

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 5759  
OFFERED BY MS. LOFGREN OF CALIFORNIA**

Page 1, beginning on line 2, strike “Preventing Executive Overreach on Immigration” and insert “Acknowledging Presidential Authority to Exercise Prosecutorial Discretion Over Immigration”.

Page 1, insert after line 17 the following:

1           (3) As the Supreme Court found in *Heckler v.*  
2           Chaney, the faithful execution of the laws does not  
3           require an agency to “act against each technical vio-  
4           lation of the statute it is charged with enforcing”  
5           and “an agency’s decision not to prosecute or en-  
6           force, whether through civil or criminal process, is a  
7           decision generally committed to an agency’s absolute  
8           discretion”.

9           (4) As the Supreme Court found in *Arizona v.*  
10          United States, “[a] principal feature of the removal  
11          system is the broad discretion exercised by immigra-  
12          tion officials. . . . Federal officials, as an initial mat-  
13          ter, must decide whether it makes sense to pursue  
14          removal at all. . . . Discretion in the enforcement of

1 immigration law embraces immediate human con-  
2 cerns. Unauthorized workers trying to support their  
3 families, for example, likely pose less danger than  
4 alien smugglers or aliens who commit a serious  
5 crime. The equities of an individual case may turn  
6 on many factors, including whether the alien has  
7 children born in the United States, long ties to the  
8 community, or a record of distinguished military  
9 service.”.

Page 2, line 1, redesignate paragraph (3) as paragraph (5).

Page 2, line 9, redesignate paragraph (4) as paragraph (6).

Page 2, insert after line 11 the following:

10 (7) Executive branch officials have also legiti-  
11 mately exercised their prosecutorial discretion  
12 through their constitutional power and authority  
13 under statute to respond to humanitarian and do-  
14 mestic matters, promote family unity, and increase  
15 military preparedness by permitting broad groups of  
16 non-citizens to remain in the United States, on a  
17 case-by-case basis.

Page 2, strike line 12 and all that follows through  
the end of the bill.

