

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 conditions of detention of an alien detained by the United States since September 11, 2001.

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.

(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 “described 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 COMMISSIONS.

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(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 (i)—

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

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

(B) in clause (ii), by striking “pursuant to such military 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.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109-148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking “the Department of Defense at Guantanamo Bay, Cuba” and inserting “the United States”.

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.

**SECURE FENCE ACT OF 2006—
Resumed**

CLOTURE MOTION

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close 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.

Bill Frist, Lamar Alexander, Richard Burr, Gordon Smith, John Thune, Johnny Isakson, John Cornyn, Judd Gregg, Jim Inhofe, Saxby Chambliss, Sam Brownback, Tom Coburn, Jeff Sessions, Richard Shelby, Craig Thomas, Michael B. Enzi, Lisa Murkowski.

Mr. BYRD. Mr. President, I support cloture on H.R. 6061, the Secure Fence Act. The sooner the Congress passes this bill, the sooner the Congress can put aside the misguided amnesty legislation passed by the Senate earlier this year. The American people have listened and rejected the call to offer U.S. citizenship to illegal aliens. They have said NO to amnesty! Hallelujah!

Comprehensive immigration reform is a euphemism for amnesty, and I oppose it absolutely and unequivocally. I voted against the amnesty bill passed by the Senate, and I will continue to vote against amnesty as long as I am in the Senate.

I have seen how amnesties encourage illegal immigration, with the amnesties of the 1980s and 1990s corresponding with an unprecedented rise in the population of unlawful aliens.

I have seen how amnesties open the border to terrorists, with the perpetrators of terrorist plots against our country taking advantage of amnesties to circumvent the regular border and immigration checks.

I have seen how amnesties afford special rules to some immigrants. Amnesty undermines that great and egalitarian American promise that the rules will be applied equally and fairly to everyone.

We are a nation of immigrants to be sure, but that does not mean that we are obligated to give away U.S. citizenship. According to immigration experts, until 1986, the Congress never granted amnesty to any generation of immigrants. The Congress encouraged immigrants to learn the Constitutional principles of our Government and the history of our country. Immigrants learned English, and tried to assimilate. U.S. citizenship was their reward. The Congress did not reward illegal aliens with U.S. citizenship.

Now that this idea of amnesty has been rejected by the Congress, perhaps the administration will begin, at long last, to focus its efforts on actually reducing the number of illegal aliens already in the country. Such an effort will require a significant investment of

funds to hire law enforcement and border security agents, and to give them the resources and equipment they need to do their job. In the years immediately after the September 11 attacks, those funds had not only been left out of the President's annual budgets but had been continuously blocked by the White House in the appropriations process. I and others tried to add funds where possible, but not until recently did the administration begin to respond to the inadequacies along the border. So much more is required and needs to be done.

The bill before the Senate today is a good bill. It would authorize two-layer fencing along the southern border where our security is weakest, and set timetables to which the Congress can hold the administration. But this bill will amount to little or no protection without the resources to implement it. The administration must do more. Without its continued support and a committed effort to prevent illegal immigration, the protective barrier called for in this bill will amount to nothing more than a line drawn in the sands of our porous Southern border.

Mr. KENNEDY. Mr. President, now we have 4 minutes that can be equally divided between those in favor and those in opposition; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

Let us review where we in the Senate have been on the issue of immigration.

Last May, we passed by 63 votes, with 1 favorable vote missing, a comprehensive measure to try to deal with a complex and difficult issue. The House of Representatives passed this bill, but they refused to meet with the Senate of the United States. The House of Representatives held 60 hearings all over the country at taxpayers' expense—millions and millions of dollars. What do they come up with? After all the pounding and finger-pointing, they came up with an 800-mile fence.

Listen to Governor Napolitano: You show me a 50-foot fence, and I will show you a 51-foot ladder.

This is a feel-good bumper-sticker vote. It is not going to work. Why? Because half of all the undocumented come here legally. They don't come over the fence.

Do you hear us? This is going to cost \$9 billion.

Listen to what Secretary Chertoff said about this issue. Secretary Chertoff said: “Don't give us old fences. Give us 20th century solutions.” Tom Ridge, the former head of Homeland Security, said the same thing.

This is a waste of money. Let us do what we should have done in the first place. Let us sit down with the House, the way this institution is supposed to work, rather than just take what is served up by the House of Representatives that said take it or leave it. That is what they are saying to the Senate.

We have had a good debate which resulted in a comprehensive measure. Let

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 comprehensively about how to fix an absolutely broken immigration system.

I urge support of cloture.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been 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. 260 Leg.]

YEAS—71

Alexander	Allen	Bayh
Allard	Baucus	Bennett

Biden	Ensign	Murkowski
Bond	Enzi	Nelson (FL)
Brownback	Feinstein	Nelson (NE)
Bunning	Frist	Pryor
Burns	Graham	Roberts
Burr	Grassley	Rockefeller
Byrd	Gregg	Santorum
Chambliss	Hagel	Sessions
Coburn	Hatch	Shelby
Cochran	Hutchison	Smith
Coleman	Inhofe	Specter
Collins	Isakson	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lincoln	Thomas
Dayton	Lott	Thune
DeMint	Lugar	Vitter
DeWine	Martinez	Voinovich
Dole	McCain	Warner
Domenici	McConnell	Wyden
Dorgan	Mikulski	

NAYS—28

Akaka	Harkin	Menendez
Bingaman	Inouye	Murray
Boxer	Jeffords	Obama
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Salazar
Clinton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Durbin	Levin	
Feingold	Lieberman	

NOT VOTING—1

Snowe

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:

Frist amendment No. 5036, to establish military commissions.

Frist 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.

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

Frist 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.

Frist amendment No. 5040 (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 logical next step would have been to appoint conferees 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 one-sided 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 fu-

ture 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 bill. It makes for a good bumper sticker, but it is not a solution. It is a feel good vote that will do nothing but waste \$9 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 necessity, feasibility, 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, like this fence, without also creating a realistic immigration system to allow 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 border security, but also brings people out of the shadows and ensures that our Government knows who is entering this country for legitimate reasons, so 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 there be 2 hours of 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 29.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated by title.

The legislative clerk read 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 re-

cede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of September 25, 2006.)

The PRESIDING OFFICER. The Senator from Alaska. Mr. STEVENS. Mr. President, the time is equally divided, as I understand it.

The PRESIDING OFFICER. The Senator from Alaska is correct.

Mr. STEVENS. Mr. President, I am pleased to present the Defense appropriations conference report for fiscal year 2007 with my colleague from Hawaii, our cochairman, Senator INOUE.

Two nights ago, in a strong measure of bipartisan support for our men and women in uniform, the House of Representatives passed this bill. There are only 4 days left in the fiscal year. The 2007 Defense appropriations conference report must be signed into law by the President before Saturday at midnight.

Finishing debate on this bill tonight and passing it tomorrow morning will ensure that this bill will get to the President in time so there will be no lapse in money available to our men and women in uniform to conduct the ongoing activities throughout the world.

This bill includes the continuing resolution for those appropriations bills which have not been completed. This continuing resolution, or CR, as we call it, was negotiated on a bicameral, bipartisan basis. It is what we call a clean CR. There is no other problem associated with this CR. It has been supported on both sides of the aisle, and we are grateful to the Members in both the House and the Senate for that approval.

Our conference report represents a balanced approach to fulfilling the financial needs of the Department for fiscal year 2007. It provides \$436.5 billion in new discretionary spending authority for the Department of Defense. This amount also includes \$70 billion in emergency spending for early fiscal year 2007 costs associated with the operations in Iraq and Afghanistan and the global war against terrorism.

The bill fully funds the 2.2 percent across-the-board military pay raise as proposed in the President's budget.

This conference agreement also provides \$17.1 billion for additional fiscal year 2007 reset funding for the Army and \$5.8 billion for the Marine Corps. These are specific amounts identified by the services as necessary to meet their fiscal year 2007 equipment requirements.

The additional reset funding provides for the replacement of aircraft lost in battle and the recapitalization and production of combat and tactical vehicles, ammunition, and communications equipment.

In addition, the conference report provides \$1.1 billion for body armor and personal protection equipment and \$1.9 billion to combat improvised explosive devices.

The bill also provides \$1.5 billion for the Afghanistan security forces fund and \$1.7 billion for the Iraq security forces fund. These funds will continue the training of indigenous security forces and provide equipment and infrastructure essential to developing capable security forces in Afghanistan and Iraq.

The bill does not address the funding for basic allowance for housing within the military personnel accounts, sustainment, readiness and modernization funds contained in the operation and maintenance accounts, environmental funding, or Defense Health Program funding. These accounts will be conferenced later this year with the House Appropriations subcommittee responsible for those accounts. They are separate from this bill.

Finally, I would like to note that the bill provides more than \$3 billion for National Guard and Reserve equipment to improve their readiness in combat operations as well as their critical role in our Nation's response to natural disasters.

I urge all Members of the Senate to support this bill. It supports the men and women in uniform who risk their lives for our country each day. By voting for this measure, we show our support for what they do.

I also wish to thank my cochairman again, Senator INOUE, for his support and invaluable counsel on the bill.

And before I recognize him, I would like to allocate 10 minutes of the time on our side to the distinguished Senator from Oklahoma. But I yield to my friend from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I rise to express my strong support for the conference report on H. R. 5631. This bill, as the chairman has noted, includes some \$436.6 billion for the Department of Defense, including \$70 billion to help offset the cost of war in Iraq and the global war on terrorism for the first several months of fiscal year 2007.

I want to remind my colleagues that the bill does not include funding, as noted by the chairman, for the Defense Health Program or for environmental and real property maintenance and related programs.

By agreement between the Appropriations Committees in both Houses, these amounts will be carried in the Military Construction bill which has not yet passed the Senate.

Accounting for this change, the bill is \$9.3 billion higher than the bill which passed the Senate. Of this amount, approximately \$4.7 billion is in emergency funding for the war on terror, and the balance is for regular appropriations.

This bill provides for the essential requirements of the Department of Defense and is a fair compromise between