLEAR Act that we have been trying to pass for many years. We have passed many parts of it. In fact, the majority of the people in this body have voted for parts of it in the past, but we bring it today for the Members' consideration to do one thing: we are simply trying, as I have discussed this over and over with Chairman KING, we are trying in this amendment to direct local law enforcement to help us apprehend the 500,000 illegal immigrants in this country who are criminals who are under deportation orders from the American courts. And I point out to the Members, Mr. Chairman, that 100,000 of those are very violent criminals. That is the purpose of what we are trying to do. I look forward to a bipartisan support on this.

Many Democrats in here have complained the underlying bill does nothing to deal with criminal illegal aliens. This amendment does. Many Democrats have complained that there is nothing in here that helps local law enforcement. This amendment does. So I feel sure we will have a very good vote on this amendment.

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

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

Mr. Chairman, I rise in opposition to the amendment. This Norwood No. 65 amendment includes a number of provisions of the CLEAR Act; and in addition to giving State and local police the same authority to enforce immigration laws as a Federal agent, the provisions do not require, as a matter

of fact limit, the amount of training that they could receive in order to enforce these rather technical provisions.

Moreover, the provisions require the entry of millions of civil immigration law violators into the National Crime Information Center, an FBI database of those who are wanted; and these entries go on thousands of times each day.

I am just wondering if my colleague, the author of this amendment, is aware of the incredible complexity that he is suggesting now be included in this measure. If these categories were limited to wanted criminals, that would be one consideration. However, the list includes millions of people with technical status violations that are fluid and easily remedied, and we would be creating, I think, in my judgment, an administrative nightmare.

We have a lot of examples. But let me just close by saying that local police have more than enough work to do hunting down the people that are law violators. But entering the names of people with minor status problems into a criminal database would overwhelm it and mix those who may be legal and those who are not criminals with the rest who are. It exposes to liability for unlawful arrests. It discourages immigrants from working with local law enforcement. And those are the reasons I have serious reservations about this amendment.

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

Mr. NORWOOD. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER), our chairman.

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

This amendment clarifies the inherent authority of State and local law enforcement officers to enforce the immigration law and provides reimbursement to those States and localities for their assistance. Most importantly, it provides a means for Federal, State, and local law enforcement officers to work together to apprehend, detain, and remove illegal aliens.

The fact is that at the present time there are only 2,000 special agents to locate and arrest the entire illegal alien population nationwide. The Norwood amendment would allow State and local officers who are willing to do so to be a force multiplier for those 2,000 agents.

It is a good amendment and should be adopted.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. BERMAN).

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

There is an interesting juxtaposition going on between the gentleman's amendment and the base bill. The gentleman says something that I think is very important: we have got to prioritize. The priority in a country

where there are 10, 11 million people who are here without status and under this bill and would, therefore, becoming guilty of a criminal offense, he says let us get the 500,000, whatever number it is, who have committed crimes of violence and economic crimes and murder and drug dealing and all these things. And he is right. No one can disagree. That should be the most urgent priority.

But in a universe where you have criminalized all 11 million, you have lost our ability to do that. So what is so funny about the argument for the gentleman's amendment is that in the context of this, all 11 million, it is the flip side of where some people have to wear a band designating it and the way of protesting that is everybody wear the band. You have lost your ability to prioritize.

Mr. NORWOOD. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. Mr. Chairman, I rise in support of the amendment.

I stand today in strong support of the Norwood Amendment, which will provide State and local law enforcement the necessary authority, resources, and intelligence needed to apprehend and detain illegal aliens that they encounter during their routine duties. The President in his recent comprehensive immigration strategy has called for an elimination of "catch-and-release" at our national border and it essential that this is expanded to include incidents within the interior of the country.

Over 400,000 alien absconders and more than 85,000 criminal illegal aliens are in our country. Tragically, many of these criminal aliens remain loose within our borders and continue to commit violent crimes in our neighborhoods, such as Eduardo Campos Rodriguez, an illegal immigrant wanted for four counts of murder and two counts of attempted murder. We can not allow cases like this to continue to threaten the safety of our citizens in their communities.

Illegal immigration is a national problem—not one only occurring in the communities along the southern border. Throughout the country, State and local law enforcement are confronted with this problem everyday from large urban cities to the smallest and most rural communities. Unfortunately, our State and local law enforcement officers lack the critical information, necessary resources, and clear authority to detain and process these individuals. Recently, my district has been in the national spotlight concerning the various strategies that local and State law enforcement are attempting to use to address their illegal immigration problem in the absence of federal guidance. Recent incidents in New Ipswich, New Hampshire and Hudson, New Hampshire forced police officers to release illegal aliens whom they had detained during the course of their normal duties due to a lack of assistance from Immigration and Customs Enforcement officials. In response to having to repeatedly release illegal aliens, the towns' law enforcement officers attempted to apply New Hampshire trespassing laws to these illegal aliens, so they would have the authority to detain the

individuals for a longer period of time in hopes that ICE would then be able to take custody. Even though this strategy has not held up in the courts, it illustrates the need for this essential amendment to give law enforcement the authority, resources, and intelligence to respond to the unique challenges presented by illegal aliens. It is important to point out these incidents happen in relatively small communities—the town of Hudson with a population of 24,000 and the town of New Ipswich with a population of 5,000.

Overall, State and local law enforcement are looking to Congress to provide them with the vital resources, information and authority to address this serious security concern. I strongly believe that the nation's security must remain our highest priority, and local involvement in security solutions is critical to achieving this goal. Therefore, I urge my colleagues to vote "yes" on the Norwood amendment.

Mr. NORWOOD. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. DEAL), who has worked on immigration issues for a long time.

□ 1645

Mr. DEAL of Georgia. Mr. Chairman, I want to thank my colleague for bringing this amendment and for yielding me time. He brings an important aspect of enforcement to the table, and that is interior enforcement.

Many people believe that only the problem exists along the border, and that is not true. My State of Georgia, Congressman NORWOOD's State of Georgia, is one of the fastest growing in terms of population of illegal aliens in the country. In fact, in my congressional district in north Georgia, two of the five fastest growing populations of illegal immigrants are in my congressional district.

Now, if we want to get serious about enforcement, let us look at what the facts are. You heard Congressman NORWOOD say there are 500,000 criminal aliens in our country that are waiting to be apprehended. In our State of Georgia, one of the fastest growing in illegal populations in the country, I am told we only have three enforcement agents. In our adjoining State of Alabama, they only have one.

Are we really serious? Why not tap into the 700,000 State and local law enforcement officers who are available and trained to enforce the law.

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

Mr. Chairman, let me just point out that if you wish to vote against this bill, you are basically saying that you want to allow 500,000 criminal illegal aliens to stay on the street because 2,000 Federal officers simply are not going to remove them. It is impossible. It takes the 700,000 local law enforcement people out on the streets to help get this done, and we need to fund this. This amendment does that.

This amendment adds funding for SCAT, which is money needed desperately by the cities who deal with so many illegal immigrants.

Lastly and very importantly, it directs Homeland Security to put in

place in all 50 States the Institutional Removable Program. Now, you want to vote against this? How about us sending a rapist to prison in this country and INS is not there to deport them the minute they get out? No, they turn them loose on our State. This very thing has happened in Georgia with a pedophile.

This amendment is a reasonable aspect of this bill that brings resources to the table, and it brings law enforcement, the people who can solve this problem, to help us out.

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

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

Mr. Chairman, I think the author of the amendment will rest more comfortably tonight when he finds that not only do the people that he described that do not want this amendment are joined by numerous State and local police departments across the Nation, but also scores of groups that work with victims of domestic violence.

The proponents of this amendment must understand that there is nothing in this bill to ensure that ICE or SCAT in Homeland Security will be able to respond to the millions of requests from local police to pick up low-priority civil law violators.

Remember what the gentleman from California (Mr. BERMAN) said: you cannot dump millions of people into this database and think it is going to work. It will not. Turn down the amendment.

Mr. MCCAUL of Texas. Mr. Chairman, I rise in strong support of this amendment. My hometown of Austin has seen the horrifying effects that a sanctuary policy can have on a community.

Nearly two years ago an 18-year-old woman named Jenny Garcia was found brutally stabbed to death in her Northwest Austin home.

An illegal alien by the name of David Diaz Morales was one of Jenny's coworkers. He made it clear to her that he wanted to be more than just her coworker or friend. When Jenny rejected his advances, this put David Diaz Morales into a murderous rage.

On January 26th of last year, Morales broke into Jenny's home, forcefully grabbed her, held her down, savagely raped her and then brutally stabbed her to death.

In less than 24 hours, the Austin Police Department arrested this 20 year old thug who had absolutely no business being in the United States, let alone Jenny's home.

However, David Diaz Morales had no business being free to walk the streets either. You see, before becoming Jenny's murderer, he had been previously arrested for molesting a child in Austin.

Travis County District Attorney Ronnie Earle decided not to prosecute Morales's molestation case. Instead, he let him out of jail to commit more violent crimes, and when it came to Morales's immigration status District Attorney Ronnie Earle looked the other way.

If only District Attorney Earle had picked up the phone, he would have discovered that Morales was in our country illegally. He could have contacted immigration officials who would have deported him out of our country. He could have saved Jenny's life.

This is one horrific example of many injustices which could have been prevented. That is why we must include this vital amendment to the underlying bill. This amendment will put \$1 billion in the State Criminal Alien Assistance Program, and make the Institutional Removal Program, which identifies criminal illegal aliens, mandatory. It also gives states, counties and cities 2 full years to come into compliance or risk losing State Criminal Alien Assistance Program funds.

Mr. Chairman, we owe it to victims like Jenny Garcia and so many others to include this language in the underlying bill, and I strongly urge my colleagues to support this amendment.

The Acting CHAIRMAN (Mr. HAYES). The question is on the amendment offered by the gentleman from Georgia (Mr. NORWOOD).

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

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

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

AMENDMENT NO. 10 OFFERED BY MR. TANCREDO

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 printed in House Report 109-350 offered by Mr. TANCREDO of Colorado: At the end of title III, add the following:

SEC. 308. PENALTIES FOR VIOLATIONS OF FEDERAL IMMIGRATION LAWS BY STATES AND LOCALITIES.

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

"(7) Prior to entering into a contractual arrangement with a State or political subdivision under paragraph (1), the Attorney General shall determine whether such State or political subdivision has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Attorney General shall not enter into a contractual arrangement with, or allocate any of the funds made available under this section to, any State or political subdivision with a policy that violates such section. The Attorney General shall submit to Congress an annual report on any State or political subdivision with a policy that violates such section."

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman from Colorado (Mr. TANCREDO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

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

Mr. Chairman, we have had a lot of debate on this bill, of course, over, I don't know, the last 24 hours it seems like or more; and it has oftentimes been punctuated with the use of the word "comprehensive" and people complaining about the fact that they do

not think it is comprehensive, or at least comprehensive enough. But that has been a euphemism most of the time for the phrase "guest worker." That is what people want in this bill in order to make it "comprehensive."

Let me suggest to you it would do nothing, absolutely nothing, to make this bill comprehensive. A bill designed to deal with border security and internal enforcement of our laws in no way helps us accomplish those goals by including anything like a guest worker program.

Hence, I believe that this bill, as it was written and as it has been amended, and hopefully with the amendments that are going to be accepted at the end of the discussion of the bill, I believe it has become a comprehensive bill. Not totally comprehensive. There are certainly things I would like to see in it. Congressman DEAL's issue of birthright citizenship, I wish that were in there, and a couple of other things that we will continue to work on. But to a great extent, it begins, for the first time, to actually deal with a problem in what I think is a comprehensive way, and I mean it in this form.

We have a supply and a demand problem. The supply problem is coming across the border. We are in this bill doing something very specific about that with the inclusion of the amendment, with the passage of the amendment, to build some barrier along at least 700 miles of our southern border. I hope we continue with that, by the way, along the entire border, to the extent it is feasible, and the northern border we could start next. That is dealing with the supply side of this problem.

The demand side of the problem is, of course, the job magnet that is created by people here who provide jobs for people who come across the border illegally, and in many cases do so knowingly. And I want to commend the Speaker of the House, I want to commend the leadership of my party, I want to commend the chairman of this committee, and I want to commend my colleagues on this side of the aisle for doing something that is difficult.

We are going up against economic interests that are extremely powerful. Many of them, of course, have been supporters of Republicans for years, the Chamber of Commerce and the rest. We have actually said to them, you know what, we are going to put our Nation's security and the importance of border security above all of these other issues and above the economic interests you bring to bear because so many of you are making so much money off illegal aliens. You are exploiting them. We know that this is happening, and we are going to try to put a stop to it, because in this bill we actually have something called internal enforcement.

We are going to do something about employer enforcement of the law. We are going to give them the opportunity and the tools to do that.

Again, I wish it were better. I wish we had a shorter period of time for the law, for checking the Social Security numbers to go into effect. But, nonetheless, it is there. We have made enormous strides with this bill, enormous, I must admit to you more than I had anticipated we could do, certainly, in this term of the Congress. But I am happy that we are here.

Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Chairman, I want to show the American people what a typical day looks like for a law enforcement officer on the southern border. This is the result of an arrest that took place in Nuevo Laredo and this is what the sheriffs are facing. This is what our Border Patrol is facing: 40 millimeter grenade launchers, 12 of them captured; 10,000 rounds of ammunition; 40 AK-47 rifles. These are carried by individuals, paramilitary commandos, who are trained to kill anybody who stops and attempts to intercept them.

These are 40 millimeter grenades that are taped up with adhesive tape designed to be put on top of a warm engine, and as the glue softens, the tape comes off and the grenade explodes. This is a sniper rifle carried by the narcoterrorist commandos that shoots around corners. It has a television screen and a silencer on it.

This is the level of sophistication of these people that our sheriffs are facing. These narcoterrorists are so bold, Mr. Chairman, and the lawlessness is so pervasive on the border that the narcoterrorists have set up, according to the FBI, at least one narcoterrorist training camp outside of Matamoros operating in the open, run by the zadas to train gun runners, human smugglers, smugglers who pay cash, who keep their mouths shut. They can go to this training camp outside of Matamoros and they will be carried into the United States. There may be three others operating just across the river from the United States in the open.

This is a law and order issue that the United States must deal with through our locally elected law enforcement officials and the Border Patrol.

I thank the chairman for bringing this bill to the House.

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

Mr. Chairman, I intend to withdraw the amendment. The issue that I was bringing to the table with regard to this sanctuary city has been dealt with to a significant extent by my colleague, Mr. CAMPBELL, from California. In that light, I will in fact withdraw my amendment.

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

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. BERMAN. Mr. Chairman, reserving the right to object, and I do not intend to object, I wanted to simply

point out to my friend from Colorado that before he praises this legislation too much, he should make sure there really is a strategy to turn it into a law, because I am very skeptical that you will ever see this bill coming back from here, very skeptical. If I had to bet, I would bet these provisions which you like and which you think make this into an attractive proposition and a serious attempt will never be seen again.

I simply want to add one other point: one day I would like you to explain to me how the employee verification system, which I think, like you do, is a critical part of dealing with the problem of illegal immigration, will ever get implemented in the context of 10, 11, 12 million people in this country in unauthorized status.

Mr. TANCREDO. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, the gentleman knows that I have often approached this particular issue with a certain degree of cynicism, perhaps the same amount as he is expressing right now in terms of its prospects.

All I know is this: this is what I have before me today. This is what this House is being asked to address and to accomplish. That one thing, if nothing else happens, I am happy to have been able to get it to this point.

I am truly hopeful, and I recognize full well the gentleman is right that there are major obstacles to getting this beyond this point, but that is a fight to fight tomorrow. Today we are here, it is a good bill, and I certainly hope that we can pass it.

Mr. BERMAN. Mr. Chairman, without accepting the gentleman's assumptions about the worthiness of the bill, I withdraw my reservation of objection.

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

There was no objection.

AMENDMENT NO. 11 OFFERED BY MR. NADLER

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 printed in House Report 109-350 offered by Mr. NADLER: Strike section 407.

The Acting CHAIRMAN. Pursuant to House Resolution 621, the gentleman from New York (Mr. NADLER) and the gentleman from Wisconsin (Mr. SENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from New York.

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

Mr. Chairman, my amendment strikes section 407. Section 407 expands the controversial policy of expedited removal, which grants extraordinary power to low-level immigration officers to order deported without any judicial

review and without any fair hearing people who arrive at ports of entry without proper documentation.

This section would authorize such unreviewable deportation decisions, again without any real judicial review, for anyone picked up within 100 miles of any U.S. border, not just at ports of entry or near the Mexican border. My amendment would prevent this expansion of expedited removal and limit its use to the present locations.

If the amendment passes, we would still, of course, deport illegal aliens; but people arrested within the U.S. would continue to have the right to some judicial review, some due process before being deported. They would have the right, as they do now, to challenge the decision of the Border Patrol agent.

By imposing expedited removal proceedings on all aliens apprehended within 100 miles of any border, this bill would deny thousands of people all due process rights.

□ 1700

The expedited removal process poses the gravest risks to refugees fleeing human rights abuses. Those fleeing torture, imprisonment or other forms of persecution are often forced to travel without valid documents because there is not enough time to obtain them or because it is too dangerous to apply for them.

Those fleeing persecution or the Gestapo or the KGB or the Savak are least likely to have properly notarized and stamped documents, countersigned by the Gestapo, the KGB or the Savak.

The expansion of the expedited removal process puts refugee women and children fleeing rape, honor killings, female mutilation, forced marriages and sexual slavery particularly at risk because these victims have the most difficulty sharing and explaining their painful stories to border agents who may not be experts in foreign cultures.

Furthermore, when individuals are placed in expedited removal, they do not have access to relief from deportation under the Violence Against Women Act, the temporary protected status or as trafficking victims.

My amendment seeks to prevent the inevitable consequences of deporting more asylum seekers, battered immigrants, trafficking victims and others who may be legally entitled to remain but who have no real opportunity for any appeal from the hasty judgment of the border agent, no due process.

Even as currently applied, expedited removal has resulted in terrible mistakes, including its wrongful application to genuine refugees and even to U.S. citizens. The Senate heard the case of Sharon McKnight, an American citizen from New York of Jamaican descent who suffers a mental disability and was wrongly put into expedited removal and sent to Jamaica because an inspector mistakenly thought her passport was fake.

Expanding this policy to include persons already within the United States

poses grave constitutional problems. Immigration laws long made a distinction between those aliens seeking admission to the U.S. and those who are already within the U.S., regardless of the legality of their entry. In *Zadvydas v. Davis*, the Supreme Court held "once an alien enters the country, the legal status changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary or permanent."

Because there is no check or review of expedited removal decisions, there is no due process. This policy should not be expanded. It should be left where it is as my amendment would do.

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

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

Mr. Chairman, I rise in opposition to this amendment which would strike the provision added by the bill the gentleman from California (Mr. DANIEL E. LUNGREN), mandating expedited removal for other than Mexican aliens apprehended after entering illegally within 14 days and 100 hundred miles of entry.

Unlike what the gentleman from New York (Mr. NADLER) said, the Lungren provision in this bill applies to land borders only, and it would not apply to asylum seekers who ask for asylum at the time they enter through a port of entry.

The provision that this amendment would strike is crucial to ending the current practice of catch and release of aliens along the southern border. While nationals of Mexico who are apprehended along the southern border can be returned to Mexico, the nationals of other countries cannot. Rather these aliens, known as OTMs, must be placed in removal proceedings which is a process that can take months. Because of a lack of detention space, most are released on the promise that they will show up for their adjudication.

Experience has shown that if OTMs are released to attend their removal proceedings, they will likely disappear. Of the 8,908 notices to appear at the immigration court at Harlingen, Texas, issued last year to OTMs, 8,767 failed to show up for their hearings, according to the statistics compiled by the Justice Department's Executive Office of Immigration Review.

The fact that these aliens were able to enter illegally, be released and then disappear into society has encouraged even more OTMs to illegally enter. Arrests of non-Mexicans along the U.S.-Mexico border, which total 14,935 in 1995 and 28,598 in 2000, rose to 65,814 in fiscal year 2004.

As nationals of these countries have entered with impunity, they have encouraged others to do so also. The Lungren provision addresses the problem of catch and release by requiring DHS to remove these OTMs who are apprehended within 14 days of entry and 100

miles of the border through expedited procedures. This codifies DHS's current practices. By limiting the amount of time that aliens are in proceedings, these procedures allow DHS to use its limited detention space more effectively. This in turn ensures that more aliens can be detained, which discourages other aliens from attempting to enter illegally.

I urge my colleagues to oppose this amendment.

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

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

Mr. Chairman, the real question here is due process. We all want to deport illegal aliens. We all want to deport people who are not here legally. But the question is because the Border Control agent thinks that someone may not be here legally, because he thinks that the passport is fake, should there be no appeal? Should there be no ability to show facts? Should there be no due process?

This country is built on due process. This country is built on a foundation of liberty and proper process.

The Department of Homeland Security states that expedited procedures currently cannot be applied to the nearly 1 million aliens who are apprehended annually on the southwest border, where it can legally be applied, as it is not possible to initiate formal removal proceedings against all the aliens.

So you cannot use it in too many of the cases where it is legal now, so let us expand it so we cannot use it in millions of more cases.

Mr. Chairman, I realize that we have to talk about the principle of due process. I also realize that not passing this amendment is going to result in a fiction, the fiction of having this policy where we cannot use it for millions of people. So I am not sure what the practical impact of that will be.

I recognize there is no point to spending more time on this. I wanted to make the point about due process, and I hope the Senate will listen.

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

The Acting CHAIRMAN (Mr. CULBERSON). Is there objection to the request of the gentleman from New York?

There was no objection.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HAYES) having assumed the chair, Mr. CULBERSON, Acting Chairman 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. 4437) to amend the Immigration and Nationality Act to strengthen enforcement of the immigration laws, to enhance border security, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON S. 1932, DEFICIT REDUCTION ACT OF 2005

Mr. NUSSLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1932) to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95), with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the Senate bill.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Spratt moves that, to the maximum extent possible within the scope of the conference, the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to recede to the Senate by eliminating House provisions reducing eligibility for food stamps (sections 1601 and 1603 of the House amendment), and reducing funding for child support enforcement (sections 8319 and 8320 of the House amendment), and repealing the Continued Dumping and Subsidy Offset (the "Byrd Amendment" (section 8701 of the House amendment)) and modifying the Mining Law of 1872 (sections 6201 through 6207 of the House amendment); such managers be instructed to recede to the Senate by eliminating the sections of the House amendment that reduce Medicaid benefits and allow increases in beneficiary costs (sections 3111, 3112, 3113, 3114, 3115, 3121, 3122, 3123, 3124, 3125, 3134, and 3147 of the House amendment) and by reducing to the maximum extent possible increases in interest rates and fees paid by student and parent borrowers on student loans contained in sections 2115, 2116, and 2117 of the House amendment, and by adopting the Senate provisions concerning Pell grants (sections 7101 and 7102 of S. 1932); and such managers be instructed to recede to the Senate by adopting the Senate provision eliminating the stabilization fund that makes payments to Medicare Advantage Regional Plans (section 6112 of S. 1932), adopting the Senate provision on Medicare Advantage risk adjustment (section 6111 of S. 1932), and adopting the Senate provision on Medicare physician payments (section 6105 of S. 1932).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. SPRATT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to lay out now the basics of the motion to instruct conferees for the budget reconciliation bill going to conference.

First of all, we would move to preserve the safety net. This motion instructs the conferees to eliminate House provisions that would cut food stamps by \$697 million and to reject