

The Senate adopted the Fiscal 2007 Senate Budget Resolution (S Con Res 83) by a vote of 51-49 on March 16, 2006. Senator Kyl offered an amendment to designate \$2 billion in immigration- and homeland security-related funding for interior enforcement. The proposal passed by a voice vote. The relevant portion of the Congressional Record appears below.

“The amendment is as follows:

(Purpose: To designate \$2 billion in immigration- and homeland security-related funding for interior enforcement purposes, including, but not limited to: federal detention bed spaces and personnel; implementation of an expanded and user-friendly Electronic Employment Verification System; and, additional worksite enforcement personnel, including additional immigration enforcement agents, forensics auditors, fraud agents, intelligence research assistants, employer outreach assistants, and others)

On page 24, line 24, increase the amount by \$2,000,000,000.

On page 24, line 25, increase the amount by \$2,000,000,000.

On page 27, line 23, decrease the amount by \$2,000,000,000.

On page 27, line 24, decrease the amount by \$2,000,000,000.

Mr. KYL. Mr. President, I ask unanimous consent Senator Cornyn be added as an original cosponsor of this amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. By way of brief explanation, this amendment adds, with an offset from the function 920, a total of \$2 billion to the fiscal year 2007 budget for the purpose of additional immigration and Homeland Security resources. The actual tally of costs that we are probably going to have to bear exceeds this amount. But in effect, this will be a downpayment toward the necessary work to be done in beginning to prepare for a temporary worker program, a worker eligibility or verification program and other elements of a comprehensive immigration reform that would be necessary to fit together once the Senate acts and the House acts on such a system.

In addition, funding that could be included within this \$2 billion is the State Criminal Alien Assistance Program, or SCAAP funding, which the budget currently does not fund but which historically has been funded at up to about \$600 million. Last year, it was a little more than a third that much. Clearly, Congress needs to act to reinstate the funding for the SCAAP program. This amendment can accommodate that funding as well.

Let me list the primary elements of this particular amendment that funds programs necessary to begin the development of the worker verification program in connection with comprehensive immigration reform.

One thing we need to do is to implement an electronic employment verification system and clean up the Social Security database and reissue a secure Social Security card and number to workers in the United States as the primary method of verifying worker eligibility. That is going to require not only work to clean up the database itself but a broadening of the current basic pilot program which is the only program currently in existence that can electronically verify employment. The Congressional Budget Office has estimated it will take about \$450 million to erect the system and, in effect, to make the basic pilot program through the Department of Homeland Security mandatory, rather than discretionary, over a period of 5 years, about \$90 million each year.

The Social Security Administration has estimated costs with regard to creating a system to produce a secure Social Security card and distribute that. Those costs vary widely in terms of the estimates. One estimate that could be made, based upon information that has been provided, would provide a cost of about \$1.14 billion a year to actually get this entire system up and running. That cost, or part of that for 1 year could be included within the \$2 billion that is specified in this amendment.

Second, we are going to need worksite enforcement personnel. One of the areas that has been neglected in the current enforcement regime is the following up or auditing of employers who, in many cases, are employing illegal immigrants. The Bureau of Immigration Enforcement, responsible for enforcing immigration laws at the worksite, has requested 200 full-time employees, about a \$23 million expense in 2005. In 2006, an additional \$18 million above the 2005 level, and the 2007 budget requests \$47.1 million for worksite enforcement to add 206 agents and support staff for this effort.

[Page S2147]

However, there are clearly a lot more requirements to be met. Some 24 million business entities file income tax returns and the number that can be checked is far less than that.

So it is clear we need additional administrative personnel so the auditing can be done and we can lay the basis for a workable worksite verification and enforcement program. Any immigration bill that passes the Congress this year will fail unless the requisite number of worksite enforcement personnel is actually funded this year.

Let me just restate that. Whatever we do this year, we are going to have to begin the process of adding the personnel, so that once we act, we can begin to enforce whatever it is we pass. If we wait until after the President signs a bill into law to do this, then there will be at least a year delay as we ramp up the personnel and necessary other systems to implement the law. So we need to begin this process now.

There is a potential to fund additional Border Patrol agents that would be authorized under the program. There is, importantly, an estimate to increase the amount of detention space that we are going to need that could be funded from this.

The 2007 budget for the Department of Homeland Security requests over \$400 million to add about 6,700 additional detention beds, rather than the 8,000 beds currently authorized each year, which would bring the total to 27,500. Clearly, at least 10,000 additional beds over the next 5 years are going to be needed.

Let me explain the primary reason for this. The illegal immigrants who are apprehended here, who come from countries other than Mexico, cannot easily be returned to their home countries in every case. In fact, in most cases, there is quite a delay. In fact, in some cases, the countries will not even take them back. Clearly, either those people have to be detained until they can be removed to their home country or they are released into our society.

The current policy has been one of “catch and release,” which means hundreds of thousands of people who come from countries other than Mexico—many of them from countries of special interest; in other words, countries from which terrorists have come—are simply melding into our society, never reporting for removal. It is an unacceptable situation, everybody recognizes.

In order to have the space to detain them until they can be removed to their home country, we need to appropriate additional money. This provides the authorization for that additional detention space.

Finally, Mr. President, I mentioned the State Criminal Alien Assistance Program. The estimated cost to reimburse the States—about 30 cents on the dollar—is \$700 million this year. This funding provided for in this amendment would enable us to provide that funding to the States and to the local governments, which have had to carry the burden of housing these illegal immigrant criminals, people who have been convicted in State courts of crimes, and then the States have had to pay the expense of their incarceration. The Federal Government has in the past deemed there is at least some responsibility to help bear these costs. I think this amendment can go a long way toward meeting this responsibility.

This additional \$2 billion in no way covers all of the expenses that would need to be covered. But in addition to that which is already provided for in the budget—I have to take one second to compliment the chairman of the Budget Committee and the ranking member for their hard work to gain additional resources in the budget for a variety of programs to deal with comprehensive immigration reform. Their additions this year are historic and welcome and needed. What this funding does is to complement that in some additional areas they have not covered so we can get a start on comprehensive immigration reform and not be lagging behind 2 or 3 years simply because we did not anticipate the kind of expenses that would be needed to make such a program work.

So I compliment the members of the Budget Committee for their hard work. I think this amendment should be accepted as an additional complement to what they did.

Mr. President, I yield the floor at this time and hope to hear from my cosponsor, Senator Cornyn from Texas.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Texas.

Mr. CORNYN. Thank you, Mr. President.

Mr. President, I congratulate the Senator from Arizona for his tremendous leadership in this area. I wish to detail some of that leadership and some of the work he has done. I have been proud to work with him.

I think what the amendment really helps to do is to serve as a wake-up call, a wake-up call to the Senate, a wake-up call to the Federal Government, and really a message that is being delivered day in and day out by people in my State and people all across America, who say they are sick and tired of the Federal Government not living up to its responsibilities when it comes to securing our international borders.

We all know in minute detail how porous our borders are, and we know that in the past the American people have been asked to accept solutions—like amnesty in 1986—on the condition that the Federal Government would provide a means whereby employers could determine the eligibility of prospective employees to work legally in the United States. But while the American people were given an amnesty program, legalizing roughly 3 million individuals, the Federal Government did not provide the means for employers to determine whether that prospective employee could legally work in the United States.

The Senator from Arizona mentioned the basic pilot program which was supposed to be the means to that end, but it was a purely voluntary program, and thus employers were left with a conundrum. They needed the workforce, but they did not necessarily have access to a means to determine the legal status of prospective employees. So what they relied upon were oftentimes what turned out to be fake identification, whether driver's licenses, Social Security cards, passports, or the like. We do not expect the employers in this country to try to be FBI agents or to conduct an independent investigation as to the legal status of prospective employees.

What this amendment will do is two important things. No. 1, it will begin to cause the Federal Government to step up to finally begin to provide the resources necessary to have a bona fide electronic verification system. But perhaps more importantly, it will demonstrate the seriousness of the Federal Government to finally live up to its responsibilities.

The people across America, the U.S. Chamber of Commerce—we are hearing a lot from sectors of the employment community saying they need a temporary worker program, a guest worker program. I think we all acknowledge it is important for us to determine who the 10 or 11 million people are who are currently in the country who have come here, perhaps legally in the first instance, but at least 40 percent of them have

outstayed their visas and are currently out of status or people who have literally walked across or swam across the Rio Grande River to come here.

But in a post-9/11 world, there can be no doubt we must know who is in our country and what their reasons are for being here, so we can cull out the criminals, the people who come here to do us harm, and including the potential prospects of terrorists exploiting these known vulnerabilities in our way too porous border. So we need a national strategy to deal with that.

As the current occupant of the chair knows and the Senator from Arizona knows, as members of the Judiciary Committee, we are working hard to try to come up with a solution to this extraordinarily complex problem. The difficulty is compounded by the fact that, here again, we are playing catchup.

But the purpose ultimately served by this amendment as well as the budget resolution that is pending on the floor—and the Senator from Arizona rightly praised the chairman of the Budget Committee for moving funds into building infrastructure along our border—the American people need to know we are making a firm and solid commitment to do whatever it takes to make this system work and to finally bring it under control. Because people are not going to accept the bait and switch that essentially was foisted upon them in 1986, when they said take an amnesty, and then, on the condition we will have an employer verification system, we will actually sanction people for hiring people who cannot legally work in the United States, I do not think people will be fooled again. I certainly do not plan to be part of that.

[Page S2148]

I know there are many in Congress and in the Senate who are absolutely committed to coming up with a solution to this problem. It is not easy. But again, I do not believe the American people or our constituents sent us here necessarily to do just easy things. They expect us to come here and do more than go to receptions or meetings at the White House. They actually expect us to do some real work. But it is going to take some real work, and it is going to take some real money to finally make the investment the Federal Government has to make in order to bring this broken system under control.

So I gladly join as a cosponsor of this amendment and ask for the support of all of our colleagues for this very important step forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me say on this side we agree entirely with the need to put more resources into enforcing the border. And that part of the Senator's amendment on our side we strongly support.

Let me just register, as I have registered on previous amendments, that the problem I see with this amendment is how it is paid for. It is paid for out of section 920. But there is no money in section 920. We keep passing amendments that are theoretically funded by that source. But before we started voting for additional amendments taking money out of 920, 920 was already \$500 million underwater.

So what happens? What is the practical effect? The practical effect is that there will be an across-the-board cut on all discretionary accounts. We have now passed \$10 billion in amendments that will be funded by across-the-board cuts in discretionary accounts. That means we will reduce homeland security, we will reduce law enforcement, we will reduce national defense in order to pay for these amendments which are theoretically funded out of 920 because there is no money in 920.

So what we are left with is, at the end of the day, the appropriators had \$873 billion before this amendment, and after this amendment they will have the same amount of money—\$873 billion. If they are to use more money within that allocation for this purpose, they will simply have to reduce the other discretionary accounts. Of course, the biggest one is defense. They will have to reduce homeland security. They will have to reduce law enforcement. They will have to reduce the others. That is the practical effect.

I know there are a whole series of other amendments that use 920 as a funding source, when there just is no money in 920. So at the end of the day, what is going to happen is there will be an across-the-board cut in all domestic accounts, and that will include defense, that will include homeland security, that will include law enforcement. So that is the practical effect.

The hard reality is, we had \$873 billion for the appropriators before this amendment. After this amendment, we will have that same amount of money for the appropriators. They will ultimately have to decide how it is funded.

With that, I want to indicate we would be willing to take this amendment on a voice vote, if the Senator from Arizona would be willing to so do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I certainly am.

Let me, first of all, say I think the comments of the ranking member of the Budget Committee are entirely appropriate, and they are absolutely accurate. It is a matter of setting priorities.

And to the point that we are requiring the appropriators to engage in a very difficult job of setting those priorities and having to choose between different programs, I certainly take his point. He is 100 percent right. It is our view that, of course, among the highest of priorities is national defense, homeland security, and this is part of that.

We hope to work with him and with the members of the Appropriations Committee to try to make sure the priorities are established in the appropriate way. I do appreciate his cooperation here, and we are ready to take the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3068) was agreed to.”