shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or condition of an alien detained by the United States since September 11, 2001.

SEC. 7. REVISIONS TO DETERRET TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES LOSS OF PERSONS

(a) COUNSEL AND INVESTIGATIONS.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1(b)) is amended—

(1) by striking “may provide” and inserting “shall provide”;

(2) by inserting “or investigation” after “criminal prosecution”; and

(3) by inserting “whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies,” after “describe in that subsection”.

(b) PROTECTION OF PERSONNEL.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COURTS-MANDAMOS.


(1) in subparagraph (A), by striking “pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)” and inserting “by a military commission under chapter 47A of title 10, United States Code”;

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

“(B) GRANT OF REVIEW.—Review under this paragraph shall be as of right.”;

(3) in subparagraph (C)—

(A) in clause (1)—

(i) by striking “pursuant to the military order” and inserting “by a military commission”;

(ii) by striking “at Guantanamo Bay, Cuba”; and

(B) in clause (ii), by striking “pursuant to such order and inserting “by the military commission”; and

(4) in subparagraph (D)(i), by striking “specified in the military order” and inserting “specified for a military commission”.

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION


Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I thank the Presiding Officer.

This matter has now been brought to conclusion.

I yield the floor.
us have a conference with the House. But let us reject this bumper-sticker solution. It isn't going to work. It is going to be enormously costly.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we know that fencing works. It is a proven approach. The San Diego fence has been incredibly successful. The illegal entries have fallen from 500,000 to 100,000. Crime in San Diego County, the whole county, dropped 56 percent. It is an absolutely successful experiment and demonstration of this working.

The chief of Border Patrol told one of the House hearings that it multiplies the capacity of their agents to be effective. There is no way individual agents can run up and down the border without some barriers in these high-traffic areas.

Secretary Chertoff asked us explicitly for 800 miles of barriers and fencing. He asked for that. We voted for it in May. We voted 83 to 16 in favor of the fence, and in August we voted 93 to 3 in favor of funding. But we haven't gotten there yet.

This bill is the kind of bill which can allow us to go forward and complete what the American people would like to see, and maybe then we can have some credibility with the public and we can begin to deal with the very important, sensitive issues of comprehensive immigration reform which I favor. But I believe the present bill that came through the Senate did not meet the required standard. We can do much better.

We have voted for this. We voted for it at least three times to make it a reality. And then we will have some credibility with the American people after we do that and then begin to talk seriously about how to fix an absolutely broken immigration system.

I urge support of cloture.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is being waived.

The question is, Is it the sense of the Senate that debate on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

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

The yeas and nays resulted—yeas 71, nays 28, as follows:

[Rollcall Vote No. 269 Leg.]

_NAYS—28_  

Biden  Ensiz  Markowski  
Bond  Enzi  Nelson (FL)  
Brownback  Feinstein  Nelson (NE)  
Bunning  Graham  Pryor  
Burns  Grassley  Roberts  
Burr  Gregg  Rockefeller  
Byrd  Hagel  Santorum  
Chambliss  Hatch  Sessions  
Cochran  Helms  Shelby  
Collins  Inhofe  Smith  
Conrad  Isakson  Specter  
Connyn  Kyl  Stevens  
Craig  Lieberman  Sununu  
Crapo  Lincoln  Thune  
Dayton  Lott  Voinovich  
Dellinger  Lugar  Warner  
Dole  Martinez  Wyden  
Demascio  McCain  
Dorgan  Mikulski  

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will please report the bill. The legislative clerk read as follows:

A bill (H.R. 6061) to establish operational control over the international land and maritime borders of the United States.

_Pending:_  

Prist amendment No. 5036, to establish military commissions.

Prist amendment No. 5037 to amendment No. 5036, to establish the effective date.

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment.

Prist amendment No. 5038 to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary, to establish military commissions.

Prist amendment No. 5039 to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary, to establish the effective date.

Prist amendment No. 5049 to amendment No. 5039, to amend the effective date.

Mr. KENNEDY. In May, the Senate passed a historic bipartisan bill that bolsters national security, ensures economic prosperity and protects families. The House passed a very different bill. The legislation's next step would have been to appoint conference and begin negotiating a compromise.

But, instead of working to get legislation to the President's desk, the House Republican leadership frittered away the summer embarking on a political road show featuring 60 cynical onesided hearings, and wasting millions of precious taxpayer dollars.

Repeatedly, the American people have told us that they want our immigration system fixed, and fixed now. They know this complex problem requires border security, a solution for the 12 million undocumented, and a fair temporary worker program for future workers. All security experts agree.

So what does the Republican leadership have to show for its months of fist pounding and finger pointing? All they have is old and failed plan—a fence plan. It makes a bumper sticker, but it is not a solution. It is a feel good vote that will do nothing but waste $8 billion.

The fence proposal we have before us: Goes far beyond what Secretary Chertoff needs; it doubles the size of the fence we have already approved. From 370 miles to 850 miles. It is also expensive. Estimates range from $3 million per mile. And it will not work. Fences will not stop illegal overstayers—who account for 40-50 percent of current undocumented population, or the many who continue to come here to work.

What the Republican leadership does not seem to get is that comprehensive immigration reform is all about security.

The American people want realistic solutions, not piecemeal feel-good measures that will waste billions of precious taxpayer dollars and do nothing to correct a serious problem.

Sacrificing good immigration policy for political expediency and hateful rhetoric is not just shameful—it is cowardly.

Let us be frank. This is about politics not policy.

I urge my colleagues to choose good policy over political expedience and oppose this cloture motion.

Mr. FEINGOLD. Mr. President, every Member of this body recognizes that border security is critical to our Nation's security. We can and must improve our efforts at the borders and prevent potential terrorists from entering our country. I have long supported devoting more personnel and resources to border security, and I will continue to do so.

But this bill is a misguided effort to secure our borders. I cannot justify pouring billions of Federal dollars into efforts that are not likely to be effective.

Recent Congressional Budget Office estimates indicate that border fencing can cost more than $3 million per mile. Under this legislation, we would be committing vast resources to an unproven initiative. Adding hundreds of miles of fencing along the border will almost certainly not stem the flow of people who are willing to risk their lives to come to this country.

Furthermore, there are very serious concerns about the environmental impact this type of massive construction project would have on fragile ecosystems in border areas. Before we pour precious Federal dollars into a massive border fencing system, at the very least we should do a thorough analysis of the most effective and fiscally responsible means of securing our borders against illegal transit. In fact, S. 2611, the Comprehensive Immigration Reform Act of 2006, would direct
the Attorney General, in cooperation with other executive branch officials, to conduct such a study on this question. The study would analyze the construction of a system of physical barriers along the southern international land and maritime border, including the feasibility, costs, and impact of such barriers on the surrounding area.

Another reason that this bill is misguided is that improving our border security alone will not stem the tide of people who are willing to risk everything to enter this country. According to a recent Cato Institute report, the probability of catching an illegal immigrant has fallen over the past two decades from 33 percent to 5 percent, despite the fact that we have tripled the number of border agents and increased the enforcement budget tenfold. It would be fiscally irresponsible and self-defeating to devote more and more Federal dollars to border security efforts, without also creating a realistic immigration system that allows people who legitimately want to come to this country to go through legal channels to do so.

That is why I oppose the House "enforcement only" bill. That is why business groups, labor unions and immigrant’s rights groups have all come together to demand comprehensive immigration reform. And that is why I oppose this bill. We need a comprehensive, pragmatic approach that not only strengthens our security, but also brings people out of the shadows and ensures that our Government knows who is entering this country for legitimate reasons, so that we can focus our efforts on finding those who want to do us harm. Border security alone is not enough. I will vote against cloture on this bill.

The PRESIDING OFFICER. The Senator from Alaska.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT. 2007—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate I proceed to the immediate consideration of the conference report to accompany H.R. 5631, the Defense appropriations bill. I further ask unanimous consent that, with all debate equally divided between the majority and minority, with that debate time not counting against the 30 hours postcloture, and that a vote on adoption of the conference report occur at 10 a.m. on Friday, September 28.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated by title.

The PRESIDING OFFICER. The report reads as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5631), making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes, having met, have agreed that the House...