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2ND REUSED

AMENDMENT TO H.R. 10

OFFERED BY MR. Hostettler

[Page and line numbers refer to the Committee Print of the Committee on Rules dated October 4, 2004]

Page 243, beginning on line 12, strike “and the officer determines that the alien has been physically present in the United States for less than 1 year”.

Page 244, beginning on line 7, strike “if the officer determines that the alien has been physically present in the United States for less than 1 year”.

Page 245, line 5, strike “the central motive” and insert “a central reason”.

Page 254, strike line 6 and all that follows through line 24 on page 255 and insert the following:

- 1 **SEC. 3032. DETENTION OF ALIENS BARRED FROM RESTRIC-**
2 **TION ON REMOVAL PENDING REMOVAL.**
3 (a) IN GENERAL.—Section 241 of Immigration and
4 Nationality Act (8 U.S.C. 1231) is amended by adding
5 at the end the following:
6 “(j) DETENTION OF ALIENS BARRED FROM RE-
7 STRICTON ON REMOVAL PENDING REMOVAL.—

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1 “(1) IN GENERAL.—In order to protect the
2 United States from those aliens who would threaten
3 the national security or endanger the lives and safe-
4 ty of the American people, the Secretary of Home-
5 land Security may, in the Secretary’s unreviewable
6 discretion, determine that any alien who has been
7 ordered removed from the United States and who is
8 described in subsection (b)(3)(B) is a specially dan-
9 gerous alien and should be detained until removed.
10 This determination shall be reviewed every six
11 months until the alien is removed. In making this
12 determination, the Secretary shall consider the
13 length of sentence and severity of the offense, the
14 loss and injury to the victim, and the future risk the
15 alien poses to the community.

16 “(2) ALIENS GRANTED PROTECTION RESTRICT-
17 ING REMOVAL.—Any alien described in paragraph
18 (1) who has been ordered removed, and who has
19 been granted any other protection under the immi-
20 gration law, as defined in section 101(a)(17), re-
21 stricting the alien’s removal, shall be detained. The
22 Secretary of State shall seek diplomatic assurances
23 that such alien shall be protected if removed from
24 the United States.”.

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1 (b) SEVERABILITY.—If any amendment, or part of
2 any amendment, made by subsection (a), or the applica-
3 tion of any amendment or part of any amendment to any
4 person or circumstance, is held to be unconstitutional—

5 (1) the Secretary of Homeland Security shall
6 continue to seek the removal of any alien described
7 in section 241(j)(1) of the Immigration and Nation-
8 ality Act, as amended by this Act, consistent with
9 any protection described in section 241(j)(2) of such
10 Act; and

11 (2) the Secretary of State shall continue to seek
12 diplomatic assurances that any alien described in
13 section 241(j)(2) of the Immigration and Nationality
14 Act, as amended by this Act, would be protected
15 upon removal.