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:

(3) As the Supreme Court found in Heckler v. Chaney, the faithful execution of the laws does not require an agency to “act against each technical violation of the statute it is charged with enforcing” and “an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion”.

(4) As the Supreme Court found in Arizona v. United States, “[a] principal feature of the removal system is the broad discretion exercised by immigration officials. . . . Federal officials, as an initial matter, must decide whether it makes sense to pursue removal at all. . . . Discretion in the enforcement of
immigration law embraces immediate human concerns. Unauthorized workers trying to support their families, for example, likely pose less danger than alien smugglers or aliens who commit a serious crime. The equities of an individual case may turn on many factors, including whether the alien has children born in the United States, long ties to the community, or a record of distinguished military 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:

(7) Executive branch officials have also legitimately exercised their prosecutorial discretion through their constitutional power and authority under statute to respond to humanitarian and domestic matters, promote family unity, and increase military preparedness by permitting broad groups of non-citizens to remain in the United States, on a case-by-case basis.
Page 2, strike line 12 and all that follows through the end of the bill.