I may have agreed with it. I may have disagreed. I did not want to see us making the Senate into some kind of a supreme court that would overturn any decision we didn't like. On the way out, the third Senator came up to Lowell Weicker and myself and linked his arm in ours, and he said: We are the only true conservatives on this floor because we want to protect the Constitution and not make these changes.

I turned to him and I said: Senator Goldwater, you are absolutely right.

I was glad Barry Goldwater, Lowell Weicker, and I stood up for the Constitution, stood up for the independence of the Federal judiciary. It probably was unpopular to do so, but I think Senator Goldwater, Senator Weicker, and I all agreed it was the right thing to do.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Durbin amendment No. 427, to require reports on Iraqi security services.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Dorgan/Durbin amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

Frist (for Chambliss/Kyl) amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) modified amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer amendment No. 451, to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

Reid (for Reed/Chafee) amendment No. 452, to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

AMENDMENT NO. 418

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending amendment be set aside be in order that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. I call up amendment No. 418.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, and Mr. BYRD, proposes an amendment numbered 418.

Mr. CHAMBLISS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the termination of the existing joint-service multiyear procurement contract for C/KC-130J aircraft)

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

AMENDMENT NO. 418, AS MODIFIED

Mr. CHAMBLISS. Mr. President, I send a modification to the desk and I ask unanimous consent that Senator ALLEN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. During fiscal year 2005, no funds may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

Mr. CHAMBLISS. Mr. President, this amendment will prohibit any fiscal year 2005 funds from being used to terminate the C–130J multi-year procurement contract.

In hearings before this body over the past several weeks Department of Defense personnel have admitted that when they made the decision to terminate this contract in December of last year that they did not have all the information needed to make that decision. Since PBD 753 was drafted in December 2004, we have learned that the cost to terminate this contract is approximately $1.6 billion.

Also over the past several months we have seen the C–130J, KC–130J, as well as C–130s operated by our coalition partners in Iraq perform superbly throughout USCENTCOM. To date, C–130Js in Iraq have flown over 400 missions, with a mission capable rate of 93 percent and have performed all assigned missions successfully. KC–130Js have flown 789 hours in Iraq with mission capable rates in excess of 95 percent. Nevertheless, the Department of Defense has not yet submitted the amended budget request for this program that they discussed during hearings. That is why this amendment is necessary.

I am introducing this amendment to make sure that this program, which is performing extremely well and which meets validated Air Force and Marine Corps requirements, is not prematurely cancelled and that the Department of Defense follows through with their commitment to complete the multiyear procurement contract.

There are some issues with the current contract being a commercial contract versus a traditional military contract. My colleague, Senator MCCAIN, and I agree that a traditional contract is more appropriate in this case and applaud the Air Force's decision to begin

transitioning the program in that direction. However, I think we can all agree, that regardless of how these planes are procured, that the United States military needs them and they are demonstrating their value to the warfighter, and to the taxpayer today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I think we are now ready to begin a conversation. There are several colleagues here, including the Senators from Georgia, Alabama, and Idaho, we would like to discuss this issue we are going to be voting on tomorrow. Our colleagues need to have a clear picture of what we will be voting on.

There are two basic versions of legislation to try to make it easier for agricultural employers to hire people who are temporary workers or who have been in the United States illegally and can be employed under the bills proposed here. There are two different approaches. One is the approach of the Senator from Idaho—I will defer to him in a moment to have him discuss his approach—and the other approach Senator CHAMBLISS and I have offered. There are a couple of key differences. They both approach the problem from the standpoint of broadening the way in which legal immigrants can come to the country and be employed legally in agriculture and taking illegal immigrants who are currently not working within the legal regime, using counterfeit or fraudulent documents—and, everybody knows, being employed illegally—and enabling them to work for a temporary period of time legally in this country.

The primary difference between the approaches is over the question of amnesty. Regarding that, I think everybody would have to admit—and different people have different definitions of what amnesty is—everybody would have to agree, if there is a difference in how you can become a legal, permanent resident in this country or a citizen, you would have to agree, if someone is granted an advantage over an applicant for legal permanent residency or citizenship status in another country, if they are given an advantage because they came here illegally and counterfeited documents to get employment and worked here illegally, to give them an advantage over people who are seeking to come here legally is giving them an advantage that would amount to amnesty. You should not be able to use, in other words, your illegal status to bootstrap yourself into a position of legal, permanent residency or citizenship.

I pointed out before, under the bill of the Senators from Massachusetts and Idaho, there would be an ability for people not in the United States but who would like to come here to claim they worked in the country illegally, and that would give them an ability to come here and apply for this same status. So, ironically, we would be turning on a neon sign that says come here with documents—they could be fraudulent and you could have defrauded us before—and claim that you worked in the country illegally, and we will let you come back in again.

I don't know how you give people an advantage on the basis they violated our law. You would think you would want to give people an advantage who have played by the rules. That is the second way in which this bill grants amnesty and is not the right approach. As my colleague from Georgia talked about, we would be changing, for the first time, a law to allow the Legal Services Corporation to represent these illegal immigrants, which is something we have not been willing to do in the past. We have to be careful because the reason illegal immigrants are working here is the current H2–A law is so cumbersome to use, it is so subject to abuse and costs money and takes time and you can be sued, and so on, that employers don't like to use it. It is just not worth it to them. If we are going to have a bill that is no easier to use, there is not going to be any advantage over the current law and, as a result, it is going to be difficult for farmers to utilize this new provision if they have to look over their shoulder and wonder if the Legal Services Corporation is going to file a lawsuit.

Mr. CHAMBLISS. Will the Senator yield?

Mr. KYL. Yes.

Mr. CHAMBLISS. Mr. President, I ask the Senator, doesn't the AgJOBS bill, as well as the Chambliss-Kyl amendment, recognize there is a need in this country for agricultural workers to do the job that is not being done by American workers today, and we are not displacing American workers?

Mr. KYL. Mr. President, that is a very good question. I think all of us would agree that we cannot be displacing American workers. We are currently not doing that today. There is a need for these employees, and it is really a question of which approach is the better one, to ensure we can match a willing worker with a willing employer without granting amnesty.

Mr. CHAMBLISS. Would the Senator from Arizona yield for another question?

Mr. KYL. Yes.

Mr. CHAMBLISS. Does the Chambliss-Kyl amendment not take the current H2–A program, which is very cumbersome and requires a lot of paperwork and requires the adverse effect wage rate to be paid, and streamline that program to where it is more easily usable by farmers who now simply don't use it because it is cumbersome? Does it alleviate some of the problems?

Mr. KYL. Yes. We change the wage rate to the prevailing wage. We make it easier for the farmer to demonstrate that there are not American workers available to do the jobs. We make it easier, cheaper, faster, but with protections for the employees.

I think all of that is why the American Farm Bureau Federation has endorsed our legislation as the best way for them to satisfy these employment needs.

Mr. President, I will close and allow my colleagues the opportunity to speak. Senator CRAIG wants to disagree with us, and I want to give him that opportunity. Let me allow him to describe his bill, and we can have a debate back and forth as to which bill better satisfies our employment needs or requirements but doing so in a way that we can actually get a bill passed and sent to the President; i.e., a bill that doesn't include amnesty.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I appreciate the Senator from Arizona finally coming to the floor with a piece of legislation. For the last several years, I have challenged the Senate to deal with what I believe, and I think most colleagues believe, is a very urgent problem. Our borders, as much money as we have poured into them and as many new border patrolmen as we have put along them—primarily our southern border today—are still being overrun substantially by illegal people crossing.

While we have been trying, since 9/11, to understand and reform our immigration laws, there has been a great deal of talk, but very little done—some 1,300 days now of high-flying political talk about the dramatic problem that we awakened to post-9/11, and that was that there were between 8 million to 12 million undocumented illegal people in our country—most of them here and working hard to help themselves and their families. But it was obvious there were a few here with the evilest intent in mind: to destroy our country and to destroy us, too.

While I accept the argument, as most do, that comprehensive immigration reform is critical, right now we have a critical situation in front of us as it relates to agriculture. Starting about 5 years ago, and before 9/11, American agriculture was attempting to get the Congress to look at their plight. The plight was obvious and simple—and criticize it if you will—but the reality was that 50 to 70 percent of their workforce was undocumented, and the law we had given them, as the Senator from Arizona has so clearly spoken to, was so cumbersome, costly, and so untimely—and the key to timeliness is when the crop is in the field and ripe, it has to come out or it rots—that American agriculture could not depend on it. The workforce who was seeking the work in American agriculture began to recognize it. If you will, the black market or the illegal processes began.

It should not be a surprise to any of us that when government stands in the way of commerce, stands in the way of an economy, usually people find a way around it. Tragically enough, it happened. But, by definition, it was an illegal way.

Last year, in our country, there were 2 months in which we were a net importer of food. This year, it is guesstimated it could be in as many as 6 months that we will be a net importer of food, and that will be the first time, in the history of American agriculture, that becomes the situation. So why we are here on the floor today debating a piece of a much broader overall immigration problem is because it is urgent, it is important we deal with it, and we deal with it now as thoughtfully and as thoroughly as we can. That is why I insisted that the Senate come to this issue.

I am glad my colleagues have come up with an alternative. I think the provisions in it are quickly thought up. They were criticizing my bill earlier because I offered a temporary visa. They offer a visa. They offered it for 3 years—3 years—as many as 9 years. What I am glad to hear said, for those who argue what we were doing was an amnesty issue, is that it is no longer viewed as that, that we recognize there is a legitimate need for an American agricultural workforce, and it is critically necessary we make it a legal workforce for the sake of our country, for the sake of our borders, and for the sake of American agriculture.

That is what this debate will be all about in the next several hours and tomorrow morning before we vote on this issue. Both sides have accepted a rather unusual procedure, Mr. President—a supermajority procedure. Why? Well, we are germane to this supplemental bill because of what the House did earlier with a Sensenbrenner amendment dealing with what is known as REAL ID. It dealt with immigration and, as a result of dealing with immigration in the House, we were legitimized to do so, in a germane way, in the Senate. We will do that.

At the same time, we all understand that in legislative procedures, on cloture 60 votes are required. We have agreed to do so. Tomorrow, we will vote—first on the Chambliss-Kyl amendment and then on the Craig amendment. It will require 60 votes to proceed. Whether we succeed or fail—and I think I can succeed—what is most important is that the American people are beginning to hear just a little bit about what they have deserved to hear for the last 1,300 days, since 9/11 awakened us all to the dysfunctional character and the lack of enforcement of immigration law that has been going on for well over two decades. It was so typical of a Congress that wanted to talk a lot about it but do very little about it.

The Senator from Arizona and I and the Senator from Georgia, without question, agree on the critical nature of American agriculture today. What we also agree on—symbolic by their presence on the floor today, debating the issue and offering an alternative—is that we cannot build the wall high enough along our southern border, we cannot dig its foundation deep enough to close that border off, that it requires good, clear, simple, understandable, functioning law, not unlike the old Bracero Program of the 1950s when we had a guest worker program, when we identified the worker with the work, and they came, they worked, and they went home.

Up until that time, illegal immigration was astronomically high. It dropped precipitously during that period of time when we were identifying and being able to work about 500,000 workers who were foreign national in American agriculture. It was a law that worked.

Then somehow, in the sixties, Congress got it all wrong again. Why? Because they thought they were protecting an American workforce. But what the AFL–CIO found out and why they support my legislation is that there are unique types of employment in this country with which the American workforce will not identify.

I am pleased to hear that the Chambliss-Kyl bill, along with mine, provides a first-hire American approach. We create a labor pool. The employer must first go there, but if that workforce is not available, they do not have to languish there because, in essence, they have a crop to harvest, and the crop is time sensitive. We understand all of that.

I will get to the detail of my bill over the course of the afternoon and tomorrow. This is a bill that for 5 years has been worked out between now over 509 organizations. It is interesting that the Farm Bureau supports the Kyl-Chambliss approach, but they do not oppose my approach. And last year they supported my approach. In other words, they are as frustrated as all of us are about this very real problem of immigration. First they are here and then they are there. What is most important is that we are here on the floor of the Senate this afternoon talking about an issue on which this Senate has been absent way too long.

What the Senator from Arizona, the Senator from Georgia, and I and others who will be on the floor—I see my prime cosponsor Senator KENNEDY is on the floor—believe is that this is an issue whose time is coming, and we believe for agriculture it is now because it is critical and it is necessary. We are learning at this moment that as much money as we throw at the border, as many Border Patrol men as we hire, if the law on the other side does not back them up, if the law on the other side does not create a reasonable pathway forward for a workforce to be legal and a workforce that is necessary in this country, then you cannot put them along the border unless they are arm length to arm length from the Gulf of Mexico to San Diego. And even then, those folks have to sleep.

The reality is, we have to get the law right, and the law has been wrong for a great long while. In the absence of a functioning, reasonable law, we have set up for our country a human disaster. Not only do we have an uncontrolled illegal population in our country, but because they have no rights, because of the way they are treated, it is not unusual in the course of a given year to see 200 or 300 lose their lives along the southern border of our country, to see our emergency rooms in Texas, Arizona, New Mexico, and California flooded, to see the very culture and the very character and foundation of our country at risk because we do not control process, we do not control immigration, and we do not do so in an upright, legal, and responsible way.

We are here. We are going to debate this for a time, and there will be much more debate tomorrow. We will have some key votes to see whether we proceed to deal with the bill that I call AgJOBS and that 509 organizations across the country that have worked with us for the last 5 to 6 years call AgJOBS. It is a major reform in the H–2A law. It is a simplification. It is a clearer understanding. It is a reasonable process: The blue card, if you will, or the green card that is acceptable, normal, and understandable and provided in a temporary and earned way, as my bill does, is simply a point in transition, and it ought to be viewed as that.

You will hear the rhetoric that it will allow millions of people to become legal. The Bureau of Labor Statistics, the Department of Labor, does not agree with that at all. The Department of Labor says there are about 500,000 who they think will responsibly and legitimately come forward, and of that, there may be dependence of around 200,000 that are already in this country because that workforce has been here 5 or 6 years or more, for that matter. So those numbers are reasonable and realistic, and that is a moment in time, a transition as we create a law and allow American agriculture to work their way into a functioning realistic H–2A program that is timely, that is sensitive, that meets their workforce needs, and recognizes the value and the production of American agriculture.

If we do not correct this law and correct it now, Americans have a choice because we already decided years ago, based on the character of the work, that most Americans would not do it. They had better jobs and alternative jobs. So American agriculture began to rely on a foreign workforce.

I say this most directly, and I mean it most sincerely. Either foreign workers will harvest America's agricultural produce for America's consumers or foreign workers will harvest agriculture in another country to be shipped to American consumers. Ask an American today what they want. They want a safe food supply. They

want an abundant food supply. They hope it would be reasonably priced. But most assuredly, they want to know that it is safe and it is reliable. The only way to guarantee that is that it be harvested in this country, as it has been from the beginning history of our great country. It was not for 2 months last year and possibly not for 6 months this year.

We have a choice to make. We either create a legal workforce, a workforce that is identifiable, or we keep stumbling down this road that no American wants us to go down, and that is to not control our borders, to not identify the foreign nationals within our borders, and to not have a reasonable, legal, and timely process. That is what the debate is all about.

I am pleased to see the other side, having been in opposition for so long, finally say, Whoa, I think maybe we ought to try to get this right. We disagree on process, we disagree on their approach, but there is similarity in many instances on reform of the H–2A program. We will work over the course of this afternoon, evening, and tomorrow to break all those differences out so all of our Senators can see these differences and sense the importance of what we debate.

There are many others who have come to the floor to discuss this legislation this afternoon. I yield the floor so the debate can proceed.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in strong support of the proposal offered by Senators CRAIG and KENNEDY. I see Senator KENNEDY on the floor and Senator CRAIG on the floor. Their work is a testament to their persistence and the staying power of a handful of agricultural workers and employers who have been willing to set aside ideology and partisanship to hammer out a major overhaul of our law in this area.

Mr. KYL. Mr. President, will the Senator from Oregon yield for a procedural question?

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask the Senator from Oregon, we have the Senator from Massachusetts here, and the Senator from Alabama has been here, as has the Senator from Georgia been on the floor when there was no one else present. I wonder if we can get some general agreement of going back and forth between proponents or opponents or proponents of the two separate bills so the Chair has some idea of order and the debate participants do as well.

I offer this as a suggestion. I have not proposed a unanimous consent request, but perhaps some of the staff can work this out while the Senator from Oregon is speaking.

Mr. CRAIG. Will the Senator yield?

Mr. KYL. Yes.

Mr. CRAIG. Because our debate time, as I understand it, is actually tomorrow, and I think we will go off and on this issue today, and because the chairman of the Appropriations Committee is on the floor managing the supplemental and may have other amendments he wants to deal with, I would hope we can rely on the Chair for moving us back and forth in a balanced way from side to side before we look at a structured way to proceed. I have difficulty with that.

Mr. SESSIONS. Mr. President, I join the Senator from Arizona in his request. I think it is important if we are to spend most of the afternoon on the issue. If we could work out an orderly arrangement, that would be good.

Mr. KYL. Let me propose this unanimous consent, Mr. President, if I may. The Senator from Oregon is speaking right now. I ask unanimous consent that after the Senator from Oregon is finished, so there would have been two Members speaking on behalf of the legislation of the Senator from Idaho, that at that point, the debate next go back and forth between proponents of the Chambliss-Kyl amendment and then back to Kennedy-Craig, and anyone offering an amendment can obviously seek to ask unanimous consent to lay the pending business aside, but in the meantime the debate on these two provisions that will both be voted upon tomorrow proceed with speakers on either side rotating.

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see my friend from New Mexico who was here before I was here. Let him proceed.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I have two amendments to offer, and it will take a total of about 3 minutes. I do not expect votes on them today, of course, but I would like a chance to very briefly offer them, and then have them set aside, if I can do that after the Senator from Oregon concludes his remarks and before the rest of the debate continues.

Mr. KYL. That is accommodated in the unanimous consent request which I proposed.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, I welcome the opportunity to work this out. Can we perhaps get some time understanding as well? The Senator from Oregon mentioned he will probably need 15 minutes. Could we get some kind of understanding about the length of time? Generally we go from Republican to Democrat. Now we are looking at going from proponents to opponents. I do not mind that, but if we can limit this to 15 minutes each—I see we have a number of people—would that be agreeable? So we would go to Senator WYDEN, and because the Senator from Arizona has been so persuasive, we will hear two on his side, and maybe Senator BINGAMAN can be recognized after Senator WYDEN, and then two for the Senator's side, 15 minutes each, and then I be recognized.

Mr. CRAIG. Will the Senator yield?

Mr. KYL. I am happy to have my unanimous consent request amended along the lines of what the Senator from Massachusetts said.

Mr. CRAIG. It is clear anybody coming to the floor to offer amendments to the supplemental would have that right.

Mr. KYL. They could ask unanimous consent to intervene, and obviously it will be granted.

Mr. CRAIG. I thank the Senator.

Mr. KYL. Let me propound the unanimous consent request again, if I can. I ask unanimous consent that in 15-minute blocks of time Senator WYDEN proceed without any of this time coming off his, there then be two 15-minute blocks for the Senator from Alabama and the Senator from Georgia, followed by a 15-minute block for the Senator from Massachusetts, but in the meantime, Senator BINGAMAN be able to offer his amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Mr. President, a remarkable coalition of agricultural employers and farm workers has come together behind the Craig-Kennedy amendment. I commend them for all of their efforts. I simply wanted to spend a few minutes and talk about a bit of lineage behind this whole effort.

To some extent, this began on the afternoon of July 23, 1998, when I had the opportunity to join with my friend and colleague Senator Gordon Smith and we offered an amendment to overhaul this program. It was, in fact, entitled the AgJOBS amendment. It had the strong support of Senator CRAIG at that time. We received 68 votes for that legislation. I think it was an indication then, as we see today, how the system works for no one.

To a great extent, we see so many who feel we have lost control of our borders. The system surely does not work for the honest agricultural employer, and the vast majority certainly meet that test, and for many farm workers who work hard and contribute every single day. The system simply does not work for anyone. So what Senator SMITH and I tried to do that July day in 1998 was to begin to address the foundation of a sensible immigration policy based on the proposition that what we have been doing does not work for anybody. It does not work for our country.

We live under a contradiction every day with respect to immigration. We say we are against illegal immigration. One can hear that in every coffee shop in the United States. Then we look the other way so as to deal with agriculture or perhaps motels, hotels, restaurants, and a variety of other establishments. We have to resolve that contradiction. We ought to resolve it by making the kind of start the Craig-Kennedy legislation does by saying we

are going to put our focus on legal workers who are here in compliance with the law. That is what we sought to do that July day in 1998, requiring the growers to hire U.S. farmworkers first before they could seek alien workers. Then we took steps to try to ensure a measure of justice that would be required in our legislation for the migrant farmworkers by providing employment, housing, transportation, and other benefits, access to Head Start. I think Senator KENNEDY remembers this well from 1998. One would have thought Western civilization was going to end when that amendment offered by Oregon's two Senators got 68 votes in the Senate. I think it was an indication of how the animosity and fear that has surrounded this issue has enveloped the whole debate over the last few years, and that is why I commend Senator CRAIG and Senator KENNEDY for the thoughtful way they have worked since 1998 in order to build a coalition for this idea and to refine what the Senate voted for in 1998.

For example, in 1999, the National Council of Agricultural Employers, the employer group that helped start the process that led to the first AgJOBS bill of 1998, started reaching out directly to the Hispanic community representing agricultural workers, as well as churches and community groups. A dialog was begun then about how reform could benefit everyone.

In 2000, people from the agricultural employer community and those representing the farmworkers started talking more publicly about some of the issues that were particularly contentious. All of a sudden, there was an extended and thoughtful debate among people who were avowed enemies with respect to the topic of H–2A reform. Those people who had fought each other so bitterly began to come together and form a coalition that is behind the Craig-Kennedy amendment today.

In 1996, I formulated certain beliefs with respect to this issue that still hold true today. First, I believe willing and able American workers always should be given a chance to fulfill the needs of employers seeking agricultural labor. This was addressed in 1998 and it remains in the language before the Senate today. The amendment offered by Senator CRAIG and Senator KENNEDY requires employers seeking to use the H–2A program to first offer the job to any eligible U.S. worker who applies and who is equally or better qualified for the job, and then issue notice to local and State employment agencies, farmworkers organizations, and also through advertising.

We also said back then we wanted to have recommendations for a more straightforward, less cumbersome, less unwieldy process to address the shortage of primary foreign workers.

I commend Senator CRAIG and Senator KENNEDY because what we had been concerned about then—the need for simplicity and certainty—is now embodied in a number of aspects in this amendment. Employers are required to provide actual employment to the worker, a living wage and proof of that employment so the worker can move freely between jobs. The employee is required to show proof of legal temporary worker status in the United States to the employer before becoming employed. Each party shoulders the burden of ensuring their documentation is legal. That is the way we said it ought to be in 1998. That is the way it is in the Craig-Kennedy proposal.

Third, I have always maintained and still maintain that a farmer using the H–2A program should not be able to misuse it to displace U.S. agricultural workers or make U.S. workers worse off. The language before us today meets that test by ensuring that H–2A workers must be paid the same wage as the American worker. There is no incentive to seek a guest worker because there is no opportunity to indenture that worker by paying lower wages or not providing enough work.

Fourth, and perhaps most important, we said then and it is clear in this amendment as well that any program must not encourage the illegal immigration of workers. This bill addresses that by requiring agricultural workers to show they are legally in the United States in order to collect the benefits available under this program, such as housing, transportation, and the civil right to sue their employers for back wages or for wrongful dismissal.

So the goal of this legislation is to take out some of the uncertainty and the lack of predictability that has been in this program, and that uncertainty would be removed for both growers and workers.

Certainly my State has a great interest in agriculture. There are certainly billions of dollars of direct economic output in this sector and there is a need to enact H–2A programs for my State, where we feel we do a lot of things well, but what we do best is we grow things, and the need for enacting this program is as great today as it was in 1998. Both sides in this debate are going to continue to have their differences, and my guess is, as the Senator from Idaho knows, there are probably some residual and historical grudges. This Craig-Kennedy proposal shows that in a very contentious area that has been gridlocked in the Senate since a July date in 1998, we can still find a creative process that brings people together to solve mutual problems.

I hope my colleagues will support this historic effort. I look forward to working with Senators on both sides of the aisle on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business? Is there an amendment pending?

The PRESIDING OFFICER. The pending amendment is the Chambliss amendment.

AMENDMENT NO. 483

Mr. BINGAMAN. Mr. President, I ask unanimous consent to set that aside so I can call up an amendment numbered 483.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 483.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States)

On page 202, strike line 24, and insert ''$65,000,000, to remain available until September 30, 2006, of which $5,000,000 shall be made available for costs associated with increases in immigration-related filings in district courts near the southwestern border of the United States:''.

Mr. BINGAMAN. Mr. President, this amendment would provide an additional $5 million for the U.S. district courts along our southwest border with Mexico. Due to the increased immigration enforcement efforts along that border, southwest border courts have seen an extraordinary increase in immigration-related filings. This amendment would help border courts cover those expenses as we continue allocating resources to secure our Nation's borders.

Since 1995, immigration cases in the five southwest border districts—that is, the District of Arizona, District of New Mexico, Southern District of California, and the Southern and Western Districts of Texas—have grown approximately 828 percent. In 2003, overall immigration filings in all U.S. district courts surged 22 percent. In 2004, they jumped 11 percent. Of those cases, 69 percent of them came from these five districts I have listed.

In recent years, Congress has appropriated millions of dollars to hire additional Border Patrol officers. Obviously, the more Border Patrol officers you have, the more cases you have coming into the Federal district courts. We need to recognize this. We need to recognize the enormous impact this is having on our courts in this part of the country.

This amendment would add an additional $5 million to southwest border courts to the existing $60 million that is currently allocated under the supplemental to cover expenses related to recent Supreme Court decisions and the class action bill. The Administrative Office of the Courts should be free to allocate the funds as it deems necessary among the various courts. I hope my colleagues will support that amendment.

AMENDMENT NO. 417

At this point I ask that amendment be set aside, and I call up amendment

No. 417, the Grassley-Baucus amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mr. GRASSLEY, for himself, Mr. BAUCUS, and Mr. BINGAMAN, proposes an amendment numbered 417.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide emergency funding to the Office of the United States Trade Representative)

On page 200, between lines 13 and 14, insert the following:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

For an additional amount for necessary expenses of the Office of the United States Trade Representative, $2,000,000, to remain available until expended: *Provided,* That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. BINGAMAN. Mr. President, this is an amendment I am offering on behalf of Senator GRASSLEY and Senator BAUCUS and myself. It would provide an additional $2 million in funding to the Office of the U.S. Trade Representative for the balance of the current fiscal year. The reasons for the amendment are straightforward. As many of us have heard, because of the lack of funding, the Office of the Trade Representative has been forced to eliminate a substantial portion of its foreign travel. It has placed a freeze on all its hiring. It is essentially no longer able to do the job we are requiring it to do.

In my opinion, the U.S. Trade Representative's Office is chronically underfunded and understaffed as it is. It is the principal agency in charge of negotiating and enforcing our trade agreements, and it certainly deserves our support, particularly in this time of unprecedented trade imbalances.

We talk a lot about holding our partners to their obligations in trade agreements. We talk about protecting U.S. jobs. Unfortunately, we have not dedicated a proper amount of resources to this effort.

This fiscal year, the Trade Representative's Office has faced unexpected additional constraints as a result of the WTO Ministerial, travel related to enforcement, the need for more staff to pursue congressionally mandated enforcement actions, and substantial fluctuations in the exchange rate, almost all of which fluctuations, I would point out, have been adverse to the dollar.

This amendment will provide the Trade Representative's Office with the emergency funding needed to get through this fiscal year. It is an investment well worth making. It will add to U.S. competitiveness and economic security. I hope my colleagues will support the amendment.

I ask that amendment be set aside and the earlier amendment by Senator CHAMBLISS be brought up again.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 483

Mr. BINGAMAN. I yield the floor.

Mr. SESSIONS. Mr. President, I do not see Senator CHAMBLISS, but I would like to enter into a discussion. We will be voting tomorrow on the AgJOBS bill and the Kyl-Chambliss bill, and maybe other bills—the Mikulski bill and who knows what else—in the next few days as we are debating the emergency supplemental. These are amendments filed to the emergency supplemental, legislation to provide funding for our magnificent soldiers who are ably serving our country in harm's way to carry out a national policy that we sent them to carry out.

We have been told that since the House of Representatives, when they passed their emergency supplemental, added several provisions to enhance our border security, recommendations that were in substance made by the 9/11 Commission to provide greater protection to our country against attacks by terrorists, such action by the House has opened the door to any immigration language and bill that we want to offer, that any Member may favor, to be added right onto a supplemental for our soldiers. There is a tremendous difference between those provisions, in my view. The Sensenbrenner language in the House bill is narrow, based on recommendations of the 9/11 Commission, related to our national defense and should have broad-based support. I hope it does. The President supports it. The AgJOBS bill, however, is controversial. It deals with a very large and complex subject that affects our economy and our legal system in a significant way. We absolutely should not be attempting to slip such legislation of such great importance, and on which our country is so divided, onto the emergency defense supplemental.

Let me speak frankly on the issue. There is no legislative or national consensus about how to fix our immigration system. I serve on the subcommittee on immigration of the Senate Judiciary Committee. We have been having a series of important hearings on this subject. Our chairman, Senator JOHN CORNYN, has been working very hard and providing sound leadership, but our subcommittee and the full Judiciary Committee and this Senate are nowhere near ready to develop a comprehensive immigration proposal. This is made clear when we see that a number of outstanding Senators who worked on immigration over the years—such as Senator KYL, Senator DIANNE FEINSTEIN, Senator SAXBY CHAMBLISS—are working on legislation, also.

Surely no one can say this AgJOBS bill that really kicked off this debate is not a colossally important piece of legislation. Every one of us in this body knows that immigration is a matter of great importance to our country and one that we must handle carefully and properly. After the complete failure of the 1986 amnesty effort, surely we know we must do better this time.

Let me state this clearly. I believe we can improve our laws regarding how people enter our country, how they work here, and how they become citizens in this country, and we should do so. We absolutely can do that. Many fine applicants are not being accepted, applicants who could enrich our Nation.

Further, as a prosecutor of 15 years, a Federal prosecutor for almost that long, without hesitation I want to say this: If we improve our fundamental immigration laws and policies, and if at the same time we work to create an effective enforcement system, then we can absolutely eliminate this unconscionable lawlessness that is now occurring in our country and improve immigration policies across the board, serving our national interests and being certainly more sensitive to the legitimate interests of those who would like to come here, live here, work here, or even become citizens.

Any such legislation we pass should, in addition, protect our national security. Of course, we need to keep an eye on our national security—Have we forgotten that? Surely not—and allow increased approval for technically advanced, educated and skilled persons and students, as well as farm labor.

More importantly, under no circumstances should we pass bad legislation that will further erode the rule of law, that will make the current situation worse and will violate important principles that are essential for an effective national immigration policy.

Some will say, Well, Jeff, it is time to do something, even if it is not perfect. My direct answer to that is it is past time to pass laws that improve the ability of our country to protect our security from those who would do us harm. That is our duty. But we simply are not ready to legislate comprehensively on the complex issue of immigration.

We have not come close to completing our hearings in the appropriate subcommittees and the Judiciary Committee.

More importantly still, time or not, we must not pass bad legislation. The Nation tried amnesty for farmworkers in 1986 and few would deny it was a failure. That legislation, the Immigration Reform and Control Act, established within it section 304. The Commission's duty was, after the act had been in effect for some time, to study its impact on the American farming industry. The Commission issued its report and found, in every area, farm labor problems had not been improved and as many as 70 percent of the applications for amnesty were fraudulent.

I wish that weren't so. I wish we could pass laws that people conjure up

which would solve the complex problems and it will all just work like we think it might. I am sure those people, in 1986, heard the exact same argument we are hearing today why this kind of legislation is so critical. They tried it. But they put in a commission to study it.

The Commission was clear. The Commission said:

In retrospect, the concept of worker specific and industry specific legislation was fundamentally flawed.

That is exactly what the AgJOBS bill is, industry and worker specific. Indeed, it is the same industry and the same workers—agriculture—that the 1986 sponsors said would be fixed by their bill. It was an amnesty to end all amnesty. That is what they said. Now we are at it again in the same way.

Later, in 1997, former Congresswoman Barbara Jordan, an African-American leader of national renown, was authorized, by a 1990 immigration law, to chair a commission. The Commission reported to President Clinton on the status of existing immigration law. The Jordan Commission found that the guest worker programs do not ''reduce unauthorized migration. To the contrary, research consistently shows that they tend to encourage and exacerbate illegal movements by setting up labor recruitment and family networks that persist long after the guest programs end.''

The Commission further concluded that what was needed was an immigration system that had integrity where laws were enforced, including employer sanctions. I will quote from their report. They stated:

Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop a better employment eligibility and identification system, including a fraud-proof work authorization document for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

Our enforcement efforts remind me of the man who builds an 8-foot ladder to try to reach across a 10-foot chasm. While he may have been close, close doesn't count in such an event. He is heading for disaster.

We are not as far away as most people think from an effective enforcement mechanism. It is absolutely not hopeless for this country to gain control of its borders, especially with the new technology we have today—biometrics and that kind of thing. We are spending billions of dollars, but we are spending that money very unwisely. The solution to our immigration situation is to review the procedures by which people come to our country, and the procedures by which people become citizens, and to then steadfastly plan a method that will work to enforce those rules. Without that enforcement, no matter what changes we make in our current law, we will be right back here discussing Amnesty III for agricultural farmworkers before this decade is out. This is plainly obvious to anyone who would look at our current system.

By all means, this Nation should not, in response to this current failure, pass a bill like what has been offered which basically says our current system has failed and we intend to give up and do nothing to fix it. It says we have failed, our system is not working so we are just going to quit trying and let everybody stay in. The American people are not going to be happy if they learn that is what we are about here. They surely will learn about it sooner or later.

Polls show huge majorities, upwards of 80 percent, want a lawful system of immigration. Why are we resistant to that?

It has been amazing to me, anytime a piece of legislation is offered that might actually work to tighten up the loopholes we have, it is steadfastly opposed and seems never to become law.

I feel very strongly about this. If it is not amnesty, I don't know what amnesty is.

This bill will bestow legal status and a guaranteed pass to citizenship for over a million individuals, perhaps 3 million, perhaps even more.

The Commissioners who studied the last bill all agreed the number that actually obtained amnesty was far greater than anticipated.

In addition, it makes no provision whatsoever for commensurate improvement of law enforcement.

It hurts me, as somebody who spent most of my professional life trying to enforce laws passed by Congress, to see us undermine the ability of our system to actually work.

The passage of this legislation will be the equivalent of placing a neon sign on our border that says: Yes, we have laws but we welcome you to try to sneak into our country, and if you are successful, we will reward you, as we have done twice before, with permanent residency and a step onto citizenship.

Under this legislation, if a person has worked within 18 months, 575 hours or 100 workdays—and a workday is defined in the act as working 1 hour—then for 100 hours within 18 months, they are eligible to apply for a temporary resident status even though they are here plainly and utterly illegally. They do not have to go home and make another application; they simply apply for this. In addition, they become a temporary resident.

It then provides they can ask for permanent resident status and that the Secretary of Homeland Security shall grant them this permanent resident status if they work 2,000 hours in a 6-year period. That is about 1 year of work period. Then they apply for a permanent resident status. In 5 years, if they have not been convicted of a felony or have not been convicted of three misdemeanors, the Secretary shall confer citizenship on them if they apply.

If they become a permanent resident citizen, they can call for their family, who may be out of the country. A family who never had any thought to come to this country is allowed to come in free. All of them are put on a guaranteed track for citizenship.

Indeed, if they have already left the country not intending to return, but did work 575 hours in 18 months before that period, or if they are willing to say they did—true or not—they get to come back in and bring their families with them. Maybe a person here never intended to bring their family, but faced with this offer, they bring them in.

I am not sure we know how broad this bill is, how dangerous this language is.

I have a host of specific complaints about the provisions within the statute. I will talk about them later today or tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I concur in about everything my friend from Alabama has said. Initially, he made a comment relative to debating immigration law on a Defense supplemental bill where we are trying to provide funds for our men and women who are serving so bravely overseas today. I concur in that.

I had hoped we would have an expansive debate on this very sensitive and complicated issue. I know my friend, the Senator from Idaho, feels exactly as I do on this, but unfortunately we have been dictated to by the rules of the Senate relative to this issue. That is why we have both of these amendments up for discussion today.

The Senator from Alabama is exactly right. He is also right on one other thing. There are two amendments we are debating, AgJOBS, filed by the Senator from Idaho and Senator KENNEDY from Massachusetts, and the Chambliss-Kyl amendment. Both of these amendments recognize, as the Senator from Alabama said, we have a problem. We have a problem in the agriculture community relative to providing our farmers all across America a stable, secure, and lawful pool from which to choose for their labor needs.

We can argue over how many hundreds of thousands or how many millions of individuals are illegally in this country today working on our farms. The Senator from Idaho said the Department of Labor says there will only be a few hundred thousand who will try to take advantage of this. I don't think that is right. I don't have a lot of faith in the numbers coming out of some of the studies that have been done.

For example, there was a study by GAO a couple of years ago which said there were some 600,000 farmworkers in the United States today who are here illegally. In my State, there are hundreds of thousands of illegal aliens who are working in agriculture as well as working in other industries today.

Those who are working in other industries probably started out working in agriculture. That is 1 out of 50 States. Our number is dwarfed by Texas, New Mexico, Arizona, California, by those States that are on the border with our friends to the South in Mexico, where thousands of illegal aliens are crossing the border every day.

However, we do recognize there is a certain number—and it is not material as to what that number is—but the fact is we agree there are hundreds of thousands or millions of folks here illegally.

The basic difference between the Senator CRAIG and Senator KENNEDY AgJOBS amendment and the Chambliss-Kyl amendment is this: Which direction do we want to go with regard to identifying those folks here illegally? Do we want to reward those folks here illegally, as the AgJOBS amendment proposes to do, or do we want to identify those people and those who are here illegally who are making a valuable contribution to the economy of the United States and who, most significantly, are not displacing American workers—and I emphasize that—and who have not broken the law in this country? Do we want to make an accommodation for those folks so they can continue to contribute to the economy of the United States by virtue of working in the agriculture community?

We both agree we ought to regulate these folks. The difference is the Craig-Kennedy AgJOBS amendment gives those individuals who are in this country illegally a direct path to citizenship. The Chambliss-Kyl amendment recognizes those folks are here illegally and it says to them, we are going to grant you a temporary status to remain here if you are not displacing American workers, if you are law abiding, and if your employer makes an attestation that he needs you—whether it is for a short period of time, as the H–2A reform portion of our amendment calls for, or whether it is the longer term, or the blue card application. Unlike in the AgJOBS amendment where the illegal alien can make the application, in our amendment the application has to be made by the employer who does have to say he needs that individual in his employ.

Another significant difference between these two amendments is this: Under the AgJOBS bill it is pretty easy in the scheme of things to become legal—not maybe an American citizen off the bat, but to position yourself to be placed in line ahead of other folks who are going through the normal course as set forth in our Constitution today to become a citizen, for these folks to make that type of application.

Here is why. The AgJOBS bill says if you are an illegal alien, you shall be given status as one lawfully admitted for temporary residence if the illegal alien has worked 575 hours, or 100 workdays, whichever is less, during an 18-month period ending on December 31, 2004. Mr. President, 575 hours is 14.3 weeks of labor if they work 40 hours, or 71.8 days, or approximately 3½ months. An alien can get immigration status after working only 3½ months of full-time employment.

Under Senate bill 359, section 2, paragraph 7, a workday means a day in which an individual has worked as little as 1 hour. So 100 workdays can amount to, literally, 1 hour per day for 100 straight days which would amount to 2½ weeks. That may not be the practicality of this, but in actuality, that is what the bill says.

Coming from a very heavy agriculture area, as I do, these people for the most part who are here working in agriculture are here for the reason they want to improve the quality of life for themselves as well as their families. They are basically law-abiding people who are simply hard workers and are here because they have that opportunity to better themselves in this country versus their native country.

But still, are we going to recognize those folks for what they are—and that is an illegal alien—or are we going to grant them this legal status after being here for 3½ months?

I do not think the American people ever intended for the Constitution of the United States, and for us operating under that Constitution, to grant legal status to anybody who breaks the law, to come into this country, and who may break the law not once, not twice, but three times during that 3½-month period under the AgJOBS bill, as they can do, and get legal status. I cannot conceive that America wants us to enact that type of legislation.

A basic difference between the AgJOBS bill and the Chambliss-Kyl amendment relative to those issues is we do not put anybody on a path to legal status. We grant them temporary status under the H–2A bill. If the farmer comes in and says, ''I need 100 workers for 90 days to work on my farm, and here is what they are going to do,'' we will have that application processed in a streamlined fashion, compared to the way the application would have to be processed today, and those workers can come in, and whether they are cutting lettuce or cutting cabbage or picking cucumbers, they will be able to come in for that 100 days, and at the end of that 100 days, they will return to their native land.

If there are other operations, other farming operations, whether it is a landscaper or somebody in the nursery business, that need individuals 12 months out of the year, they will have the opportunity under our bill to apply for the blue card—again, a temporary status. It must be applied for by the employer, not the illegal alien, as you can do under the AgJOBS bill. The employer must make the application for those individuals. No preferential status toward citizenship is given.

They can have that blue card for 3 years, and reapply on two separate occasions following that first application. Technically, they could stay here for 9 years, if they continue to be law abiding and if their employer makes the proper attestation that says he needs them, that they have been important to the economy of this country, and they are not displacing American workers. It is significantly different from actually the legal status given after 3½ months under the AgJOBS bill.

Where does the AgJOBS bill move this individual relative to the pathway to citizenship? What current immigration law says is for somebody who is here legally, if they work for 2,060 hours under the AgJOBS bill, at the end of that 1 year, which is approximately 2,060 hours of work, they can apply for a green card, and they are going to be given preferential treatment in getting that green card.

What current immigration law says is anybody who has maintained a green card for 5 years can apply for citizenship. That is the pathway to citizenship that is being granted to folks who are in this country illegally today, who can have broken the law in this country today, not once, not twice, but three times, and still be looked at as somebody who is given preferential treatment over those individuals who are outside of this country who want to become citizens of the United States, who want to come here legally and do it the right way.

It simply is not fair. It is not equitable. I cannot believe the American people want to see us enact a law that will reward those individuals who have come into this country illegally in that way.

Lastly, let me mention one other point that is critically different between the AgJOBS bill and the Chambliss-Kyl amendment; and that is the issue relative to control of the border. The AgJOBS bill is basically silent when it comes to control of the border. But what it does do is it says if you have previously worked in the United States, and you are now back in your home country, you can come and make application for the adjusted status by saying you did work 575 hours within a certain period of time and, therefore, you should be given legal status in this country. And that will happen.

The difference in our provisions relative to control of the border is we mandate that the Department of Homeland Security come back to Congress within 6 months after the effective date of this legislation and report to us on a plan they are going to put in place to control our borders. Because, let me tell you, I don't care what bill we pass, which of these amendments we pass, or any future bill we may pass relative to the immigration laws of this country, if we do not control our borders, we have not made one positive step in the right direction.

We simply must figure out a way to control our borders. We think rather than us legislating a way in which that

be done, those folks who deal with the issue every day, those folks at the Department of Homeland Security, are better suited to determine how we can come up with a plan to control the border. We mandate that they come back to us with that plan to control the border within 6 months after the effective date of this legislation.

Mr. President, I would simply say in closing, we agree, No. 1, there is a problem. I commend Senator CRAIG and Senator KENNEDY for continuing to move this ball down the field, as they have done. While I do not necessarily agree that the Iraq supplemental is the right place to do it, we are here today. But it simply is a matter of in which direction we are going to go.

Is it going to be looking at folks who are in this country illegally and rewarding them, rewarding them with a path to citizenship? Or is it going to be in the direction of saying, OK, we know you are here illegally, but if you are here and are a law-abiding individual in this country, and you are making a contribution to this society, and you are not displacing an American worker, then we are going to give you a temporary status? We are not going to say you are here illegally. We are going to say you are here legally, temporarily.

That is a critical difference. We are going to make sure our farmers and our ranchers have the workforce necessary to carry out the job they must do of feeding Americans as well as other folks around the world, but we are simply not going to use that tool to put people who are here illegally on a pathway to one of the most precious rights every American citizen has, and that is citizenship of this country.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 15 minutes.

Mr. KENNEDY. If the Chair would be good enough to notify me when I have 1 minute remaining, please.

The PRESIDING OFFICER. The Chair will be happy to.

Mr. KENNEDY. Mr. President, it is a privilege to join with Senator CRAIG in offering the Agricultural Jobs, Opportunity, Benefits, and Security amendment.

America has a proud tradition as a nation of immigrants and a nation of laws, but our current immigration laws have failed us. Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. The agricultural industry would grind to a halt without immigrant farmworkers. Yet the overwhelming majority of these workers are undocumented and are, therefore, easily exploited by unscrupulous employers.

Our AgJOBS bill corrects these festering problems. It gives farmworkers and their families the dignity and justice they deserve, and it gives agricultural employers a legal workforce.

Impressive work has been done by many grassroots organizations to make AgJOBS a reality. They have demonstrated true statesmanship by putting aside strongly held past differences to work together for the common good. We have our own responsibility to join in a similar way to approve this needed reform that is years overdue.

I commend Senator CRAIG and Congressmen BERMAN and CANNON for their leadership. I urge my colleagues to wholeheartedly endorse the AgJOBS bill.

Our bill reflects a far-reaching and welcome agreement between the United Farm Workers and the agricultural industry to meet this urgent need, and Congress should make the most of this unique opportunity for progress.

Our bill has strong support from business and labor, civic and faith-based organizations, liberals and conservatives, trade associations and immigrant rights groups. More than 500 organizations across the country support it.

AgJOBS is a bipartisan compromise reached after years of negotiations. Both farmworkers and growers have made concessions to reach this agreement, but each side has obtained important benefits.

In contrast, opponents offer a one-sided proposal that has failed to win the broad support AgJOBS has received. I urge my colleagues to oppose it. It vastly favors employers at the expense of farmworkers. It makes harsh revisions to the current agricultural guest worker program and creates a new blue card program for undocumented workers without a path to permanent residence, and without any meaningful governmental oversight to prevent labor abuses.

Agricultural employers would have the freedom to avoid hiring U.S. workers, displace U.S. workers already on the job, and force both U.S. workers and guest workers to accept low wages. They could do all this by claiming they can't find any U.S. workers. Even when the few labor protections are violated, workers would have no meaningful ability to enforce their legal rights.

This program would return us to the dark and shameful era of the Bracero Program where abuses were rampant and widely tolerated. That is unacceptable. We must learn from our mistakes and not repeat them.

The Chambliss amendment also ignores the needs of many growers and farmworkers. It offers no solution to the basic problem faced by agricultural employers—the problem that an overwhelming majority of the workers are undocumented. By offering no path to permanent residence for these undocumented workers, none of the guest workers, no matter how long they have worked, will ever be able to earn their permanent status.

Perhaps more troubling is the amendment's repeal of the long-standing adverse effect wage rate under the current program. This wage rate was created during the Bracero Program as a necessary program against the depression in wages caused by guest worker programs. The Chambliss proposal would replace it with a prevailing wage standard, substantially lower than the adverse effect wage rate. It would be based on the employer's own survey of prevailing wages rather than the Labor Department's survey. Farmworkers, who are already the lowest paid workers in the United States, would see their wages drop even lower. In contrast, the AgJOBS bill preserves the adverse effect wage rate while recommendations are made to Congress to resolve these long-contested pay issues.

The Chambliss amendment also eliminates the key provision that gives U.S. workers a job preference by employers who request guest workers. It would end the longstanding 50 percent rule which requires employers to hire qualified U.S. workers who applied during the first half of the season. Studies have shown that this rule is a valid protection.

In addition, the Chambliss amendment would end what they call positive recruitment—the obligation of employers to look for U.S. workers outside of the government job service which currently provides farmworkers with agricultural jobs. This proposal creates a new guest worker program for the undocumented that would offer them visas that would be valid only for 3 years and renewable for up to 6 additional years. They would have no opportunity to earn a green card no matter how many years they worked in the United States. In fact, they would actually lose their status if they merely filed an application to become a permanent resident.

Senator CHAMBLISS believes that undocumented farmworkers will come out of the shadows and sign up for such a temporary worker program, but they are highly unlikely to do so. The vast majority will be deported after their temporary status expires. Registering as the first step towards deportation is unfair, and it just won't work.

In contrast, the AgJOBS bill offers farmworkers a genuine earned adjustment program that will put these workers and their families on a path to permanent residence. Hard-working, law-abiding farmworkers will be able to come out of the shadows. The Chambliss amendment is far less satisfactory than the AgJOBS proposal, and I urge my colleagues to oppose it.

Opponents of the AgJOBS bill claim that we are rushing this bill through Congress without full and careful consideration. This claim is without merit. Since 1998, the Immigration Subcommittee has held three hearings that have fully examined our agricultural workforce problems and the need to reform our immigration laws. Last year, we considered the issue once more. Legislation to address this problem has been introduced by both Republicans and Democrats in every Congress since 1996.

In September 2000, a breakthrough occurred, and both sides agreed to support compromise legislation that won broad bipartisan congressional support. Unfortunately, attempts to enact it were blocked in the lameduck session that year. The election of President Bush in 2000 changed the dynamics of the agreement, and the compromise fell apart.

A compromise was finally reached in September 2003 which led Senator CRAIG and me to introduce the AgJOBS bill. Last Congress, we had, as Senator CRAIG has pointed out, 63 Senate cosponsors, nearly evenly divided between Democrats and Republicans. Despite such strong bipartisan support, the leadership last year blocked our attempt to obtain a vote on this legislation. This is the second Congress in which Senator CRAIG and I have introduced the AgJOBS bill. Congress has had extensive discussions of this legislation in the past, and it is long past time for us to act.

Opponents of our amendment have offered no workable solutions. We cannot be complacent any longer. It is time for a new approach.

The American people want commonsense solutions to real problems such as immigration. They want neither open borders nor closed borders. They want smart borders. They are neither anti-immigrant nor anti-enforcement. Instead, they are anti-disorder and anti-hypocrisy. They want the Federal Government to get its act together, to set rules that are realistic and fair, and to follow through and enforce these realistic rules effectively and efficiently.

AgJOBS meets these goals. It addresses our national security needs, reflects current economic realities, and respects America's immigrant heritage.

The status quo is untenable. In the last 10 years, the U.S. Government has spent more than $20 billion to enforce our immigration laws. We have tripled the number of border security agents, improved surveillance technology, installed other controls to strengthen border enforcement, especially at the southwest border. None of these efforts have been adequate. Illegal immigration continues.

The proof is in the numbers. Between 1990 and 2000, the number of undocumented immigrants doubled from 3.5 million to 7 million. Today that number is nearly 11 million, with an average annual growth of almost 500,000. Those already here are not leaving, and new immigrants keep coming in. Massive deportations are unrealistic as a policy, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Obviously, we must control our borders and enforce our laws, but we first need realistic immigration laws that we can actually enforce. The AgJOBS bill is a significant step. By bringing these illegal workers out of the shadows, we will enable law enforcement to focus its efforts on terrorists and violent criminals. We will reduce the chaotic, illegal, all too deadly traffic of immigrants at our borders by providing safe opportunities for farmworkers and their families to enter and leave the country.

The AgJOBS bill enhances our national security and makes our communities safer. It brings the undocumented farmworkers and their families out of the shadows and enables them to pass through security checkpoints. It shrinks the pool of law enforcement targets, enables our offices to train their sights more effectively on the terrorists and the criminals. The undocumented farmworkers eligible for this program will undergo rigorous security checks as they apply for legal status. Future temporary workers will be carefully screened to meet security concerns.

The AgJOBS amendment provides a fair and reasonable way for undocumented agricultural workers to earn legal status. It reforms the current visa program so that agricultural employers unable to hire American workers can hire needed foreign workers. Both of these components are critical. They serve as the cornerstone for comprehensive immigration reform of the agricultural sector.

Undocumented farmworkers are clearly vulnerable to abuse by unscrupulous labor contractors and growers. They are less likely than U.S. workers to complain about low wages, poor working conditions, or other labor law violations. Their illegal status deprives them of bargaining power and depresses the wages of all farmworkers. These workers are already among the lowest paid of all workers in America. According to the most recent findings of the national agricultural workers survey issued last month, their average individual income is between $10,000 and $12,000 a year. The average annual family income is $15,000 to $17,000.

Thirty percent of their households live below the poverty line. Only half of them own a car and even fewer own a home or even a trailer. By legalizing these farmworkers, the threat of deportation is removed. They will be on equal footing with U.S. workers and the end result will be higher wages, better working conditions, and upward job mobility for all workers.

Opponents of reform continually mislabel any initiative they oppose as ''amnesty'' in a desperate attempt to stop any significant reform. Instead of proposing ways to fix our current broken system, they are calling for more of the same—increased enforcement of broken laws. However, enforcing a dysfunctional system only leads to greater dysfunction.

The AgJOBS bill is not an amnesty bill. The program requires farmworkers to earn legal status. They must demonstrate not only contributions but also a substantial future work commitment before they earn the right to remain in our country.

First, they will receive temporary resident status, based on their past work experience. They must have worked for at least 100 work days in agriculture by December 31, 2004. To earn permanent residence, they must fulfill a prospective work requirement. They must work at least 360 days in agriculture during a six-year period. At least 240 of those 360 work days must occur during the first 3 years. Temporary residents who fail to fulfill the prospective agricultural work requirement will be dropped from the program and required to leave the country.

It's not amnesty if you have to earn it. AgJOBS offers farm workers a fair deal: if they are willing to work hard for us, then we're willing to do something fair for them. It's the only realistic solution.

Contrary to statements made by its critics, AgJOBS does not provide a direct path to citizenship. Farm workers would first earn temporary residence if they provide evidence of past work in agriculture. The next step would be permanent residence, but only after they have completed thousands of hours of backbreaking work in agriculture—a process that could take up to 6 years. Once they earn permanent residence, these farm workers would have to wait another 5 years to be able to apply for citizenship. At that point, they would have to pass an English and civics exam, and go through extensive backgrounds checks. This process is long and arduous, as it should be. There is nothing direct about it.

To be eligible for legal status, applicants must be persons of good moral character and present no criminal or national security problems. Whether they are applying here or at U.S. consulates abroad, all applicants will be required to undergo rigorous security clearances. Like all applicants for adjustment of status, their names and birth dates must be checked against criminal and terrorist databases operated by the Department of Homeland Security, the FBI, the State Department, and the CIA. Applicants' fingerprints would be sent to the FBI for a criminal background check, which includes comparing the applicants' fingerprints with all arrest records in the FBI's database.

Contrary to arguments made by detractors of AgJOBS, terrorists will not be able to exploit this program to obtain legal status. Anyone with any ties to terrorist activity is ineligible for legal status under our current immigration laws, and would be ineligible under the AgJOBS bill. Our proposal has no loopholes for terrorists.

Opponents of AgJOBS claim that this bill is soft on criminals. Wrong again. AgJOBS has the toughest provisions against those who commit crimes—tougher than current immigration law. Convictions for most crimes will make them ineligible to obtain a green card. Generally, these convictions include violent crimes, drug crimes, theft, and domestic violence. AgJOBS goes even further. Applicants can be denied legal status if they commit a felony or three

misdemeanors. It doesn't matter whether the misdemeanors involve minor offenses—three misdemeanors and you are out, no matter how minor the misdemeanors. In addition, anyone convicted of a single misdemeanor who served a sentence of 6 months or more would also be ineligible. These rules are additional requirements that do not apply to other immigrants and they cannot be waived by DHS.

There are those who would prefer to disqualify a farm worker who commits even a single minor misdemeanor, with no jail time. But that goes too far. In some States, it's a misdemeanor to put trash from your home into a roadside trash can. It's a misdemeanor to park a house trailer in a roadside park, or have an unleashed dog in your car on a State highway, or go fishing without a license.

If we're serious about this proposal, minor offenses like these shouldn't have such harsh consequences. We'd be severely punishing hard-working men and women for minor mistakes, and tearing these immigrant families apart.

It's hard to imagine any public purpose that would be served by such a severe punishment. But it's easy to imagine all the heart-wrenching stories and nightmares created by this proposal for people caught by its provisions. Many of these farm workers have lived in America with their families for many years. They've established strong ties to their communities, paid their taxes, and contributed to our economy. They deserve better than a punishment out of all proportion to their offense.

Opponents of AgJOBS also claim that it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the earned adjustment program, farm workers must establish that they worked in agriculture in the past. Farm workers must have entered the United States prior to October, 2004. Otherwise, they are not eligible. The magnet argument is false. New entrants who have not worked in agriculture won't qualify for this program.

Hard-working migrant farm workers are essential to the success of American agriculture. We need an honest agriculture policy that recognizes the contributions of these men and women, and respects and rewards their work.

Our bill will modify the current temporary foreign agricultural worker program, while preserving and enhancing key labor protections. It strikes a fair balance. Anything else would undermine the jobs, wages, and working conditions of U.S. workers.

For many employers, the current program is a bureaucratic nightmare. Few of them use the program, because it is so complicated, lengthy, uncertain, and expensive. Only 40,000–50,000 guest workers are admitted each year—barely 2 to 3 percent of the estimated total agricultural work force.

To deal with these problems, the bill streamlines the H–2A program's application process by making it a ''labor attestation'' program similar to the H–1B program, rather than the current ''labor certification'' program. This change will reduce paperwork for employers and accelerate processing.

Employers seeking temporary workers will file an application with the Secretary of Labor containing assurances that they will comply with the program's obligations. The application will be accompanied by a job offer that the local job service office will post on an electronic job registry at least 28 days before the job begins. In addition, the employer must post the position at the work site, notify the collective bargaining representative if one exists, make reasonable efforts to contact past employees, and advertise the position in newspapers read by farm workers.

Longstanding worker protections will continue in force. For example, the ''three-fourths minimum work guarantee'' will remain in effect. Employers will be required to guarantee work for at least three quarters of the employment period or pay compensation for any shortfall. The ''50% rule'' will also continue. Qualified U.S. workers would be hired as long as they apply during the first half of the season. No position could be filled by an H–2A worker that was vacant because of a strike or labor dispute. Employers will continue to reimburse workers for transportation costs and provide workers' compensation insurance coverage. Employers will be prohibited from discriminating in favor of temporary workers.

The bill will modify some current requirements in important ways. Employers must provide housing at no cost, or a monetary housing allowance in which the State governor certifies that sufficient farm worker housing is available. Employers will also be required to pay at least the highest of the State or Federal minimum wage, the local ''prevailing wage'' for the particular job, or an ''adverse effect'' wage rate.

For many years, the adverse effect wage rate has been vigorously debated, with most farm worker advocates arguing that the rate is too low, and most growers complaining that it is too high. The bill will freeze adverse effect wage rates for three years at the 2003 level, while studies and recommendations are made to Congress by the GAO and a special commission of experts. If Congress fails to enact an adverse effect wage rate formula within 3 years, this wage rate will be adjusted in 2006, and at the beginning of each year thereafter, based on the change in the consumer price index.

The Secretary of Labor will establish an administrative complaint process to investigate and resolve complaints alleging violations under the H–2A program. Violators will be required to pay back wages, and can also be given civil money penalties and be barred from the program.

In addition, the bill provides a significant new protection for H–2A workers—a private right of action in Federal court. Currently, these workers lack this right, and can seek redress in State courts only under State contract law. Such workers are also excluded from the Migrant and Seasonal Agricultural Worker Protection Act, which provides U.S. workers with protections and remedies in Federal court. Although the exclusion continues, our bill will permit workers to file a Federal lawsuit to enforce their wages, housing benefits, transportation cost reimbursements, minimum-work guarantee, motor vehicle safety protections, and other terms under their job offer.

Our bill will also unify families. When temporary residence is granted, a farm worker's spouse and minor children will be able to remain legally in the United States, but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also gain such status.

Mr. President, I have a letter from the AFL–CIO that calls AgJOBS a recent legislative compromise between farmworker advocates and agricultural employers. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, April 18, 2005.

DEAR SENATOR: On behalf of the AFL–CIO I urge you to support cloture on and passage of an amendment to the FY 2005 Supplemental Appropriations bill offered by Senators Craig and Kennedy—the Agricultural Job Opportunity, Benefits and Security Act (AgJOBS). I also strongly urge you to oppose an amendment offered by Senators Chambliss and Kyl as a substitute to AgJOBS. This amendment has inadequate worker protections and must be defeated.

The AgJOBS bill is a reasoned legislative compromise between farm worker advocates and agricultural employers. AgJOBS enjoys strong bipartisan support and would provide an avenue for 500,000 undocumented farm workers to qualify for an earned adjustment program that has a path to permanent residency. AgJOBS would both streamline the current H–2A agricultural guest-worker program and provide additional legal protections for migrant workers who hold H–2A visas. AgJOBS addresses both the growing concern over the high number of undocumented farm workers and the need for adjustments to the H–2A program so that we do not confront a similar crisis in the future. The Kennedy-Craig AgJOBS amendment is necessary immigration reform that will protect the rights and economic well-being of both immigrant and U.S. workers.

The Chambliss-Kyl proposal would radically change the H–2A program—stripping it of all labor protections and government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require

them to leave the country if their jobs ended and no other employer petitioned for a visa for them within 60 days. It would allow employers to bring in a large numbers of vulnerable guest workers to fill year-round jobs for up to nine years without the ability to be united with their family members.

Also troubling is that the Chambliss-Kyl amendment would broaden the definition of seasonal agricultural workers to include ''related industries,'' which could include landscaping and food processing. Currently, the use of guest workers in these industries is capped and subject to additional labor market tests. The H–2A program is not subject to a cap. This further jeopardizes essential labor protections for a broader segment of the U.S. workforce. The Chambliss-Kyl proposal is bad for both U.S. and immigrant workers, bad for employers who want to employ a stable workforce, and it is a dangerous precedent in immigration and labor policy.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

Mr. KENNEDY. Mr. President, this mentions:

The Chambliss-Kyl proposal would radically change the H–2A program, stripping it of all labor protections and Government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require them to leave the country if their jobs ended and no other employer petitioned for a visa for them within 60 days.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 464

(Purpose: To express the sense of the Senate on future requests for funding for military operations in Afghanistan and Iraq)

Mr. BYRD. Mr. President, from the moment our military first attacked Osama bin Laden's hideouts in Afghanistan, through the time that our first soldiers set foot inside Iraq, continuing right up until the present day, the war in Afghanistan and the war in Iraq have been entirely funded by what the American people might call a series of stopgap spending measures. These measures, which are called emergency supplemental appropriation bills in the parlance of our Nation's capitol, take the form of last-minute requests by the White House for Congress to approve tens of billions of dollars on an accelerated timetable.

From September 11, 2001, until today, Congress has approved $201 billion in these appropriations bills, the great majority of which the President has applied to the wars in Afghanistan and Iraq. If this bill on the Senate floor is approved, it will add another $79.3 billion to that staggering total.

With the cost of the two wars approaching $280 billion—that is a lot of money; that is your money, Mr. and Mrs. American Citizen—the American people are beginning to ask how much more will these two wars cost our country? The Congressional Budget Office estimated, in February 2005, the cost of the wars in Iraq and Afghanistan will cost the American people $458 billion over the next 10 years. The $74.4 billion in military spending contained in this supplemental appropriations bill is but a small downpayment on that staggering sum.

How accurate is this estimate of nearly half a trillion dollars more in war costs? How accurate is it? Amazingly, the administration has flatout refused to provide any estimates for the cost of the war in its annual budget request. That means, then, under the administration's budget policies, our troops are forced to continue to rely on the stopgap spending measures that are known as emergency supplemental appropriations bills.

I know the terms ''supplemental request'' or ''emergency appropriations'' mean almost nothing to the average American. But each time the White House sends a supplemental request to Congress for more funds that have never appeared in the President's budget, it reminds me of the way so many Americans pull a credit card out of their wallet when faced with unexpected costs.

Like a credit card, emergency supplemental appropriations requests can be responsibly used to cover costs that could not have been foreseen. But most Americans know, if someone starts using a credit card for everyday expenses, watch out, because that person is on the path to financial ruin. Mr. President, I have never had a credit card in my life. I don't use one. My wife doesn't use one. Using that little piece of plastic means avoiding the tough choices and tradeoffs that are necessary for fiscal responsibility, while reckless spending and increasing interest payments cause a family's debt to spiral out of control. That, in a nutshell, is exactly what is happening in Washington, DC. Just like the slick advertising slogan for credit cards, the administration's repeated requests for supplemental appropriations for the war exemplify the phrase ''buy now, pay later.''

Over the last 3½ years, at a time when the Government is swimming in red ink, the White House has charged an additional $280 billion—that is right, $280 billion—on the national credit card, without proposing a single dime of that spending in its annual budget proposal; not one thin dime is seen or shown in the administration's annual budget proposal. This is a reckless course the administration has plotted. It is fiscal irresponsibility at the highest level. This ''take it as it comes'' approach to paying for the cost of the war in Iraq ignores sound budgetary principles, and it is a grave disservice to our troops who are serving in Iraq.

By separating the regular budget of the Defense Department and other Federal agencies from the wartime costs of military operations, the White House has effectively denied Congress the ability to get the whole picture of the needs of our troops and the other needs of our Nation, such as education, highways, and veterans medical care. Instead, Congress receives only piecemeal information about, on the one hand, what funds are required to fight the war—this unnecessary war, I say, in Iraq—and on the other, what funds are required for the regular operations of the Defense Department and other Federal agencies.

This is a misguided approach, and the net effect of this misguided approach is a thoroughly disjointed and discombobulated Federal budget. This hand-me-down process does not serve our troops well.

A unified, coherent budget for our military would allow Congress and the administration, as well as the American people, to focus on the future to evaluate what our troops might need to fight two wars—the war in Afghanistan and the war in Iraq—in the next 6, 12, or 18 months.

I am fully supportive of the war in Afghanistan because in that case our country was attacked, our country was invaded by an enemy. We fought back. I fully supported President Bush in that war, and I do today. I support the troops in both wars, but I do not support the policy that sent our troops into Iraq.

Instead of looking forward, however, the abuse of the supplemental appropriations process means the Congress and the administration are constantly—constantly—looking backward over our shoulder to fix the problems that might have been addressed had the cost of the wars been included in the President's budget.

Congress has had to add money to prior supplementals to buy more body armor, to buy more ammunition, to buy more armored humvees. All of these costs should have been included in earlier administration regular unified budget requests for the entire Federal Government.

What is more, this disjointed manner of paying for the wars in Iraq and Afghanistan has a tremendous effect on the entire Federal budget. By refusing to budget for the cost of the war, the President is submitting annual budgets to Congress that are downright inaccurate. These budget requests are inaccurate. They understate the actual amount of our annual deficits by scores of billions of dollars.

If the President's emergency request for 2005 is approved, the Congress will have approved over $210 billion just for the war in Iraq. While the budget deficit grows to record levels, the President tells us we have to cut domestic programs by $192 billion over the next 5 years. The President tells us we have to charge veterans for their medical care, that we have to cut grants for firefighters and first responders, that we cannot adequately fund the No Child Left Behind Act, and that we should cut funding for the National Institutes of Health. The list goes on and on.

Since the President took office, he has taken a Federal budget that was in

surplus for 4 straight years and produced deficits as far as the human eye can see. For 2006, the President is projecting a deficit of $390 billion, but that deficit estimate does not—does not, does not—include new spending for the war in Iraq. We are not fighting that war on the cheap. It is costing you money, you citizens out there. It is your money; it is costing you money. That deficit estimate does not include new spending, I say, for the war in Iraq. Why? Why does it not? Why does that deficit estimate not include new spending for the war in Iraq? Because the President pretends he cannot project what the war will cost in 2006. Well, Mr. President, I assure you the costs will not be zero.

The President will not tell the American people what the war in Iraq will cost. By understating the deficits, the American people are being led down a primrose path. That is dishonesty. Neither the White House nor Congress is making any tough choices about how to pay for the cost of the war because the administration is not telling Congress how much it thinks the war might cost in the next year. And as a result, there is no talk of raising taxes or cutting spending in order to pay for the costs of the wars.

The United States is sinking deeper and deeper into debt, and the administration's failure to budget for the wars in Iraq and Afghanistan is sending our country even deeper into red ink. For as brilliantly as our troops have performed on the battlefield, as brilliantly as they have fought and died on the battlefield, the administration's budgeteers are creating a budgetary catastrophe. But the executive branch has not always been so neglectful of the need to include in its budget the cost of ongoing wars. According to the Congressional Research Service, there is a long history of Presidents moving the cost of ongoing military operations into their annual budget requests rather than relying completely on supplemental appropriations bills.

For example, the Congressional Research Service reports President Franklin D. Roosevelt included funds for World War II in his fiscal year 1943 budget request. President Lyndon B. Johnson included funds for the Vietnam war in his fiscal year 1966 request. Military operations in Bosnia and the U.S. operations to enforce the no-fly zone over Iraq were initially funded through supplemental appropriations. But in 1995, Congress forced President Bill Clinton to include those costs in his fiscal year 1997 budget, which he did. Upon assuming the Presidency, George W. Bush began to include the cost of the peacekeeping mission in Kosovo in his fiscal year 2001 budget request. I supported President Bush on that initiative because it made good fiscal sense. Twice I have offered amendments to the Defense appropriations bills to urge the President to add the costs of the wars in Iraq and Afghanistan to his budget.

These amendments were approved by strong bipartisan majorities of the Senate. The first time I offered the amendment on July 17, 2003, it was approved 81 to 15. The second time I offered the amendment on June 24, 2004, it received even broader support and was approved 89 to 9. Each time, this sense-of-the-Senate provision was included in the Defense Appropriations Act and signed into law by the President.

Today, I offer an amendment that follows up on the Senate's call for the President to budget for the cost of the wars in Iraq and Afghanistan. Let us just have truth in accounting. This is honest accounting. We are letting the American people know how much they are paying for these wars.

This amendment builds on the sense-of-the-Senate language that has been approved by strong bipartisan majorities of the Senate in each of the last 2 years. Once again, this provision urges the President to budget for the cost of the war in Iraq and the war in Afghanistan. However, my amendment today goes further and urges the President to submit an amended budget request for the cost of the wars to Congress no later than September 1, 2005.

Although the White House should have budgeted for this war long ago, this provision ratchets up the pressure on the administration to submit to Congress an estimate of the cost of the war for fiscal year 2006. Hopefully, this will be the first step in restoring some sanity to the President's budget request that has so far ignored the enormous costs of military operations in Iraq and Afghanistan.

This amendment also contains a section of findings that illustrate many of the points I have already made in urging the President to budget for the war. These findings emphasize the legislative history of the Senate urging the President to budget for the wars in Iraq and Afghanistan. The findings also present some of the conclusions reached by the Congressional Research Service about the funding of previous military operations through the regular appropriations process.

Finally, this amendment includes a reporting requirement that would help keep Congress informed—help keep us informed. We are elected by ''we the people,'' the first three words in the preamble of the Constitution. We are hearing a lot about the Constitution these days, and we are going to hear more. I am going to have a few things to say about it before it is over.

As I said, this amendment includes a reporting requirement that would help to keep Congress informed about the real costs of the wars in Iraq and Afghanistan. This provision would require the Department of Defense to provide Congress with the specific amounts that have been spent to date—what is wrong with that?—for each of the wars in Iraq and Afghanistan. Currently, the Pentagon prefers to report only a single figure that combines the cost of these two wars, but Congress and the American people ought to know the exact cost of the war in Afghanistan. They ought to know the exact cost of the war that was forced upon our country in Afghanistan, and they need to know the cost of the war in Iraq, the war that the administration chose to begin, the invasion that the administration chose to set forth. These wars should not be confused one with the other. They are two different wars, and we should say so right up front. We should know the amount of money we spend in each.

In addition, this report would require the Pentagon to keep the Congress continually informed of estimates of military operations in Iraq and in Afghanistan for the next year so that Congress can have the better lens with which to look upon future budgets for our military.

This is nothing but right. The elected representatives of the people sitting in this body ought to know these things. We are representing the American people in our States and throughout the country. What is wrong with our telling them right up front? We need to know these things. I have a responsibility to my people back home. Not only that, but I have a responsibility to my children, my grandchildren, and to their children. Each of us has that responsibility, and we ought to ask for this information. We ought to insist on it.

Once again, the Senate should send a message to the administration that it ought to budget for the costs of the wars in Iraq and Afghanistan. My amendment sends that message in clear terms. I urge my colleagues to join me in approving this sense-of-the-Senate amendment with another strong bipartisan vote.

I call up my amendment No. 464.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 464.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 169, between lines 8 and 9, insert the following:

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

SEC. 1122. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year

2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total $65,000,000,000.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I rise to speak about immigration and the issue that will be before us for two very important votes tomorrow. My colleague from Alabama is also in the Chamber. I will take the allotted time under the unanimous consent, and then I think he wants to spend more time on these issues.

What I find very fascinating is that everyone who has come to the Senate floor this afternoon to talk about immigration agrees that our country is in near crisis at this moment for our inability to control our borders, to stem the tide of illegal movement into our country, and to fashion comprehensive or targeted immigration law that effectively works. Simply put, our Federal Government has to do better. It has to move faster in improving our border security and meeting this phenomenally large and important issue of illegal immigration.

Congress is no further along today on a comprehensive bill than it was a year ago at this time when my bill, the AgJOBS bill, had a thorough hearing before the Judiciary Committee. It is now well over 1,300 days since we woke up after 9/11 with thousands of our country men and women dead and a phenomenal frightening awakening on the part of the American people that there were millions of undocumented foreign nationals living in our country.

As I said earlier, while most of them are law-abiding, are here to work, and are extremely hard-working people, we found out tragically enough that there were some here with evil intent, and we began to control our borders. I think that is why Congress then again started beefing up border patrol and buying high-tech verification systems for the Department of Homeland Security, and that is why, whether one agrees on the specific methods or not, the House of Representatives just attached to the legislation we are talking about this afternoon a national driver's license standard and asylum changes, those seeking asylum in our country, in the so-called REAL ID provisions to the Iraq supplemental. That is why I have supported a Byrd amendment on this bill to take money away from certain portions of this bill that are not immediately necessary for our troops for their security and allow our border security to hire more investigators and enforcement agents to boost up that whole area we are so concerned about.

That is why I am cosponsoring a bill that helps States deal with undocumented criminal aliens. We must get it right everywhere if we are going to reinstate in our country secure borders and functional immigration law. That is why I have worked for the last good number of years on AgJOBS. We talk about it here today. What does it mean? It means Agricultural Job Opportunities, Benefits and Security Act. That is why we are on the floor of the Senate today.

Some would argue we ought to be doing the Iraqi supplemental because it is urgent. None of this money is immediately necessary in Iraq. The House took 2 months to craft it. We are going to take a few days to pass it. But I must tell you as I have before, I believe the crisis in immigration today is every bit as significant. No matter the money we pour along the borders, still our borders are not under control, especially our southern border.

Senator KENNEDY came to the floor a few moments ago to give a very comprehensive analysis of how he and I, and now over 500 groups, have come together to try to resolve the issue of immigration, specific to American agriculture. Those are the issues at hand at this moment. We are not in any way obstructing the process. This afternoon could have been filled with amendments on the supplemental if those who have amendments would have been here to offer them. We are simply taking time in the debate. We will have those votes tomorrow. If Senators SAXBY CHAMBLISS and JON KYL do not get the necessary 60 votes, or I do not on these issues, they will be set aside. But they will not go away, because I do believe, as I think most Americans believe, somehow we have to get this right. Somehow it is necessary to do so.

I am committed to making this debate as brief as possible. That is why I agreed to a unanimous consent request to conform it and to shape it, but to allow a full and fair and necessary debate. As far as I am concerned, a thorough debate on AgJOBS does not need to take a multiple of days or months. Every Senator knows this issue. Every Senator knows his and her constituents are upset at this moment because somehow Congress has failed to deal with this issue. I have received my fair share of criticism from some of my constituents for offering AgJOBS. I smiled and said: You sent me to work in Washington to solve a problem. I brought the solution to that problem. I believe it is the right one. No one else, except for those this afternoon, has brought a second solution. I welcome all Senators to get involved in this debate and understand the issues. But most importantly, we cannot do what past Congresses have done or what we have done for the over 1,300 days since 9/11, look over our shoulder and say: Oh, boy, that is a big problem; and, oh, boy, our borders are at risk and, yes, some of those illegals could be here to do us harm, but we can't seem to get our hands around it because it is such a complicated issue.

I do not dispute its complications. But I am frustrated that the Senate and the House have literally not been able to act. I believe the Senate has had enough time. As I mentioned earlier, we have seen this bill when it was

before the Judiciary Committee. I think most of my colleagues know about AgJOBS. Yes, 63 Senators supported it last year. We are now nearly at 50 at this time. Clearly a large number do support it. I think that is extremely important that we do. It is so necessary that we move appropriately to solve this problem and solve it in a timely fashion. This now gives us an opportunity to do that.

As I said to my colleagues, I have worked on this issue with numerous communities of interest for nearly 5 years to craft what we believe is one of the best approaches to solving the problem, not only recognizing that illegals, the undocumented are a problem in our country, but once they are here, and if they are here illegally, how do we treat them? How does the agricultural economy provide for them and respond to them while they are so necessary in that workforce? That is what is embodied in AgJOBS. It is not simply a threshold of how you transition through. It is in reality a major reform of the H–2A program.

Let's continue with this issue. I am going to stop at this moment. My colleague Senator SESSIONS is on the floor. I need to step away a few moments. I know he has important things to say—many that I agree with, but there are some I do not agree with.

Don't kick this ball down the field to another day. We look now at a comprehensive piece of legislation. It is very necessary we attempt to solve it now, get this Congress involved, and tell the American people we hear them, we know our national security is at risk, and in this instance our food security is at risk. We need to solve a very important problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Idaho. Senator CRAIG is one of my favorite Members of the Senate. We agree on many things. We have not agreed on this one.

Yes, I think we all understand we are dealing with a broad, important, and complex issue. It does require us to give it some thought. But the point of the matter is we are being asked to vote on AgJOBS tomorrow. People are going to have to cast a vote on this bill. I urge you not to vote for this legislation, because it should not be on the Defense supplemental and, second, because it is flawed, seriously flawed. It is not consistent with what I think are the views of most Members of Congress or the American people on how we ought to handle this matter.

I mentioned briefly earlier how the process toward amnesty works in this legislation. I would like to refer to this chart. I think it makes the point rather simply. I do not think it is disputed.

You have people who came here illegally. Perhaps they are in the country, perhaps they have already gone back to their home country, but they have violated our law by coming here, both in coming here and in working illegally for some firm or company.

If they have done that and if, within 18 months of December 31 of last year, 2004, they have worked 100 workdays—and they have defined a workday in the act as 1 hour, so that could be 100 hours of work—they earn what the proponents of this legislation say they are earning: their right to be here.

They are being paid for this, presumably. They didn't come here to work for not being paid. They came for a salary they are willing to accept. They work here for 100 hours. Then they become a lawful, temporary resident. Then all of a sudden someone who was here unlawfully is now converted to a lawful resident.

A number of things occur after that. If they have family here, a spouse or children—one, two, three, four, five, six—and that spouse or those children may have been here 6 weeks, the spouse and children are entitled to stay as long as the person who now has become a lawful, temporary resident; and within the next 6 years, if that person is employed in agriculture for 2,060 hours—the average worker works about 2000 hours a year, so that would be about 1 year out of 6, being paid for this—they have therefore earned legal permanent resident status. That is pretty significant, legal permanent residency, because if you become a legal permanent resident, then you are no longer an indentured servant. You are not required to work in agriculture. You can work on any job you want.

It might be this court reporting job right here.

I don't know what they want to work on. They became a legal, permanent resident. They can wait for 5 years, and then they are virtually guaranteed a citizenship unless they are convicted—charged, convicted—of a felony or convicted of three misdemeanors. A misdemeanor can be a pretty serious offense sometimes.

I am not sure we want somebody to want to come here to commit a bunch of misdemeanors. You don't usually get caught for all of them. People do things and half the time they do not get caught at all. If you catch a victim twice on a misdemeanor, that can be very serious.

Then they are given citizenship.

By the way, if their children are not here, have never been here, and they became a lawful, permanent resident, they can send for them—one, two, or five members. They can come on down and be a part of the United States and be on the road to citizenship, even though maybe that was never the intention. Maybe it was never the intention, to begin with, for their family to come here.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. SESSIONS. Yes.

Mr. CRAIG. The Senator is making a very interesting point. Has the Senator looked at the Bureau of Labor Statistics' numbers of those they believe—if the law were passed—are AgJOBS eligible?

Mr. SESSIONS. About a million.

Mr. CRAIG. About 500,000 is what they estimate. When you do all of the very thorough background checks we have within it that are consistent with immigration law today, they figure a certain number would fall out, and then there are the wives and dependents. A very large number of these are not married. They have no immediate family—about 200,000 more. It is reasonable to say the Department of Labor is looking at a total number of workers, spouse, and dependents of upwards of possibly 700,000. I know millions and millions are talked about. I believe that is unrealistic based on the Bureau of Labor Statistics.

Does the Senator disagree with those figures?

Mr. SESSIONS. I will say it this way: I will say it is very likely to be a million.

Mr. CRAIG. Based on what figures?

Mr. SESSIONS. Close to a million, if you take the figure of 700,000. I am not sure we have thought it through.

The Senator, I believe—who was here in 1987 when the 1986 amnesty was passed—would admit that the estimate of how many people would take advantage of it was very low. In fact, I believe three times as many people took advantage of that amnesty as the estimators estimated. It could happen here. I don't know.

Mr. CRAIG. I don't disagree with that. But the criteria was entirely different. If I could be so kind, I think my colleague is mixing apples and oranges and getting an interesting blend of a new juice. An earned status approach has never been used before. The full background check, and the thoroughness of that background check as we anticipate in this legislation, is only used when you have a legal immigrant standing in line. In fact, our law is more stringent for illegal than it is for the legal immigrant because they can get the misdemeanors. We say, if you get a misdemeanor with 6 months' incarceration, that is pretty serious. The Senator from Alabama is an attorney. Would he agree with that? They are out of here. There is a much different criteria when you start comparing the total numbers. That is why I think they would be different.

Mr. SESSIONS. The act says three convictions of misdemeanors. The Senator is right. It can be up to 6 months or a year.

Mr. CRAIG. Then they are deported.

Mr. SESSIONS. Not if there are two convictions.

Mr. CRAIG. That is correct. That is the current law. That is what current law says for the illegal immigrant.

Mr. SESSIONS. It is in the legislation.

Mr. CRAIG. It is in the law.

Mr. SESSIONS. For those here illegally and want amnesty to be given even though they have already violated immigration laws.

Mr. CRAIG. I thank my colleague for yielding. What is important is the bill be read very thoroughly. Extrapolations can be made. But when it says 100 hours of work, I think it is important to assume you would only work 1 hour a day for 100 days. That is not a very logical process.

I thank the Senator for yielding.

Mr. SESSIONS. I agree with the Senator on that. I will disagree with the concept that somehow, by working here, coming here, and getting a job you wanted to get when you came, that that is somehow earning something, if you did it illegally. You are getting what you wanted, which was pay for the work.

That is what I would point out. Then, a family would be automatically eligible to come into the country. I don't think there is any dispute about that.

If a person came here illegally, if they worked here 18 months and met those qualifications of 100 workdays, or 565 hours, I believe—either way, it is not very much—they can come even though they are not here now. In other words, if they did that illegally, worked here and for some reason went back home, then they are getting a letter from Uncle Sam saying, By the way, we know you violated our law but we are in a forgiving mood. You can come on back and join the process toward citizenship and bring your family, too.

I am not sure that is what we want to do. I don't think it is what we want to do. That is the fundamental of this legislation.

I think that is what you call amnesty. Not only does it give the person what they wanted in terms of being able to come into the country and get a job and be paid, that puts them on a track—unless they get seriously conflicted with the law—to be a permanent resident and then even a citizen, and their children and family can be on that same track.

That is a big deal. That is what I am saying. It is not something we need to be rushing into on this legislation today.

Under section 101(d)(8), entitled ''Eligibility for Legal Services,'' it is required under the act that free, federally funded legal counsel be afforded, through the Legal Services Corporation, to assist temporary workers in the application process for adjustment to lawful permanent resident status.

American workers are not always available for that. They have to meet other standards such as need and that sort of thing.

Also, the act gives several advantages to foreign workers not provided to American workers. Look at this.

Section 101(b), rights of aliens granted temporary resident status.

Right here—temporary resident status.

Terms of employment respecting aliens admitted under this section, A, prohibition.

Quoting:

> No alien granted temporary resident status under subsection A may be terminated from employment by any employer during the period of temporary resident status except for just cause.

Then they set up a big process for this. There is a complaint process. The subsection sets out a process for filing complaints for termination without just cause. If reasonable cause exists, the Secretary shall initiate binding arbitration proceedings and pay the fee and expenses of the arbitrator. Attorneys' fees will be the responsibility of each party. The complaint process does not preclude ''any other rights an employee may have under applicable law.''

That means they could file under this process for unjust termination and hire a plaintiffs lawyer and sue the business for whatever else you want to sue them for.

> Any fact or finding made by the arbitrator shall not be conclusive or binding in any separate action—

That is the action filed in the court by plaintiffs' lawyer—

> or subsequent action or proceeding between the employee and the employer.

I submit to you, by the language of this statute, it would appear they intend for that to be admissible, if not binding. It says not binding but the implication would be it would be admissible.

This means an employer cannot allow that arbitration proceeding to go without an attorney. He will have to hire an attorney and go down there because things will go wrong and that will be used against him in any civil action that might take place. They have to pay counsel in both places.

This section will override State laws in America. In Alabama, unless you enter into a contract that states otherwise for employment, your work for an employer is at will. Contracts of employment at will mean just that: it is the will of either party. Employees can quit at will and employers can terminate at will, with cause or without cause, and for no reason, good or bad reason.

That is the way I think it is in most States. Certainly that is true in my State. This provision will mean illegal aliens who file for amnesty under the AgJOBs amendment, after coming here illegally in violation of our law, are guaranteed to have a job unless they are terminated for just cause. If the AgJOBS amendment passes, employers of aliens given amnesty will be subject to forced and binding arbitration regarding the termination of the alien, and they will have to cover their legal bills for the defense in arbitrations even if the arbitrator finds they had just cause to terminate the alien.

I suggest what we are about here is a provision for greater protection for a foreign worker, one not only who is foreign but who previously violated American law. If you were an employer and you need to lay off one person, and you have two working for you, and one would have the ability to take you through arbitration and argue that you did not have just cause, and the other one had no such rights, you might fire the American citizen first, not the foreigner.

There is another provision I will talk about later that deals with the filing of the application. The Senator says they will be doing background checks. I see nothing in here that provides for background checks. It requires an application to be filed to become a temporary resident. Get this: It can be filed with two groups who are called ''qualified designated entities.'' That can be an employer group who wants workers to come here to work for them, or a labor group. And they are qualified entities. The application is filed with them.

It prohibits giving the application to the Secretary of Homeland Security unless a lawyer has read it first. It says the entities that receive this application cannot give it to the Secretary unless they are conducting a fraud investigation. How would they know to conduct one if they haven't seen the documents? It might be fraudulent.

It is a rather weird idea, is antigovernment, and seems to be far more concerned with protecting an applicant who may be committing fraud than protecting the security and the laws of the United States.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I would like to express my opposition to the AgJOBS bill as it is currently drafted.

This is a very complicated bill. It is a magnet for illegal immigration. It has not been reviewed by the Judiciary Committee. We do not know how many people would be affected by it.

Rather, it has come to the floor as an amendment to the supplemental appropriations bill.

This is not the place for this bill. I believe it is a mistake to pass this bill on an emergency supplemental that is designed to provide help for our military, fighting in extraordinary circumstances.

That is why I cosponsored an amendment with Senator CORNYN saying that the place to do these amendments is through the regular order, beginning in the Immigration Subcommittee of the Judiciary Committee. This amendment passed by a vote of 61 to 38.

And that is why I will vote against cloture on the AgJOBS bill and on the other complicated immigration amendment, the Chambliss-Kyl amendment.

If, however, cloture is invoked, then I plan on offering several amendments that I believe will improve the bill.

If these amendments are approved by the full body, or are later incorporated into the bill through an appropriate Judiciary Committee markup, then I would be prepared to support the bill.

But otherwise, it is my intention to vote against the bill. I simply cannot support the bill in good conscience as it is.

I believe the bill as drafted is a huge magnet. The Judiciary Committee has

not had a chance to review it, amend it, mark it up. And it does not belong on a supplemental appropriations bill.

We know that people come to this country illegally.

They come for many different reasons. Some out of fear of persecution, some for work, all for opportunity.

In 2000, it was estimated that there were 7 million unauthorized aliens in this country. And by 2002, this number had grown to 9.3 million. These are Census numbers reported in the CRS Report on Immigration, updated 4/08/05.

In agriculture, approximately 1.25 million, or about 50 percent of the agricultural work force, are illegal workers—600,000 of whom live and work in California. These numbers are from the Department of Labor.

Many of these workers have been here for years, have worked hard, brought their families here, and have built their lives here.

With respect to agricultural work, I know that it is extraordinarily difficult, if not impossible, to get Americans to work in agricultural labor.

I did not believe it. Several years ago we contacted every welfare office in the State. And every welfare office in the State told us that once they put a sign up, no one responded.

So I think it is the right thing to do to give the workers who have been here for a substantial period of time, who have been working in agriculture, who have been good members of society, and who will continue to work in agriculture, a way to adjust their status.

What I do not support is creating a magnet that draws large additional numbers of illegal immigration. Not only would this have a detrimental effect on our society, but it would harm the people we are trying to help through this bill.

Here is why: An influx in illegal immigrants would flood the labor market, make jobs more difficult to find, and drive down wages.

For those of you who doubt the magnet effect, you have only to examine what happened when President Bush announced his guest worker proposal early last year.

Despite the fact that the President's proposal had no path to legalization, the mere announcement of the proposal fueled a rush along the Southwest border.

The Los Angeles Time on May 16, 2004, reported: ''detentions of illegal immigrants along the border . . . have risen 30% over the first seven months of the fiscal year, a period that includes the four months since Bush announced his plan.''

Similarly, the San Diego Union Tribune on January 27, 2004, reported: ''U.S. Border Patrol officials report a 15 percent increase in the use of fraudulent documents at the world's busiest land border crossing [San Ysidro]. And more than half of those caught using phony documents say the president's offer of de facto amnesty motivated them to attempt to sneak into the United States.''

Does anyone doubt that this increase was related to anything but the President's proposal? Of course not.

When I raised the concern with the authors of the legislation, that this legislation would be a magnet that would attract large numbers, they seemed to believe that the fact that the bill only applies to those who were in this country and working in agriculture as of December 31, 2004, would be sufficient to deter people from illegal entry.

I do not believe that is the case. I think people will see that they only need 100 days of work to qualify for temporary residence; they will not be deterred by the operative date, and will say, ''I'll find a job, work 100 days, and then I'm legal and can bring my family.''

The first two of these amendments I would like to offer would increase the time someone must demonstrate he or she has been in the United States working in agriculture in order to qualify for temporary and permanent residence.

This would discourage others from coming to this country, and help those who have been here for many years.

Here is what the first amendment would do. In order to qualify for temporary residence, workers would have to demonstrate that they have worked for at least three years in agricultural work prior to December 31, 2004.

For each of the 3 years, the worker would be required to show 100 workdays, or 575 hours, per year in agriculture.

Here is what the second amendment would do. In order to qualify for permanent residence, a green card, workers would have to show that they have worked at least 5 years in agricultural work following enactment of the bill. For each of the five years, the worker would again have to demonstrate 100 work-days, or 575 hours, per year.

So by extending the length of time a worker needs to have worked both in the past and the future, these amendments reduce the incentives for more illegal immigration.

The next amendment addresses another major concern that I have.

The bill currently allows someone with one or two misdemeanor criminal convictions in the United States to apply for temporary residence or a green card. I think this is a mistake.

So the amendment I am offering strikes this language and ensures that those with criminal records do not qualify for benefits—if they have even one criminal conviction in the United States, or anywhere.

I believe that no one who has a criminal conviction should be the recipient of temporary residence or a green card under this program.

Misdemeanors include petty theft, simple assault against persons, driving under the influence, certain drug offenses, and misdemeanor battery.

In some States, they include cases of child abuse or domestic abuse, public assistance fraud, or abandonment of a child under the age of 10.

I do not believe we should allow anyone to apply for a benefit as significant as a green card under this bill if they have committed any crime, let alone the two misdemeanors that the bill currently allows.

The final amendment I am offering would prohibit workers who are living outside the United States from applying for temporary residence under this bill.

The bill allows those living in other countries to apply for benefits under this bill—as long as they can demonstrate the appropriate time spent in agricultural work in the United States prior to their departure from this country.

This means that someone could come to the United States illegally, work here illegally, return to their home country, and still apply for a green card under this bill. This simply makes no sense.

If we are going to give agricultural workers a way to adjust their status, let us limit it to those who are living and working in this country.

California is the No. 1 agriculture-producing State in the Nation.

I recognize that this status is based on the hard work of people who have been living on the edges of our society, living in fear, and constantly worried about being removed from this country.

It is time for the Government to recognize that these people have made a substantial contribution to our country and offer them a way to adjust their status.

Remember, there are already 1.25 million agricultural workers here illegally, 600,000 in California.

These amendments would concentrate on their adjustment of status, thereby moving the workers and their families from the shadows and allowing them temporary, and subsequently, permanent legal status.

But I think that we have to be careful in how we proceed—if we do it the right way, we can help those who have been working in agriculture for many years and who have been good, upstanding members of society.

These are the people we should be trying to help: They have children, many of whom are born here and are U.S. citizens. They have paid taxes. Some have bought homes. They have worked hard for everything they have gotten. They have been good, productive members of society.

But if we do it the wrong way—we will actually cause great harm to the agriculture workers who have been here for years—we will create a magnet, flooding the borders, pushing down wages, and making it more difficult to find work.

These are simple, commonsense amendments.

As I said before, I would have preferred to do this in committee where we could have the time necessary to consider such complicated legislation.

But if we are to pass an agricultural workers bill, let it be one that helps those who have contributed to our society and one that will not cause great harm to our Nation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I was looking on our desks at the bill that is actually supposed to be the subject of this debate. It is 231 pages long. It provides an emergency appropriation to help pay for our ongoing global war on terror. I remind my colleagues that is the stated purpose for this Senate time.

Indeed, last week 60 of my colleagues joined me in saying that national security demands the passage of this bill unencumbered by a premature debate on immigration reform.

Listening to our colleague from Alabama and others who have spoken to this subject, we are getting a better sense of how complicated this issue is and why it is so important, as 61 of us said last week, that we proceed with this emergency appropriation for the ongoing global war on terror and reserve enactment of comprehensive immigration reform for a few months hence, after we have had a chance to go through the appropriate committees of the Congress, the Subcommittee on Immigration, Border Security, and Citizenship that I chair in the Judiciary Committee. Chairman SPECTER of the full committee has promised an expedited markup once we are able to go through the regular order and develop a comprehensive plan.

Notwithstanding the sense of the Senate by 61 Members that we should not engage in this premature debate and risk bogging down this important bill to provide financing to our troops in the battlefield, here we are.

What is it that the problem of this bill, the so-called AgJOBS amendment, seeks to fix? I suggest it does not purport to fix our porous borders. It does nothing to provide additional resources to our beleaguered Border Patrol and others who are doing the very best they can to try to secure our borders. We know not only do people come across those borders to work, but the same people who will smuggle those workers across the border are the same people who can smuggle terrorists or criminals or others who want to do us ill across those borders. So AgJOBS, just so everyone understands, does not purport to deal with that problem.

Does this bill purport to deal with another glaring deficiency we have; that is, a lack of detention facilities for those people our Border Patrol do catch and detain at the border so we do not have to continue in what is sometimes called a catch and release program where detainees, people who cross illegally are detained but because we do not have adequate facilities are released and they merely try again, and perhaps try and try and try until they finally make their way across the border and into the interior of the United States and simply melt into the landscape? This bill does not have anything to do with that. It will not fix that problem. Nor does this bill provide additional resources and equipment to our Border Patrol who, as I indicate, are outmanned and underequipped.

This AgJOBS amendment, nor the alternative offered by Senator CHAMBLISS and Senator KYL, does not purport to deal with the problem of 40 percent of the illegal immigration in this country coming from overstays. By that I mean people who come here legally on a student visa or a tourist visa or some other short-term legal authorization but simply blow past that deadline and, here again, become part of that population estimated to be somewhere on the order of 10 million people—although we really do not know—who are currently living in the United States outside of our laws. This bill does not purport to even address that.

It does not do a better job of helping identify who is in our country and why they are here, why they chose to come outside of our laws and live in the shadows. It does not help us do a better job of identifying them and asserting what their purposes are in our country—whether they are criminals, whether they are potential terrorists, or whether they are people coming here simply to work.

This AgJOBS bill also does not deal with the difficulty involved with employers who want to try to ascertain the legal status of their workforce. It does not help them by providing them a database of workers who are lawfully in the country and who are authorized to accept employment. So employers have to persist in doing the best they can in trying to fill the jobs that go wanting for lack of workers by hiring people they perhaps do not know but would have to admit, perhaps in private conversations, are people who are here illegally outside of our laws. This bill does not help them one bit. This bill does not provide a database of workers who are actually authorized to work and who are legally present in the country.

My point is, there are a lot of problems that confront our national security, a lot of problems that confront our immigration system that need to be addressed that are not addressed in this legislation. To the contrary, rather than trying to address immigration reform comprehensively, rather than trying to improve our border security, our homeland security, by knowing who is in our country and why, rather than providing us a better means of identifying those who, although they begin in this country legally, overstay their time and become part of the population that is here illegally, rather than help employers, this bill does none of that. Instead, what it does is it deals with one segment of the industry that has grown to depend on undocumented workers, and that is the agriculture industry.

While I am sympathetic to their concerns, the problem is that it is only one of the industries that relies on undocumented workers. You could as easily file a bill and rather than call it an AgJOBS bill, you could call it a restaurant workers bill, or a residential construction workers bill, or a hotel workers bill, or any one of the number of different industries that has, over time, grown to depend on approximately 6 million people who constitute the illegal workforce currently in the United States.

This bill does not purport to deal with any of those other industries and thus chooses one over the other in a way that I think violates one of the fundamental principles of American law, and that is that persons similarly situated ought to be treated as equally as possible and not in any favorable or discriminatory fashion.

So I think this bill, as premature as it is, as well intended as it may be, does not help us solve a lot of the problems that can only be addressed by comprehensive immigration reform. It actually does harm by violating some of our basic principles of equal justice under the law. It is important we deal with these problems.

I failed to mention one of the problems is we have approximately 400,000 absconders present in the country now and we simply do not have the adequate human or other resources necessary to find out where they are and to show them the way out of the country. Among these absconders, unlike the rest of the population I mentioned, the some 10 million people, are individuals who have been convicted of serious crimes, about 80,000 of them, and who simply have melted into the landscape. As I say, we have about 400,000 absconders, including those 80,000, the difference being those who have simply exhausted all means of appeal and review in our immigration system, who are under final orders of deportation, but who, rather than be deported, have simply gone underground. Here again, this is another issue this bill does not deal with that comprehensive immigration reform would and that we should.

What I fear will happen, because it may be tempting to try to fix our immigration problems on a piecemeal basis, is piecemeal solutions and efforts will risk undermining the larger effort and the need to enact comprehensive reform. Indeed, I would venture a guess that if the AgJOBS bill were successful, or even if the alternative offered by the Senator from Georgia and the Senator from Arizona were to be successful, there would be many in this Chamber, and perhaps around this country, who would say: OK, now we have finished that job. We do not need to look at any further immigration reform.

The only problem with that is they would be wrong, given the glaring problems that do exist in our country and the challenges to our national security and our ability to look ourselves in the mirror and say, yes, we are a nation of laws, when, in fact, we have such lawlessness existing among us for any one

of us to see, if we take the time to look at it.

Well, besides dealing with one industry, the AgJOBS bill also has some very troublesome provisions which I think undermine its claimed status as a temporary worker provision. Indeed, an estimated 860,000 illegal alien agricultural workers could qualify, and it also permits them to bring their spouses and children, which could bring the total number of AgJOBS beneficiaries to as many as 3 million people.

Now, the interesting thing about that is it does not stop at the people who are already here who came into the country in violation of our laws. Another startling provision of this bill actually invites back to the United States certain aliens who were here illegally and who performed the requisite 100 hours of agricultural work between July 2003 and December 2004 but who have already left. These aliens would be allowed, under this AgJOBS bill, to drop off a ''preliminary application'' at a designated port of entry along the southern land border, pick up a work permit, and reenter the United States.

So not only are we dealing with people who are here now but people who were here illegally and who have left. We are now saying: Come on back and pick up a work permit and reenter this pathway toward full American citizenship ahead of all of the other people who are playing by the rules and waiting in line. That is wrong.

Another provision of this bill which I have some concerns about is entitled ''Eligibility for Legal Services,'' which requires free, federally funded legal counsel be afforded—that is, paid for—by American taxpayer dollars through the Legal Services Corporation to assist temporary workers in the application process for legal permanent residency.

Not only does this bill deal with a specific industry and ignore the rest of the industries that have come to rely, in significant part, on undocumented workers, this invites into our country the spouses and children of these workers—a total of some 3 million people potentially. And these workers, of course, will not be here temporarily if they are essentially setting up home in the United States.

There is a difference between an approach that says we will set up a framework for people to come and work but then return to their country, which is truly a temporary worker program, and one such as this which says, don't just work and return, but work and stay and break in ahead of the line of all the other people who have applied to come to this country legally, even though you have chosen to do so otherwise. Beyond that, we are going to provide you with a free lawyer.

I think it is not a stretch to say the AgJOBS bill will invite even more lawsuits since it expands the ability of the Legal Services Corporation to sue growers in several areas.

The reasons the current provisions of the law which deal with agricultural workers have been unsuccessful are, No. 1, because the caps are set too low and, No. 2, because it has become so bureaucratic and burdened by regulation that it basically is not a viable alternative for the agricultural industry, and growers have come to expect excessive litigation as a result, which this AgJOBS bill would do nothing to fix but would aggravate.

Let me speak briefly about the bill Senators KYL and CHAMBLISS have offered today. It does compare favorably with some of the provisions in the AgJOBS bill because it does not provide for amnesty. It does not provide a path to U.S. citizenship automatically ahead of all of the other people who have played by the rules and who have applied in the regular course of our laws. It has many of the same failings I mentioned earlier about being a partial solution to a real and comprehensive problem.

I hope my colleagues will recall the vote they cast just last week, when 61 of us voted on a sense of the Senate to say that this appropriations bill, providing emergency funds for the warfighters, the people risking their very lives to defend us in the global war on terrorism, ought to take the front seat and that we ought to reserve comprehensive immigration reform to a later date and not slow this bill down because of that.

Having not resisted the temptation to get embroiled in an immigration debate, I hope our colleagues will listen carefully to the half solutions and the special interest legislation this represents. I don't begrudge employers who need workers from trying to find a legal solution to that. I am for doing that but on a comprehensive basis, not just an industry-specific basis and particularly not on a basis that provides additional benefits to these workers in the form of amnesty that they would not otherwise be entitled to and denies other people equal opportunity to participate in a temporary worker program.

As complicated as this issue is and as important as the debate is, now is not the time to be engaging in it. Certainly now is not the time to pass a partial solution which will undermine our ability to get comprehensive immigration reform done.

It is my distinct impression that there is a big difference between the thinking on the part of the advocates of the AgJOBS bill in this Chamber and our colleagues on the other side of the Capitol. Realistically, as part of this emergency appropriations bill, to get the warfighters what they need in order to do the job we have asked them to do and which they volunteered to do, I cannot see the other Chamber agreeing to this ill-considered and premature immigration legislation at this time.

I urge my colleagues to vote against both the AgJOBS bill, to vote against the alternative offered by the Senators from Georgia and Arizona, but at the same time to say, you are more than welcome, as we work together for comprehensive reform, to work with us. We will try to meet you halfway in working out a consensus on this very tough and complex but important issue that should not be handled in the way they have proposed to handle it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 429

Mr. ISAKSON. I ask unanimous consent to temporarily set aside the amendment, and I ask that we call up amendment No. 429.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 429.

Mr. ISAKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of April 14, 2005 under ''Text of Amendments.'')

Mr. COCHRAN. Mr. President, I ask unanimous consent that at 5:30 today the Senate proceed to a vote in relation to the Byrd amendment No. 464, with no second-degree amendments in order to the amendment prior to the vote. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, given the pending time prior to the vote we will have in a few minutes, I ask unanimous consent to address the Senate as in morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ISAKSON are printed in today's RECORD under ''Morning Business.'')

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 464

The PRESIDING OFFICER. The question is on agreeing to amendment No. 464 offered by the Senator from West Virginia, Mr. BYRD.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. The following Senators were necessarily absent: the Senator from Missouri, (Mr. BOND), the Senator from Montana, (Mr. BURNS), and the Senator from Kentucky, Mr. MCCONNELL.

Further, if present and voting, the Senator from Montana (Mr. BURNS) would have voted ''nay.''

Ms. STABENOW. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Illinois, (Mr. DURBIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA), are necessarily absent. I further announce that, if present and voting, the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) would each vote ''aye.''

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—61

Akaka	Dorgan	Nelson (NE)
Allen	Feingold	Pryor
Baucus	Feinstein	Reed
Bayh	Hagel	Reid
Bennett	Harkin	Rockefeller
Bingaman	Hatch	Salazar
Boxer	Hutchison	Sarbanes
Byrd	Inouye	Schumer
Cantwell	Jeffords	Smith
Carper	Johnson	Snowe
Chafee	Kennedy	Specter
Clinton	Kohl	Stabenow
Coburn	Lautenberg	Stevens
Coleman	Leahy	Sununu
Collins	Levin	Talent
Conrad	Lieberman	Thune
Corzine	Lincoln	Voinovich
Craig	McCain	Warner
Crapo	Mikulski	Wyden
Dayton	Murray	
Dodd	Nelson (FL)	

NAYS—31

Alexander	Domenici	Lugar
Allard	Ensign	Martinez
Brownback	Enzi	Murkowski
Bunning	Frist	Roberts
Burr	Graham	Santorum
Chambliss	Grassley	Sessions
Cochran	Gregg	Shelby
Cornyn	Inhofe	Thomas
DeMint	Isakson	Vitter
DeWine	Kyl	
Dole	Lott	

NOT VOTING—8

Biden	Durbin	McConnell
Bond	Kerry	Obama
Burns	Landrieu	

The amendment (No. 464) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the Senators from Illinois, Mr. DURBIN and Mr. OBAMA, are necessarily absent today to attend the dedication and opening of the Abraham Lincoln Presidential Library and Museum in Springfield, IL.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside so I might call up the amendment at the desk, No. 463.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 463

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 463.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports)

On page 169, between lines 8 and 9, insert the following:

AUDITS OF DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN

SEC. 1122. (a)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the Defense Contract Audit Agency, shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives a report that lists and describes audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan.

(2) The Secretary of Defense shall identify in the report submitted under paragraph (1)—

(A) any such task or delivery order contract or other contract that the Director of the Defense Contract Audit Agency determines involves costs that are unjustified, unsupported, or questionable, including any charges assessed on goods or services not provided in connection with such task or delivery order contract or other contract; and

(B) the amount of the unjustified, unsupported, or questionable costs and the percentage of the total value of such task or delivery order contract or other contract that such costs represent.

(3) The Secretary of Defense shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives an update of the report submitted under paragraph (1) every 90 days thereafter.

(b) In the event that any costs under a contract are identified by the Director of the Defense Contract Audit Agency as unjustified, unsupported, or questionable pursuant to subsection (a)(2), the Secretary of Defense shall withhold from amounts otherwise payable to the contractor under such contract a sum equal to 115 percent of the total amount of such costs.

(c) Upon a subsequent determination by the Director of the Defense Contract Audit Agency that any unjustified, unsupported, or questionable cost for which an amount payable was withheld under subsection (b) has been justified, supported, or answered, as the case may be, the Secretary of Defense may release such amount for payment to the contractor concerned.

(d) In each report or update submitted under subsection (a), the Secretary of Defense shall describe each action taken under subsection (b) or (c) during the period covered by such report or update.

Mr. BYRD. Mr. President, with this supplemental appropriations bill, Congress will have appropriated $300 billion for military operations and reconstruction activities in Iraq and Afghanistan. That is an enormous sum of money. We say it is for the troops in the field, for armor, weapons, equipment, and other mechanisms necessary to wage a war. But a significant portion does not make it to the troops. Much of it goes to defense contractors, corporate giants such as Halliburton that profit from the military operations and defense expenditures of the U.S. Government.

Halliburton reportedly has been awarded $11 billion in Iraq contracts. The war in Iraq may symbolize a time of sacrifice for American families, but for some—not all but for some—defense contractors, the cold, hard truth is that Iraq has become an opportunity to reap an enormous profit from American's decision to send America's sons and daughters into war. It is incumbent upon the Congress to be diligent in how these moneys are allocated to defense contractors. It is incumbent upon the Congress to be thorough in its oversight and to be meticulous in its accounting.

The administration has submitted five emergency supplemental spending bills for Iraq and Afghanistan. The size of these supplemental requests is massive, exceeding $80 billion this year, $25 million last year, and $160 billion the year before that. Most of these costs are being considered outside the checks and oversight of the regular budget and appropriations process. It is a confusing and, at times, a beguiling process that results in enormous sums of money flowing to contractors in Iraq, oftentimes without adequate oversight. Such a process invites waste, abuse, and fraud.

I don't belittle the role of defense contractors in Iraq. I belittle the circumstances that the administration has fostered. I belittle the suspicion that this administration has created by veiling its contractor negotiations in secrecy, and the whirlwind of allegations of misconduct and fraud that the administration has invited by not sharing information with the people of the United States, the American public.

The American people have good reason to question the costs emanating from contractors in Iraqi oil fields and Iraqi communities.

Three separate Government auditors have criticized contractor waste in Iraq. Government investigators point

to unsubstantiated costs and to sloppy accounting. Fortune magazine's analysis of Government reports found $2 billion of unjustified or undocumented charges. The Pentagon's Defense Contract Audit Agency has cited inadequacies and deficiencies in contractor billing systems, along with unreasonable and illogical cost justification. The Wall Street Journal reports that Pentagon auditors are investigating whether Halliburton overcharged taxpayers by $212 million for delivering fuel to Iraq.

Questions have arisen in the House of Representatives about why these costs had been concealed from international auditors. The Government Accountability Office has cited the risks of inadequate cost controls for contractors in Iraq. The Coalition Provisional Authority's inspector general cited millions of dollars in overcharges from Halliburton employees indulging themselves at the Kuwait Hilton. Imagine U.S. soldiers in the field forced to survive on military rations and suffering the unbearable heat of the desert while Halliburton employees enjoy the breakfast buffet in an air-conditioned Hilton.

The House Government Reform Committee reported hundreds of millions of dollars in waste by some contractors. A glance at the committee Web site reveals tens of millions of dollars in questionable charges—task order after task order showing $86 million in unexplained charges, $34 million in unsupported costs, $36 million in unjustified expenditures, and so on and so on. Incredibly, the Defense Department—your Defense Department, my Defense Department—is paying these charges, even though their own auditors are telling them that the charges are unjustified.

One example reported in the Wall Street Journal: Halliburton's Kellogg, Brown & Root charged taxpayers for dining facility services in Iraq and Kuwait. Pentagon auditors flagged $200 million of unsupported costs—that is a lot of money—$200 million of unsupported costs, but the Defense Department released $145 million in compensation to Kellogg, Brown & Root despite auditors' reservations and despite Halliburton's inability to justify the charge.

It is the taxpayers—you people out there watching through those lenses, those electronic lenses, watching the Senate floor, I am talking about you—it is the taxpayers, your constituents, Mr. President, my constituents, who are being charged for this tripe. It is they who must bear the costs of such rip-offs. It is your money.

Our constituents read in the newspapers how lucrative contracts are awarded without competition, how enormous rewards are handed to campaign donors. Mention the name Halliburton, and, as Fortune magazine quips, an image flashes in the public's mind of ''a giant corporation engaged in shameless war profiteering—charging outrageous prices to provide fuel for Iraqis and meals for American troops.''

Our constituencies, the people who send us here, are crying out for Congress to assume a stronger oversight role and to assure them, the people, that their moneys are being spent wisely. The amendment I have offered today does exactly that. My amendment requires the Defense Secretary to provide the Committee on Appropriations and the Armed Services Committee with a quarterly report that lists and describes questionable and unsupported contractor charges identified by Pentagon auditors for Iraq and Afghanistan. The amendment requires the Defense Secretary to withhold 100 percent of the payment for these charges and to assess a penalty by withholding an additional amount equal to 15 percent of the unsupported charge. If Pentagon auditors can verify the charges assessed by the contractor, that they are justifiable, then the Defense Secretary can release the payment.

My amendment is common sense. We ought not to be paying for services that have not been rendered. The American people ought not be paying for services that have not been rendered. The American people ought not be paying more than a fair market price. The American people ought not allow contractors to think they can hoodwink the American citizen and get away with it.

The American public is being asked to sacrifice to pay for this war. The President's budget cuts investments in education, in health care, in domestic priorities that impact every State of the Union in order to pay for these military and reconstruction activities. Congress ought to ensure—that is us—we ought to ensure that sacrifice is not wasted. We ought to slap the knuckles—and slap them hard—of any contractor, whether because of sloppy accounting or because of outright fraud, that results in the American taxpayer being bilked.

I urge my colleagues to support the amendment. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask my distinguished colleague from West Virginia if it would be in order to lay the amendment aside so I can send to the desk another amendment.

Mr. BYRD. I have no objection.

AMENDMENT NO. 499

Mr. WARNER. Mr. President, I send amendment No. 499 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. NELSON of Florida, Mr. ALLEN, Mr. TALENT, Ms. COLLINS, and Mr. WARNER, proposes an amendment numbered 499.

Mr. WARNER. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the aircraft carriers of the Navy)

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, and by the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), an aggregate of $288,000,000 may be available only for repair and maintenance of the U.S.S. John F. Kennedy, and available to conduct such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

Mr. WARNER. I am joined by the distinguished Senator from Florida, Mr. NELSON, Senator ALLEN, Senator MARTINEZ, Senator TALENT, and Senator COLLINS. I am prepared to give my statement in support.

I see the Senator from Vermont.

Mr. LEAHY. Mr. President, if the Senator will yield, the Senator from California, Mrs. BOXER, and I are waiting to speak about the tragic death of Marla Ruzicka over the weekend in the form of eulogies. I don't want to interrupt the work of the distinguished senior Senator from Virginia, but when he is finished I am going to seek the floor—both Senator BOXER and I—to give the eulogies, which will not take a great deal of time, but they are important.

Mr. WARNER. I think the Senator is asking that he be recognized at the conclusion of the introduction of this amendment. Senator NELSON and I will be brief to accommodate our colleagues.

Mr. President, this amendment ensures that all necessary repair and maintenance be accomplished on the USS *John F. Kennedy* to keep that ship in active status. The amendment also requires the Navy to keep 12 aircraft

carriers until the later of several situations comes to the attention of the Senate and the Congress: 180 days after the next Quadrennial Defense Review is delivered to Congress, or the Secretary of Defense has certified to Congress the necessary agreements have been entered into to provide the port facilities for the permanent forward deployed aircraft carriers deemed necessary to carry out the mission in their area of responsibility.

The ship, the USS *Kennedy*, was scheduled to start overhaul this coming summer. There was $334.7 million authorized and appropriated in the fiscal year 2005 for that purpose. So none of the funds in the underlying bill in any way are garnered by this amendment.

In the last-minute budget cut in late December, the decision was made by the Department of Defense to defer maintenance and to decommission the *Kennedy*.

The Chief of Naval Operations testified before the Senate Armed Services Committee on February 10 of this year that all 12 aircraft carriers were in his original budget request. He stated, however, that ''this action was driven by guidance'' from the office of Management and Budget that ''led to the reduction of our overall budget.''

That repair and maintenance should go forward, starting this summer as originally planned. It is premature to decommission this ship, which was until this past December scheduled to remain in the fleet until 2018.

The great ship, the *John F. Kennedy*, returned from deployment on December 13, 2004. I understand the ship is in good shape. In fact, in the words of the battle group commander, whose flagship was the *Kennedy*, the ship returned from deployment in ''outstanding material condition.''

The primary analytical document on military force structure is the Quadrennial Defense Review, or QDR. The QDR is, in the end, a compilation of detailed analyses of what the Nation requires to execute the National Military Strategy.

I believe Congress should show restraint when it comes to making force structure decisions, and only do so in the context of the reports and the analyses produced by the Department of Defense and such other reports that may be relevant. In this case, however, the analyses that are available to us supports a force structure of 12 aircraft carriers, not 11.

I also believe that, at some point, the number of aircraft carriers matters. If the aircraft carrier is not where the President needs it to be when a crisis erupts, its capabilities, however awesome, are not very meaningful.

The deliberations on the next QDR have already begun, in accordance with the law, and it should be delivered by this time next year. It may show, with analytical rigor, that the number of aircraft carriers can be reduced. It may not.

Nowhere is naval power more important to the National Military Strategy than in the Pacific Command Area of Responsibility.

After retirement of the USS *Kitty Hawk* in fiscal year 2008, the *Kennedy*, if retained, would be the last remaining conventional aircraft carrier.

This amendment ensures we have the aircraft carriers necessary to keep this area of the world covered until such time that the QDR, the Global Posture Review, and other uncertainties have been resolved.

I ask my colleagues to support this amendment.

Mr. President, the CNO appeared before our committee here of recent.

Now I will yield to my distinguished colleague from Florida, who was present during the course of that testimony, to insert that part which was in open session, which I think we should share with our colleagues. Mr. President, I see the distinguished Senator from Florida, my principal cosponsor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, because Senator LEAHY is waiting to speak, I will make very brief comments. The comments to which the distinguished chairman of the Senate Armed Services Committee has referred is the Chief of Naval Operations saying it is absolutely essential that he have a carrier home ported in Japan. The fact is, as he projects his forces in the defense of our country in the Pacific area of operations, he needs a carrier in that region so if it has to respond to an emergency, say, off of the coast of Taiwan, it is within a day and a half of sailing to respond to the emergency instead of a week's sailing from a port on the west coast of the United States.

Now, how all this ties in to the *John F. Kennedy* is that we do not know at this point that the Government of Japan—since so much of this decision is influenced by the municipal government in the region of the port—is going to receive a nuclear carrier. Therefore, when the present, conventionally powered carrier, the *Kitty Hawk*, in Japan, is ready to go out of service in 2008, if Japan's posture is they will not accept a nuclear carrier, then we do not have another one that could replace it.

So what the distinguished chairman of the Armed Services Committee is suggesting in this amendment that many of us are sponsoring with him is to keep alive the *John F. Kennedy* through its drydocking, with the funds that have already been appropriated, the $335 million, of which there are some $287 million left, to go on through the overhaul process so we have it as a backup.

This, of course, also keeps us then with two major ports for carriers on the east coast so that all of our east coast carrier assets are not in one port. In this era of terrorism, that clearly is one of the lessons we should have learned way back in December of 1941 in the experience of Pearl Harbor: Keep your assets spread out.

I am very grateful to Senator WARNER, who has offered this amendment for the sake of the defense of our country. And for the sake of those of us who have been working this problem, we are very grateful in order to get this in front of the Senate so a policy decision can be made.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SESSIONS. Will the Senator from Vermont allow me the opportunity to offer an amendment? I do not know how long he will be speaking.

Mr. LEAHY. Mr. President, am I correct that the Senator from Alabama only needs a minute or so?

Mr. SESSIONS. Less than that.

Mr. LEAHY. Mr. President, I will withhold my recognition so he can do that.

Mr. SESSIONS. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Alabama is recognized to offer an amendment.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 456

Mr. SESSIONS. Mr. President, I call up amendment No. 456.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 456.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for accountability in the United Nations Headquarters renovation project)

On page 183, after line 23, insert the following:

UNITED NATIONS HEADQUARTERS RENOVATION LOAN

SEC. 2105. (a) Notwithstanding any other provision of law, and subject to subsection (b), no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York.

(b) No loan may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York until after the date on which the President certifies to Congress that the renovation project has been fairly and competitively bid and that such bid is a reasonable cost for the renovation project.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from California, Mrs. BOXER, be recognized following me, and that the two of us be recognized as in morning business to speak about the tragic death this weekend of Marla Ruzicka.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

MARLA RUZICKA

Mr. LEAHY. Mr. President, I join my good friend, the Senator from California, in paying tribute to a remarkable young woman from Lakeport, CA, Marla Ruzicka.

There are times when we are called upon to give speeches such as this on the floor. They are never easy. Sometimes they are speeches given about somebody at the end of a long and full life. Here we are speaking about a young woman at the beginning of a life already full but with promise for decades to come.

Marla was the founder of a humanitarian organization called Campaign for Innocent Victims in Conflict which is devoted to helping the families of Afghan and Iraqi citizens who have been killed or suffered other losses, such as their homes destroyed, businesses destroyed, as a result of U.S. military operations. We know such suffering occurs no matter how careful the military may be.

But Saturday, Marla died in Baghdad. She died from a car bomb, a car bomb not directed at her but directed at a convoy. She was doing the work she loved and which so many people around the world admired her for. She was on her way to help somebody else. It was the case of being at the wrong place at the wrong time. But it was not unusual because she had risked her life so many times in Afghanistan and Iraq.

I met Marla 3 years ago when she first came to Washington. She was barely 26 years old. She had been in Afghanistan. She had seen the effects of the U.S. bombing mistakes that destroyed the homes and lives of innocent Afghan citizens. In one or two incidents, wedding parties had been bombed. In others, the bombs missed their targets and instead destroyed homes and neighborhoods.

I remember one incident she spoke of where every member of a family—16 people—was killed except a young child and that child's grandfather. These were the cases Marla spoke about. She spoke about them passionately because she felt passionately that the United States should help those families put their lives back together.

She met with me. She met in my office with Tim Rieser, who works on appropriations for me in the Foreign Operations Subcommittee. It did not take her long to convince either Tim or myself that she was so obviously right. We knew we not only had a moral responsibility to those people who had suffered because of the mistakes of the United States, we also had an interest in mitigating the hatred, the resentment toward Americans that those incidents had caused.

It was Marla's initiative—going to Afghanistan, meeting those families, getting the media's attention, coming back here and meeting with me and Tim and others—that led to the creation of a program that has contributed more than $8 million for medical assistance, or to rebuild homes, provide loans to start businesses, and provide other aid to innocent Afghan victims of the military operations.

From Afghanistan, Marla went to Iraq. She arrived, as I recall, a day or two after Saddam's statue fell. She and her Iraqi colleague, Faiez Ali Salem, who died at the same time, the same place as Marla, organized dozens of Iraqi volunteers to conduct surveys around the country of civilian casualties. Then she returned to Washington and again her efforts—I have to emphasize, her efforts, her personal efforts, her pounding on doors, her going person to person with her irrepressible energy—led to the creation of a program now known as the Civilian Assistance Program which has provided $10 million to the families and communities of Iraqi citizens killed by the U.S. and other coalition forces—another $10 million was allocated for this program last week—all by this happy, young woman you see depicted here, sitting with the people she helped.

To my knowledge, this is the first time we have ever provided this type of assistance to civilian victims of U.S. military operations. It would never have happened without the initiative, the courage, the incomparable force of character of Marla Ruzicka.

In my 31 years as a Senator, I have met a lot of interesting, accomplished people from all over the world, as all of us do—Nobel Prize recipients, heads of State, people who have achieved remarkable and even heroic things in their lives. I have never met anyone like Marla. She made sure we knew what she was doing and how we could help. Tim Rieser received an e-mail from her within an hour of the time she was killed. He sent it on to me during the middle of the night, Saturday night, with the photographs of Marla and the little girl she had helped.

I know how both my wife Marcelle and I felt, looking at those pictures, knowing we would never see another. There are so many stories about her, and some of them are being recounted now in the hundreds of press articles that have appeared in just the past 48 hours.

One story I remember the day after Marla arrived in Washington from Kabul. She had heard there was a hearing in the Senate where Secretary Rumsfeld and General Franks were going to testify. Thinking, perhaps a bit naively, that they might talk about the problem of civilian casualties, she decided to go hear what they would say. After the hearing was over, obviously disappointed that the issue she cared so deeply about hadn't even been mentioned, Marla walked straight up to Secretary Rumsfeld at the witness table and started talking to him.

He heads down the hallway; she heads down the hallway with him. I can imagine what the security people felt. She followed him right outside to his car, and she did not stop talking to him about the families of civilians she had met who had been killed and injured and the need to do something to help them.

Anybody who knew Marla can see that. Secretary of Defense? Secretary of State, Senator, it didn't make any difference. She had a story to tell and, by golly, you were going to hear that story. You could run down the hall, you could go to the elevator, but you were going to hear her story. She was not someone who was easy to say no to.

Not easy? It was almost impossible to say no to her. That was not simply because she was insistent. We all have insistent people who come to our offices. We have all developed ways to say no. But in her case, she was not just insistent, she was credible. She had been there. She knew what the war was about. She had seen the tragic results, and she was not about blaming anyone. She wasn't there to blame others. She just said: Look, there are people who need help. I want to help in whatever way I can.

That is what made it different. She saw her work as part of the best of what this country is about. It was the face of a compassionate America she believed in. She wanted the people of Afghanistan and Iraq to see the face of the America she believed in, a compassionate, humanitarian face.

It took time for some of us to realize she was not just a blond bundle of energy and charisma, which she was, but she was also a person of great intellect and courage who realized she wanted to help more victims. It wasn't enough to protest; that you can do easily. She needed to work with people who could help her do it. Of course, that meant the Congress, the U.S. military, the U.S. Embassy, the press, everybody else involved. She understood that. So she put aside politics and focused on the victims. But she made sure the Congress, the U.S. military, the U.S. Embassy and the press and everybody else heard from her. It didn't take long before the U.S. military saw the importance of what she was doing and they started to help. There were several civil affairs officers with whom Marla worked as a team. She would find the cases. They would arrange for the plane to airlift a wounded child to a hospital or some other type of assistance. She became one of our most beloved ambassadors because she was doing what our ambassadors want to do—put the good face, the humanitarian face, the loving and caring face of America first and foremost.

I think one of the reasons so many people around the world feel Marla's loss so deeply is because we saw how important her work was, and that meant taking risks the rest of us are unwilling take. In a way, she was not only helping the families of Iraqi war victims; she was also helping us, until she finally became an innocent victim of war herself. Yesterday, my phone rang so many times, people calling from Baghdad, calling me at home. Every one of them had a different story of something she had done, some way in which she had made somebody's life different. She has been called many things: an angel of mercy, a ray of sunshine in an often dangerous and dark world.

One person who knew her well described Marla as being as close to a living saint as they come. I suspect that is how many of us feel. She probably didn't feel that way herself. Many of us feel that way.

I don't think I have ever met, and I probably will never meet again, someone so young who gave so much of herself to so many people and who made such a difference doing it. Our hearts go out to her parents, Cliff and Nancy. I talked to her father yesterday. I said: Think how much she did in her short lifetime, more than most of us will get to do in a lifetime. But I thanked them for having the courage to let her be the person she wanted to be—not that I suspected anybody could have stopped her from being what she wanted to be.

One of the articles talks about her going to a checkpoint and the guard stopping her and she didn't have the proper papers. She stuck her head forward and pulled back the scarf. They saw the blond hair. She started talking to them about why she had to go here and there. Next thing you know, she is being sent on her way.

So our job is really to carry on the work Marla started not just in memory of a wonderful and heroic young woman, although that should be enough reason, but because the work is so important. That is what I am committed to. I know I will work with my friend from California to honor Marla in that way. I think it would be safe to say to my friend from California, I suspect there will be others in this Chamber who will do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator LEAHY, from the bottom of my heart, for his words about this extraordinary young woman; more than that, to him and his staff for believing in her. That took a leap of faith, that a woman so young could come in and present as compelling a case as she did.

Of course, she went right to the Senator, that is for sure, because of the work he has done for human rights in the world. She knew what she was doing. But you heard her and Tim and you rolled up your sleeves and created a program that the entire Senate backed and the entire Congress backed to help the innocent victims of war—those who are unfortunately sometimes called ''collateral damage''; we have names for that.

Clearly, what Marla did, by recognizing that these people needed help, she was doing God's work. But she also, as the good Senator pointed out, was helping the United States of America because we are in the battle for the hearts and minds of the world. Marla understood that.

AMENDMENT NO. 444

Mrs. BOXER. Before I make further remarks, I ask unanimous consent that the pending amendment be temporarily laid aside so I can call up amendment No. 444.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, and Mr. BINGAMAN, proposes an amendment numbered 444.

Mrs. BOXER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems)

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

Mrs. BOXER. My amendment would increase funding for jamming devices that would deactivate roadside bombs. They are one of the leading causes of the casualties in Iraq.

Mr. President, I will get back to the tribute I want to give to Marla. I thank Laura Schiller, my staff member, who is sitting here with me. She helped me put together these remarks. She was a friend of Marla's, and it was very hard for her to get through writing these remarks.

This morning, in northern California, where I was—I just got here—the people woke up to the San Francisco Chronicle's front page. It is this magnificent picture of Marla and a little girl she helped, along with an Iraqi woman who had clearly also been working with this little child.

It is interesting because on either side of this beautiful photograph of Marla and this little girl are two very negative stories about the world we live in—Medicare fraud and oil companies trying to lower their taxes in light of their highest profits ever—and it just spoke to me about Marla because there she was in the middle of all these negative forces, the worst kinds of negative forces—war, hatred, sectarian violence, all these things, there she was right in the middle, something good for us to cling to.

My heart breaks for Marla's family and her friends. Some of them were here, so many whose lives she touched. One of Marla's friends was my daughter Nicole who called me with the news of Marla's death on Saturday night. It was hard to understand her at first, so heavy were her tears. Between sobs, she told me Marla had been killed along the treacherous road leading to the Baghdad airport. It was a road so dangerous that when Senators travel there—and I just got back from there a couple weeks ago—they don't go on that road. Instead, they go on a Blackhawk helicopter and speed through a city with machine guns on either side looking down to the ground. It is a road so dangerous that even limited protection costs thousands of dollars—tens of thousands of dollars just to go one way on that road, if you were to hire people to help protect you. That is how dangerous it is.

Who among us would have found the courage to travel on that road on Saturday, or the road that Marla had traveled during her courageous, committed, and very short life? Who among us can say we have spent so much of our lives serving other people in the way that truly makes a difference? How many 28-year-olds can say that?

Imagine, in this the most powerful and greatest country in the world, it was this remarkable woman who went door to door counting Iraqi civilian victims, when nobody else would. It was this young woman who lobbied the Senate for assistance for these families, and we heard from Senator LEAHY about how incredible she was when she made the case. She risked her own life to make sure they received the support they deserved.

''Marla was something close to a saint,'' one friend wrote this morning, ''but a very realistic saint.'' I personally met Marla for the first time recently when she and her mother came to my home in California to celebrate an occasion for my daughter. When Marla walked through our front door with her mom, she had an infectious smile, and my daughter's face lit up. ''This is the amazing woman I've been telling you about, Mom,'' she said.

This is how it always was for the thousands around the world lucky enough to call Marla a friend. It didn't matter if you lived in the streets of Baghdad or the dusty villages of Afghanistan or the corridors of power in

Washington, DC. It didn't matter whether you knew Marla. She would come up to you and you would feel as if you had known her for a lifetime.

She treated every conversation as a chance to tell you about the righteousness of her cause, and she treated everyone with the same respect, openness, and unconditional love.

We so often hear:

And now three remain: faith, hope, and love. But the greatest of these is love.

My office was flooded today with e-mails and phone calls from the people whose lives were touched by Marla's faith, hope, and love. Everyone has a story to tell, and I brought a few photos to share with you because words are not enough.

In this photo she sent hours before her death, we see her holding tightly an Iraqi child who was thrown from a vehicle just before it was blown up in a rocket attack. The child's entire family was killed. Marla saved that child.

Here we see one of the countless civilians brutally injured and now beaming and healthy next to the person, Marla, who helped her heal.

We see Marla's trusted Iraqi colleague, Faiz, whom she wrote, ''was sent to me by angels from the sky.'' He worked tirelessly beside her, and he died bravely beside her.

And we see this beautiful, vibrant, young woman, red scarf around her neck, surrounded by the soldiers she befriended and entreated in her quest to help Iraqi civilians. Senator LEAHY made the point that everyone wanted to help Marla—everyone. The U.S. military wanted to make up for the damage that was caused. They desperately wanted to do that, but they needed someone who could give them accurate information, and she did that.

Inside the green zone—

One friend wrote last night—

she would encourage military officers and U.S. officials to hug each other—just to remember that they were still human, and reward them with a big smile if they actually did it.

There are many other pictures that her friends wanted to share of a woman who was a great friend to all and a beloved Ambassador for the United States at a time when our actions may not be so popular.

There were images of the notes she sent, when their spirits were at their lowest, telling them how beautiful they are, how much their work mattered, how much she cared.

I think we are going to leave this picture up because it is exquisite. There are other pictures of Marla sleeping on the floor for nights on end so she could use her limited resources to help Iraqi victims. Behind her happy-go-lucky demeanor, there was a picture of an effective advocate cornering a Defense Secretary, a general, or, yes, a U.S. Senator, and refusing to go away until our country helped care for the innocent victims of war.

There was a picture of the room full of journalists waiting that last night for their host to show up for another party she had planned to buoy their spirits, and no doubt try to persuade them to write about the victims she saw suffering terrible damage—not collateral damage but critical damage.

A few days before she died, Marla wrote her own op-ed for the Washington Post. She talked about her most recent discovery—that the U.S. military was counting Iraqi civilian casualties in some places, despite its claims to the contrary. She ended with these words:

. . . To me, each number is a story of someone whose hopes, dreams, and potential will never be realized, and who left behind a family.

The same can be said of Marla. Her hopes, her dreams, and her potential will never be realized, and she left behind a family. In all the years I have lived, I do not know too many people who have made an impact the way she has in those 28 short years. But I guarantee you, if Marla were here, she would not want us to weep, she would not want us to hide our heads. She would want us to keep fighting for the people and causes she had championed even before she was old enough to drive a car. She would want us to remember the words of encouragement and action she sent constantly to friends and colleagues. Once she wrote, ''Their tragedies are my responsibilities,'' and now her work must be ours.

I hope a message goes out to the suicide bombers to stop what they are doing, to stop it now, and to those who would put together these roadside bombs to stop it now because everyone who is injured by this—everyone—has hopes and dreams and families and potential.

So her work must be ours. She was the voice of these victims to whom no one seems to pay much attention. We need to be her voice now.

''And now these three remain: Faith, hope and love: But the greatest of these is love.''

Mr. President, may we join the grieving Ruzicka family and thousands around the world in paying tribute to a young woman of great faith, hope, and love by finishing the work she so courageously began and by working to make sure this war will soon come to an end.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. First, I commend my colleagues from California and Vermont for recognizing such a remarkable woman, someone who represents everything that is good and peaceful about America and who set an example in such a tumultuous time and place but clearly giving all of the love she had to give at a time when it was needed the most. I thank my colleagues for taking the time to recognize that.

AMENDMENT NO. 481

Mrs. LINCOLN. Mr. President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 481.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 481.

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the accumulation of leave by members of the National Guard)

On page 169, between lines 8 and 9, insert the following:

ACCUMULATION OF LEAVE BY MEMBERS OF THE NATIONAL GUARD

SEC. 1122. Section 701(a) of title 10, United States Code, is amended by adding at the end the following new sentence: ''In the case of a member of the Army National Guard of the United States or the Air National Guard of the United States who serves on active duty for more than 179 consecutive days, full-time training or other full-time duty performed by such member during the 5-year period ending on the 180th day of such service under a provision of law referred to in the preceding sentence, while such member was in the status as a member of the National Guard, and for which such member was entitled to pay, is active service for the purposes of this section.''.

Mrs. LINCOLN. Mr. President, I rise today to offer an amendment of great importance to the returning guardsmen and reservists in my home State and in many other States. I think many of my colleagues, in understanding what I am trying to do, will agree that it is the right approach and the right thing to do for the men and women from our States who have done such an incredible job serving our Nation in Iraq and on behalf of not just Americans but the Iraqi people.

When our soldiers return home, some of them are finding they might only have a week or less before they are expected to reenter the workforce and return to civilian life. It is confusing at best to know with what they are going to be faced. The price of gasoline has gone up tremendously since they deployed almost 2 years ago. They have seen a lot of changes in their communities, perhaps changes in their work, changes in their families, the loss of loved ones, certainly the growing of their little biddies. But many of the soldiers of Arkansas's 39th Infantry Brigade found they had absolutely no leave left when they returned to our home State of Arkansas. This left them with very few options other than to return to work immediately or, in some cases, to begin looking for work immediately, within a week of when they returned to their home soil.

These soldiers had just spent nearly 18 months in Iraq, risking their lives to defend the freedoms we cherish as Americans. They witnessed scenes of tragedy and violence they never expected to encounter but willingly accepted as part of their mission in service of this great Nation. It is part of

our job as legislators to make sure they are taken care of when they return home, that we honor their sacrifices, their duty, and their courage. We are not doing our job if soldiers are forced to return to civilian life within a week of returning home from theater.

I have been out to Walter Reed, as have many of my colleagues, and seen our soldiers recovering from horrific wounds suffered in this conflict. One of the soldiers from Arkansas had taken a rocket-propelled grenade directly to his chest. You would not have known it, though, from talking to him. He was proud of the work he and his fellow soldiers had been doing in Iraq. He missed his unit and was ready to return to them and finish the rebuilding process they had begun.

As I left his room, one of the nurses approached one of my staffers and said that while many of the soldiers were doing very well, she was very concerned for them once they got back to their homes, into their communities, trying to readjust themselves to a way of life from which they had been absent while they were in Iraq, while they were experiencing events that oftentimes only they could think of in their own hearts.

Many of them underwent daily therapy sessions where they discussed these experiences with their fellow soldiers. Unfortunately for our guardsmen and reservists, they do not come back to a base where they are surrounded by people who have had a similar experience, people to whom they can talk, people with whom they can empathize, those who can understand the unbelievable circumstances and situations they experienced in Iraq.

The nurse was also concerned that what they were receiving in the hospital there would all end once they returned to their hometowns—the therapy, the discussions, certainly the medical treatment.

Imagine you are a soldier who, thankfully, has made it home from Iraq or Afghanistan without serious injury, the joyousness of coming home to your home, to your family, to your community, and upon returning to a pace of life 180 degrees from anything you have witnessed within the last year and a half, you are expected to turn on a dime and adjust immediately to the world you left behind. This is a great injustice and one that cannot be ignored.

My amendment is very simple. It would allow a guardsman to accrue bonus leave when he or she was placed on active duty for 6 months. This would give guardsmen more leave by altering how training days for the National Guard and Reserve are counted for the purposes of determining their leave. Currently, any training less than 29 consecutive days does not count toward accruement of leave.

This amendment would change current policy when a guardsman is placed on active duty for a period of 180 consecutive days. Upon that 180th consecutive day of active duty, all previous days spent training in the past 5 years, no matter their duration, would be counted for the purpose of determining how many days of leave the guardsmen would have. This would effectively give the guardsmen and reservist a bonus period of leave when they were deployed for longer than 6 months.

The look-back period for determining the new leave, as I mentioned, would be capped at 5 years. This would prevent substantial disparities in accrued leave from occurring between a guardsman with 20 years of service and a guardsman with only 3, perhaps.

We must do all we can to ensure our guardsmen are given every opportunity to readjust to life outside of the combat zone. When they return to our arms, we must embrace them and give them the time and the elements they need to readjust themselves. For some, it may be as simple as getting their finances back in order or perhaps spending time with their spouse or their children or their extended family. Maybe it is getting re-equipped back in their household or in their community. Maybe it is getting re-engaged, remembering those people who surround them who can provide them the unconditional love and support they need to put behind them the experiences they may have had, so they can look forward and be proud of the service they have given and know their country embraces them.

For others, it may be more difficult. Either way, they deserve an opportunity to deal with these issues without having to worry about returning to or finding work in order to put food on the table so soon after giving so much in service to this great country.

Our guardsmen found themselves in two circumstances where they were given passes, but were required to take leave when they have returned now from that 180-plus days of service, of giving their heart and soul to make sure the freedoms we enjoy are protected.

We should do all we can to make sure as they come back into our American communities, they come back into their families, they can do it with dignity and the support of this great country and the military service they have served.

I urge the Senate to adopt my amendment. I ask my colleagues to take a look at it. I think it is very simple and something we could do without much folderol. We could get it done and make sure all these soldiers are well taken care of.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to talk a little bit regretfully about the issue of immigration—regretfully, because the supplemental Defense bill that came out of the House of Representatives included the issue of immigration and therefore has opened it up for discussion here in the Senate.

Tonight I rise in support of the Craig amendment which will enact important reforms to the H–2A program that will help ensure Ohio's agricultural industry remains strong and vibrant. That has a lot to do with immigration.

Agribusiness is the largest industry in the State of Ohio, contributing $73 billion to our economy each year. I would like to keep it that way. My State ranks sixth nationally in the production of nursery and greenhouse crops, with a value of over a half billion dollars. We grow almost a quarter of a billion dollars worth of fruits and vegetables each year.

I want to stress how important these businesses are to Ohio and how vulnerable they are. These industries live and die in a very competitive marketplace, and having a stable and sufficient workforce is vital to their competitiveness in the global marketplace. Unfortunately, right now they have a major labor crisis. Without the guest workers who are essential to getting work done during peak seasons, agribusiness in Ohio as well as the rest of the country simply would not have the workforce necessary to do their work and their customers would have to look elsewhere, very likely to overseas businesses for agricultural products.

I am told in the early 1990s our Nation exported twice the value of nursery and greenhouse crops to Canada than we imported. In the last decade, Canada has overtaken us, and now the numbers have reversed, adding to our Nation's trade deficit. I would like to note that our neighbor, Ontario, has a very good guest worker program.

If we offshore our fruit, vegetable, nursery crops, and other production to Mexico and Canada, think of what we lose. We lose control of our food supply, and you know that is a national security issue. We lose jobs, and not just farmworker jobs. Agricultural economists tell us each farmworker job in these industries supports 3½ jobs in the surrounding economy: processing, packaging, transportation, equipment, supplies, lending, and insurance. They are good jobs, filled by Americans. We lose them if we do not do this the right way.

Work in these industries in Ohio is seasonal, demanding, and out in the weather. Many of our producers have tried to use the existing H–2A program. This is especially true of our nursery, sod, and Christmas tree growers. They represent 79 percent of the H–2A use in Ohio.

The program is expensive, bureaucratic, and a litigation nightmare—that is the current program. The program is failing and it needs fixing. Many agricultural employers would like to use the program but do not because of the uncertainty associated with the program. Not having access to legal, timely workers hurts these businesses. Crops are lost because workers are not available for the harvest. I understand from my colleague Senator CRAIG that out in California lettuce is

rotting in the field because there are not workers there to pick it.

Many of my H–2A-user growers and producers have been closely involved in the negotiations of AgJOBS, the amendment before us. They know immigration and guest worker reform cannot be a partisan undertaking. They have been creative and determined in finding common ground and producing bipartisan legislation. Their survival depends on this Senate passing AgJOBS.

The toughest issue is what to do about the trained and trusted farm workforce, 70 percent or more working without proper documents. Their labor is critical to Ohio and America. These farmworkers are hard-working, law-abiding people. They are paying Federal and State taxes and Social Security. They are part of the fabric of our society already in so many ways.

AgJOBS allows them to come forward and rehabilitate their status over time through the time-honored values of hard work and good behavior. The failure of this country to create a practical agricultural guest worker program has forced most of the country's agribusiness to live between a rock and a hard place. It has been said our farmers have one foot in jail and the other in the bankruptcy court. Every day, each time my constituents open the door in the morning, they know this much, if and when the Government decides to get serious about Social Security mismatch letters, about enforcement, it is all over.

They tell me: We are following the law in our hiring. Yet we know if Immigration enforcement came in tomorrow, our business would be irreparably damaged. My constituents and yours could lose their workforce tomorrow.

Some of my colleagues are critical of this legislation because they claim it provides amnesty. I disagree. Amnesty is an unconditional pardon to a group of people who have committed an illegal act, and Webster's Dictionary agrees that is the definition. There is nothing unconditional about the path to rehabilitation provided in AgJOBS. To earn adjustment to legal status, a worker must have worked in U.S. agriculture before January 1, 2005. Accordingly, this legislation imposes conditions on obtaining adjustment to legal status, including, more importantly, a work history.

These are people who have worked in the United States, many of them for many years. A lot of them are not legal. What this legislation does is it provides an opportunity for them to become legal, after supporting certain conditions.

If you believe that any forgiveness at all constitutes amnesty, then every serious proposal that comes forward to solve this problem will be amnesty. But in the end, isn't the worst amnesty of all the status quo? Ignoring and tacitly condoning this problem will not provide a solution. It has been going on too long. Let us take a step forward now toward reconciling our laws with reality.

This legislation will help illegal immigrants working in agriculture to come clean and become part of our legal workforce, allowing this country to focus its efforts on more serious immigration problems. Furthermore, providing a means for such workers to obtain legal status provides a real incentive for them to participate in this program.

I read a portion of a letter Senator CRAIG and Congressman CANNON received from Grover Norquist, chairman of the Americans for Tax Reform. He said:

I'd like to take this opportunity to commend for you the introduction of S. 1645 and H.R. 3142. The AgJOBS bill is a great step in bringing fundamental reform to our Nation's broken immigration system. AgJOBS would make America more secure. Fifty to seventy-five percent of the agriculture workforce in this country is underground due to the highly impractical worker quota restrictions. Up to 500,000 workers would be given approved worker status screened by the Department of Homeland Security and accounted for while they are here. Any future workers coming into America looking for agriculture work would be screened at the border where malcontents can most easily be turned back. The current H2–A agriculture worker program only supplies about 2 to 3 percent of the farm workforce.

It goes on to say:

Workers that are here to work in jobs Native Americans are not willing to do must stay if food production is to remain adequate. However, those already here and new workers from overseas should have a screening system that works, both for our States' safety and for their human rights. Your bill does just that.

Mr. President, I would also like to point out that AgJOBS is endorsed by a historic bipartisan coalition of 500 and counting, national, State, and local organizations, including 200 agricultural organizations representing fruit and vegetable growers, dairy producers, nursery and landscape, ranching and others, as well as the National Association of the State Departments of Agriculture; that is, the national association of all of the 50 States' agriculture departments have come forward to support this. There is bipartisan support of this legislation by elected and appointed State directors of agriculture.

Yesterday I received a letter from Ambassador Clayton Yeutter. Clayton Yeutter has been a tireless advocate for American agriculture. You will remember that he served as Secretary of Agriculture under Ronald Reagan and as U.S. Trade Representative under George H.W. Bush. In his letter, he started out by saying:

History demonstrates that there are moments in time when special opportunities arise for political action that successfully addresses multiple challenges. Today is one of those occasions.

I agree.

He went on to describe the substance and the partisanship of the AgJOBS bill.

He ended as follows:

As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is in our country's best interest to enact these reforms and reap the harvest of political action at a special moment in time.

That is what our President had to say.

Again, I agree.

I stand ready to take a first and most important step on this difficult issue that has plagued this Nation for too long.

As I stated, I would have preferred that immigration would not have been a part of this legislation that is before us. But as I mentioned, it came before us because of the fact that the House decided to make immigration a part of the emergency supplemental bill.

Those of us who have been concerned about immigration are taking this opportunity to clearly state what we think needs to be done. I am hopeful that tomorrow 59 of my colleagues will vote for cloture so we can get on and deal with this issue and bring the relief to thousands of people, thousands of businesses, and agribusiness in this country.

I yield the floor.

Mr. INHOFE. Mr. President, Edmundo Garcia said he had heard that the new Bush immigration plan, which would grant work visas to millions of illegal immigrants inside the United States and to others who can prove they have a job, was 'amnesty,' and he wondered why he was arrested.''

He said he would try to cross [the border from Mexico to the U.S. through the Sonoran Desert] again in a few days.

This quote from the New York Times on May 23, 2004, shows just how bad things have gotten since the administration's initial immigration policy proposal was announced.

The New York Times article goes on to say:

Apprehensions of crossers in the desert south of Tucson have jumped 60 percent over the previous year.

Nearly 300,000 people were caught trying to enter the U.S. through the desert border since last October 1st (that's October 2003).''

It continues:

After a four-year drop, apprehensions which the Border Patrol uses to measure human smuggling are up 30 percent over last year along the entire southern border, with over 660,000 people detained from October 1st through the end of April.

There are an estimated 8 to 12 million illegal immigrants in this country, with about 1 million new illegal aliens coming into this country every year. Legal immigration is even at unprecedented levels about five times the traditional levels. We now have about 1.2 million legal immigrants coming into this country each year, as opposed to an average of about 250,000 legal immigrants before 1976.

S. 359, the AgJOBS bill, could offer amnesty to at least 800,000 more illegal

aliens, and if they all bring family members, which they would be eligible to do, it could be up to 3 million more, according to Numbers USA.

I greatly respect my friend and colleague, the Senator from Idaho, Mr. CRAIG, and I understand he has many cosponsors for his bill, but I firmly believe S. 359 has some major flaws and is not the way to remedy our problem with illegal immigration.

Even though there are certain criteria these illegal aliens must meet to qualify for temporary work status and eventual citizenship under this bill, it still rewards them by allowing them to stay in this country and work rather than penalizing them for breaking the law this is amnesty.

I also agree with my colleague from Texas, Senator CORNYN, the chairman of the Immigration Subcommittee, who said in Tuesday's Congress Daily when asked about the supplemental bill H.R. 1268, said that he did not want it to ''be a magnet for other unrelated immigration proposals . . . regular order is the best way. . . .''

I agree with my colleague and think we should focus on the supplemental and debate immigration reform separately.

Furthermore, in section 2, paragraph 7, the AgJOBS bill defines a workday as ''any day in which the individual is employed one or more hours in agriculture.''

In order for an alien to apply for temporary work status, section 101, subsection A, subparagraph A states that the aliens ''must establish that they have performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months. . . .''

So if a workday is defined as working at least 1 hour and the alien only has to work 100 work days in a year to qualify for temporary status under the AgJOBS bill, then illegal aliens only have to find some kind of agricultural work, and not necessarily be paid, for 100 hours, or merely 2 weeks, in a year in order to stay temporarily, while robbing Americans of these jobs.

An article from May 18, 2004, by Frank Gaffney, Jr., from the Washington Times entitled ''Stealth Amnesty'' states that once an illegal alien has established lawful temporary residency, ''they can stay in the U.S. indefinitely while applying for permanent resident status.''

''From there it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next 6 years.''

Furthermore, in referring to the REAL ID Act, which was attached to the supplemental in the House, and I believe is true reform, another article from the week of April 6, appeared in the Washington Times stating:

. . . REAL ID is a bill that will strengthen homeland security, while Mr. CRAIG's AgJOBS bill will not.

One more article in the Washington Times, again by Frank Gaffney, Jr., from April 5 refers to the REAL ID Act as well as AgJOBS says:

The REAL ID legislation is aimed at denying future terrorists the ability exploited by the September 11, 2001, hijackers namely, to hold numerous valid driver's licenses, which they used to gain access to airports and their targeted aircraft.

It is no small irony, therefore, that the presence of the REAL ID provisions on the military's supplemental funding bill is being cited by the Senate parliamentarian as grounds for Senator Larry Craig, Idaho Republican, to try to attach to it legislation that would help eviscerate what passes for restrictions on illegal immigration.

The article continues:

The agriculture sector of the US economy needs cheap labor.

So let's legalize the presence in this country of anyone who can claim to have once worked for a little more than three months in that sector.

We must not reward lawbreakers especially while we have so many people coming to this country legally.

Last summer, I had an intern in my office from Rwanda. She fled during the genocide in 1994. She then came to this country as a refugee and became a legal permanent resident. It took her a year to get all her paperwork for becoming a legal resident and she will probably have to wade through similar bureaucracy to become a citizen as well. It frustrates me that people like her follow the rules and have to wait in the lines and wait for all the paperwork to be processed, while the illegal aliens can sneak into our country, and then, if they do apply for legal status, they slow down the process for those who came here legally. Not only does AgJOBS reward lawbreakers, it also robs many Americans of jobs they are willing to do.

Roy Beck from Numbers USA in his testimony on March 24, 2004, before the Subcommittee on Immigration, Border Security and Claims, quoted Alan Greenspan from February of last year as saying that America has an ''oversupply of low-skilled, low-educated workers.'' In fact, according to Mr. Beck's testimony, the Bureau of Labor Statistics reports that the number of unemployed Americans includes a majority of workers without a high school diploma.

Basically, we have a great supply of lower educated American workers without jobs, while ironically, the main purpose of the AgJOBS bill is to bring in low-educated, low-skilled foreign workers for jobs that these Americans are able and willing to fill.

A recent article from March 31 of this year in the San Diego Union-Tribune entitled ''Importing a Peasant Class'', written by Jerry Kammer, emphasizes this point by saying:

Nearly two decades after a sweeping amnesty for illegal immigrants [referring to the 1986 Amnesty] gave Gerardo Jimenez a ticket out of a San Diego County avocado orchard, he worries that the unyielding tide of low-wage workers from Latin America might pull the economic rug out from under his feet.

Jimenez, who is from Mexico and supervises a drywall crew that worked all winter remodeling an office building three blocks from the White House says, ''There are too many people coming.''

The article goes on to say:

Jimenez's concern reflects an ambivalence about immigration among established immigrants in America.

It also challenges a key assumption of President Bush's proposal for a massive new guest-worker program: that the United States has a dearth of low-skill workers.

This is not true, we do not have a dearth of low-skill workers.

Not only does S. 359 keep able Americans from performing these jobs; it also drives down wages and stifles innovation and technology for these jobs.

The same San Diego Union-Tribune article I just quoted from continues saying:

In Atlanta, house painter Moises Milano says competition for jobs is so stiff among immigrants that house painters' wages have been flat since he came to the United States in the late 1980.

They're still $9 an hour, he said, which would mean they've actually fallen significantly when adjusted for inflation.

And yet many more aspiring house painters arrive every day from Latin America.

Similar concerns can be heard throughout low-wage industries that Latino immigrants have come to dominate during recent decades, including housekeeping, landscaping, janitorial, chicken processing, meat packing, restaurants, hotels and fast food.

The article goes on to say:

Jimenez says his company competes for contracts against subcontractors using illegal workers who are prepared to work for less and who don't expect health insurance, overtime or other employment benefits.

''It puts pressure on his employer to cut labor costs, he said.''

Jimenez explains why the migrants come and how it hurts current immigrants: ''The migrants come because of hunger, because of necessity . . . but I would benefit if someone imposed order,'' he says. ''My work would be worth more.''

Jimenez says that he won't be able to compete with companies that hire illegal workers so that they can pay lower wages.

Not only are workers like Jimenez facing tough competition from companies who hire illegals, but a GAO study from 1988 found that other fields, such as cleaning office buildings, were also experiencing lower wages and more competition as a result of foreign workers.

Cleaning office buildings used to pay a decent wage, however as more foreign workers entered the field, wages, benefits and working conditions began to collapse.

Other labor-intensive fields, such as the construction and the meatpacking industry, have also experienced a drop in pay after an influx of foreign workers. By allowing employers to flood the

labor market with foreign workers in these sectors, wages and working conditions have gone down drastically and made these jobs much less attractive to American workers; while making them much more attractive to alien workers.

As for stifling technological advances, according to a February 9, 2004, article appearing in National Review:

the huge supply of low-wage illegal aliens encourages American farmers to lag technologically behind farmers in other countries.

The article continues:

Raisin production in California still requires that grapes be cut off by hand and manually turned on the drying tray.

In other countries, farmers use a labor-saving technique called drying on the vine.

A cutoff of the illegal-alien flow would encourage American farmers to adopt many of these technological innovations, and come up with new ones.

Another, and possibly more important problem with S. 359, is the risk it poses to our homeland security. It has some of the same loopholes that the 1986 Immigration Reform and Control Act, IRCA, contained.

It also overwhelms the already burdened immigration system, not to mention that there are no criminal or terrorist records for these people. For example, an Egyptian illegal immigrant named Mahmud Abouhalima came to America on a tourist visa in 1985. The visa expired in 1986, but Abouhalima stayed here, working illegally as a cab driver.

Abouhalima received permanent residency, a green card, in 1988, after winning amnesty under the 1986 IRCA law. Although he had never worked in agriculture in the United States, Abouhalima acquired legal status through the special agricultural workers program—which is essentially what the AgJobs bill does. Once he had become legalized, Abouhalima was able to travel freely to Afghanistan. He received combat training during several trips there. Abouhalima used his amnesty/legalization and his terrorist training as a lead organizer of the 1993 plot to bomb the World Trade Center and other New York landmarks.

The special agricultural worker amnesty program enacted as part of the 1986 Amnesty saw many ineligible illegal aliens fraudulently apply for, and successfully receive, amnesty. Up to two-thirds of illegal aliens receiving amnesty under that program had submitted fraudulent applications, just like Abouhalima. We cannot afford to allow ourselves to be vulnerable to terrorists by allowing these people to stay in our country. I want to work with my colleague to address this problem of illegal immigration.

Over the last century, several Presidential and congressionally mandated Commissions including the 1907 Roosevelt Commission on Country Life to the 1990 Barbara Jordan Commission on Immigration Reform have been appointed to study immigration to the United States. These seven Commissions each possessing different mandates, membership makeup, studies and historical context in which their work was performed had some similar findings including: U.S. policy should actively discourage the dependence of any industry on foreign workers.

Dependence on a foreign agricultural labor force is especially problematic because of the seasonal nature of the work, which leads to high un- and under-employment and results in the inefficient use of labor.

Strict enforcement of immigration and labor laws is the key to a successful immigration policy that benefits the nation. Unfortunately, AgJOBS violates each of these principles.

It ensures the dependence of the agricultural industry on foreign workers by eliminating any possibility that wages and working conditions in agriculture will improve sufficiently to attract U.S. workers, whether citizens or lawful permanent residents.

AgJOBS actually reduces wages statutorily by freezing the required wage rate for new foreign workers, known as H–2A nonimmigrants, at its January 1, 2003, level for 3 years. In Oklahoma it is currently $7.89.

It also actually discourages agricultural employers from pursuing innovations, such as mechanization, that would reduce their reliance on seasonal labor.

AgJOBS guarantees employers an ''indentured'' labor force for at last the first 6 years after enactment. Employers can pay as little as minimum wage while the newly amnestied workers have no choice but to accept whatever the employer offers them since they are required to continue working in agriculture in order to get a green card.

Additionally, AgJOBS requires the American taxpayer to foot the bill for maintaining this large, seasonal workforce by allowing: Illegal aliens who apply for amnesty under AgJOBS to receive taxpayer-funded counsel from Legal Services Corporation to assist them with filling out their applications; the amnestied aliens to be eligible for unemployment insurance benefits if they are unable to find other unskilled work during the off-season, the amnestied aliens to use publicly funded services like education and emergency health care this is almost free since many of these aliens have artificially low wages thus making their tax contributions extremely low.

Finally, AgJOBS does not contain any provisions to tighten enforcement of U.S. immigration or labor laws. In fact, by rewarding illegal aliens with amnesty, AgJOBS will encourage even more illegal immigration.

By the time the amnestied aliens are released from ''indentured servitude'' under AgJOBS, agricultural employers will have access to a whole new population of illegal-alien workers and the cycle will be well on its way to repeating itself, just as it did after the ''one-time-only'' amnesty for agricultural workers in 1986.

I also believe both the REAL ID Act, sponsored by my colleague in the House, Congressman SENSENBRENNER, as well as a bill I supported in the last Congress, are sound ways to strengthen our immigration system. The REAL ID Act would make it more difficult for people who are violating our laws by being in our country illegally, as well as engaging in terrorist activities, to stay in the United States. Unfortunately, I was forced to vote against the intelligence bill in December because the provisions that are in the REAL ID Act were excluded from the intelligence bill.

One such provision in the current REAL ID Act has to do with a 3.5-mile gap in a border fence between San Diego and Tijuana. People are able to come and go as they please. This is where many illegal immigrants are coming through; some of them could even be terrorists.

Apparently, this gap has been left open because of a maritime succulent shrub, which is the environment in which two pairs of endangered birds live. These two pairs of birds, the vireo and the flycatcher, might be harassed—not killed—but harassed if the fence is completed.

I checked with the U.S. Geological Survey and found that there are an estimated 2,000 vireos and 1,000 flycatchers in existence today, and at the most, not building the fence prevents two pairs of birds from being harassed. Is it better to harass two pairs of birds or leave this 3.5-mile gap open for terrorists or other law-breakers to come through? I assume that not building the fence, leaving it open for aliens to trample on this environment, the home to these birds causes more harassment than actually building a fence.

Another provision in the REAL ID Act is the requirement for proof of lawful presence in the United States. This requirement applies to immigration law provisions passed in 1996, which I supported.

The temporary license requirement, including a requirement that the license term should expire on the same date as a visa or other temporary lawful presence-authorizing document, is in the REAL ID Act. This means if you are here on a document—such as a visa—and it expires, your driver's license should expire at the same time. Under current law, this is not the case

The REAL ID Act requires official identification to expire on the same date as a person's visa or other presence-authorizing document. Electronic confirmation by various State departments of motor vehicles to validate other States' driver's licenses is another important item in the REAL ID Act. Had Virginia officials referenced the Florida records of Mohammed Atta, one of the hijackers and masterminds behind 9/11, when he was stopped in Virginia, it is likely they would have discovered that his license was not current. The REAL ID Act will make it difficult for instances such as this to take place.

While I strongly support the steps taken in the REAL ID Act to strengthen our immigration laws, I remain vigilant, and look forward to working with my colleagues to ensure that American citizens' individual liberties are not infringed upon.

I also want to be aware of and oppose efforts to explicitly create a national ID card which could contain all of a person's personal information.

Finally, in the 108th Congress, I cosponsored S. 1906, the Homeland Security Enhancement Act of 2003, which was introduced by my colleague from Alabama, Senator SESSIONS, and my former colleague from Georgia, Senator Miller, and was also cosponsored by my colleague from Idaho, Senator CRAIG. S. 1906 would give our law enforcement and immigration and border officers the tools and funding they need to do their jobs. More specifically, S. 1906 would: clarify for law enforcement officers that they have the legal authority to enforce immigration violations while carrying out their routine duties; increase the amount of information regarding deportable illegal aliens entered into the FBI's National Crime Information Center database, making the information more readily available to state and local officials; supply additional facilities and beds to retain criminal aliens once they have been apprehended, instead of releasing them, which occurs quite frequently; require the Federal Government to either take illegal aliens into custody or pay the locality or State to detain them, instead of telling those officials to release the aliens because no one is available to take custody; require that criminal aliens be retained until deportation under the Institutional Removal Program, so that they are not released back into the community; mandate that States only give driver's licenses to legal immigrants and make the license expire the same day the alien's permission to be in the country expires.

In conclusion, let's work to improve and enforce our laws and not reward those who break them.

I ask unanimous consent that several pertinent articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 23, 2004]

BORDER DESERT PROVES DEADLY FOR MEXICANS

(By Timothy Egan)

At the bottleneck of human smuggling here in the Sonoran Desert, illegal immigrants are dying in record numbers as they try to cross from Mexico into the United States in the wake of a new Bush administration amnesty proposal that is being perceived by some migrants as a magnet to cross.

''The season of death,'' as Robert C. Bonner, the commissioner in charge of the Border Patrol, calls the hot months, has only just begun, and already 61 people have died in the Arizona border region since last Oct. 1, according to the Mexican Interior Ministry—triple the pace of the previous year.

The Border Patrol, which counts only bodies that it processes, says 43 people have died near the Arizona border since the start of its fiscal year on Oct. 1, more than in any other year in the same period.

Leon Stroud, a Border Patrol agent who is part of a squad that has the dual job of arresting illegal immigrants and trying to save their lives, said he had seen 34 bodies in the last year. In Border Patrol parlance, a dead car and a dead migrant are the same thing—a ''10–7''—but Mr. Stroud said he had never gotten used to the loss of life.

''The hardest thing was, I sat with this 15-year-old kid next to the body of his dad,'' said Mr. Stroud, a Texan who speaks fluent Spanish. ''His dad had been a cook. He was too fat to be trying to cross this border. We built a fire and I tried to console him. It was tough.''

If the pace keeps up, even with new initiatives to limit border crossings by using unmanned drones and Blackhawk helicopters in the air and beefed-up patrols on the ground, this will be the deadliest year ever to cross the nation's busiest smuggling corridor. The 154 deaths in the Border Patrol's Tucson and Yuma sectors last year set a record.

''This is unprecedented,'' said the Rev. John Fife, a Presbyterian minister in Tucson who is active in border humanitarian efforts. ''Ten years ago there were almost no deaths on the southern Arizona border. What they've done is created this gauntlet of death. It's Darwinian—only the strongest survive.''

For years, deaths of people trying to cross the border usually occurred at night on highways near urban areas, killed by cars. But now, because urban entries in places like San Diego and El Paso have been nearly sealed by fences, technology and agents, illegal immigrants have been forced to try to cross here in southern Arizona, one of the most inhospitable places on earth.

They die from the sun, baking on the prickled floor of the Sonoran Desert, where ground temperatures reach 130 degrees before the first day of summer. They die freezing, higher up in the cold rocks of the Baboquivari Mountains on moonless nights. They die from bandits who prey on them, in cars that break down on them, and from hearts that give out on them at a young age.

The mountainous Sonoran Desert, between Yuma in the west and Nogales in the east, is the top smuggling entry point along the entire 1,951-mile line with Mexico, the Border Patrol says. Through the middle of May, apprehensions of crossers in the desert south of Tucson had jumped 60 percent over the previous year. Nearly 300,000 people were caught trying to enter the United States through the desert border since last Oct. 1.

After a four-year drop, apprehensions—which the Border Patrol uses to measure human smuggling—are up 30 percent over last year along the entire southern border, with 660,390 people detained from Oct. 1 through the end of April, federal officials said.

The crossing here, over a simple barbed-wire fence, is followed by a walk of two or three days, up to 50 miles on ancient trails through a desert wilderness, to reach the nearest road, on the Tohono O'odham Nation Indian Reservation, a wedge of desert the size of Connecticut that is overrun with illegal immigrants, or on adjacent federal park or wildlife land. Most people start off with no more than two gallons of water, weighing almost 17 pounds, in plastic jugs. In recent days, with daytime temperatures over 100 degrees in the desert, a person needed a gallon of water just to survive walking five miles.

The desert is littered with garbage—empty plastic jugs, discarded clothes, toilet paper.

''My feet hurt and I'm thirsty, but I will try again after a rest,'' said Edmundo Saënz García, 28, who was apprehended on the reservation one morning near the end of his journey. His toes were swollen and blistered. He walked in cowboy boots. After being fingerprinted for security, he will be sent back to Mexico, agents said.

Mr. García said he had heard that the new Bush immigration plan, which would grant work visas to millions of illegal immigrants inside the United States and to others who can prove they have a job, was ''amnesty,'' and he wondered why he was arrested. He said he would try to cross again in a few days.

''It's like catch-and-release fishing,'' Mr. Stroud, the Border Patrol agent, said with a shrug after helping Mr. García with his blisters. ''One week, I arrested the same guy three times. If I dwell on it, it can be frustrating.''

Agents and groups opposed to open borders say the spike in crossings and deaths are the fault of the Bush proposal, which is stalled in Congress and unlikely to be acted on this year. But it has created a stir in Mexico, they say.

''They've dangled this carrot, and as a result apprehensions in Arizona are just spiking beyond belief,'' said T. J. Bonner, president of the National Border Patrol Council, which represents about 9,000 agents. ''The average field agent is just mystified by the administration's throwing in the towel on this.''

Mr. Bonner, who is not related to the border commissioner, said the people were crossing in huge numbers, even at the high risk of dying in the desert, because ''they're trying to get in line for the big lottery we've offered them.''

With an estimated 8 million to 12 million immigrants in this country illegally—and only a handful of prosecutions of employers who hire them—the southern border is more broken now than at any time in recent history, said Mark Krikorian, executive director of the Center for Immigration Studies, a research group opposed to increased immigration.

''We've created an incentive to take foolish risks,'' Mr. Krikorian said. ''In effect, we're saying if you run this gauntlet and can get over here, you're home free.''

Bush administration officials say there is only anecdotal evidence, from field agents, that their proposal has caused the spike in crossings. They point to a new $10 million border initiative and indications in recent weeks that apprehensions have leveled off as evidence that they are getting the upper hand on the Arizona border. It is the last uncontrolled part of the line between Mexico and the United States, they said.

''Unfortunately, there have always been deaths on the border,'' said Mario Villareal, a spokesman for the Border Patrol in Washington.

It was 3 years ago this month that 14 people died trying to walk cross the desert near this small tribal hamlet, dying of heat-related stress in what the poet Luis Alberto Urrea called ''the largest death event in border history.'' Mr. Urrea is the author of ''The Devil's Highway'' (Little, Brown and Company), an account of the crossing and border policy.

He wrote that the Sonoran Desert here ''is known as the most terrible place on earth,'' where people die ''of heat, thirst and misadventure.''

To curb deaths, the American government has been running an advertising campaign in Mexico, warning people of the horrors.

''The message is, 'No más cruces en la frontera,' 'no more crosses on the border,' '' Commissioner Bonner said in unveiling the

new plan earlier this month in Texas. He said 80 percent of the deaths in a given year happen between May and August.

The government has also increased staffing of Border Patrol Search Trauma and Rescue Units, called Borstar, which deploys emergency medical technicians like Mr. Stroud, to assist people found in desperate condition in the desert.

The publicity campaign seems to have had little effect, say border agents and illegal immigrants.

Ramínez Bermúdez, 26, walked for four days in 100-degree heat, and said he knew full well what he was getting into. He had been caught four times before his apprehension this week, he said.

Though he has a 25-acre farm in southern Mexico, Mr. Bermúdez said he could earn up to $200 a day picking cherries in California. He was distressed, though, at getting caught and at the failure to meet a coyote, or smuggler, who had agreed to pick him up and members of his group for $1,200 each.

Mr. Stroud has developed a ritual to cope with the increased number of bodies he has seen among the mesquite bushes and barrel cactus of the Sonoran. He has seen children as young as 10, their bodies bloated after decomposing in the heat, and mothers wailing next to them.

''I say a little prayer for every body,'' he said. ''You try not to let it get to you. But every one of these bodies is somebody's son or daughter, somebody's mother or father.''

[From the Washington Times, May 18, 2004]

STEALTH AMNESTY

(By Frank J. Gaffney, Jr.)

The issue that has the potential to be the most volatile politically in the 2004 election is not Iraq, the economy or same-sex marriages. At this writing, it would appear to be the wildly unpopular idea of granting illegal aliens what amounts to amnesty—the opportunity to stay in this country, work, secure social services, become citizens and, in some jurisdictions, perhaps vote even prior to becoming citizens.

So radioactive is this idea across party, demographic, class and geographic lines that President Bush has wisely decided effectively to shelve the immigration reform plan he announced with much fanfare earlier this year. With the lowest job approval ratings of his presidency, the last thing he needs is a legislative brawl that will at best fracture, and at worst massively alienate his base.

It appears unlikely to help him much with Americans of other stripes, either. Significant numbers of independents and Democrats (although, to be sure, not John Kerry's left-wing constituency)—even Hispanic ones—feel as conservative Republicans do: Rewarding those who violate our immigration statutes is corrosive to the rule of law, on net detrimental to our economy and a serious national security vulnerability.

Unfortunately for Mr. Bush, one of his most loyal friends in the U.S. Senate, Republican conservative Larry Craig of Idaho, is poised to saddle the president's re-election bid with just such a divisive initiative: S. 1645, the Agricultural Job Opportunity, Benefits and Security Act of 2003 (better known as the AgJobs bill). AgJobs is, in some ways, even worse than the president's plan for temporary workers. While most experts disagree, at least Mr. Bush insists that his initiative will not amount to amnesty for illegal aliens.

No such demurral is possible about S. 1645. By the legislation's own terms, an illegal alien will be turned into ''an alien lawfully admitted for temporary residence,'' provided they had managed to work unlawfully in an agricultural job in the United States for a minimum of 100 hours—in other words, for just 2½ workweeks—during the 18 months prior to August 31, 2003.

Once so transformed, they can stay in the U.S. indefinitely while applying for permanent resident status. From there, it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next six years.

The Craig bill would confer this amnesty not only on farmworking illegal aliens who are in this country—estimates of those eligible run to more than 800,000. It would also extend the opportunity to those who otherwise qualified but had previously left the United States. No one knows how many would fall in this category and want to return as legal workers. But, a safe bet is that there are hundreds of thousands of them.

If any were needed, S. 1645 offers a further incentive to the illegals: Your family can stay, as well. Alternatively, if they are not with you, you can bring them in, too—cutting in line ahead of others who made the mistake of abiding by, rather than ignoring, our laws. And just in case the illegal aliens are daunted by the prospect of filling out such paperwork as would be required to effect the changes in status authorized by the AgJobs bill, S. 1645 offers still more: free counsel from, ironically, the bane of conservatives like Sen. Larry Craig and many of his Republican co-sponsors—the highly controversial, leftist and taxpayer-underwritten Legal Services Corp.

Needless to say, such provisions seem unlikely to be well-received by the majority of law abiding Americans. Nor, for that matter, do they appear to have much prospect of passage in the less-self-destructive House of Representatives.

Yet, if Mr. Craig presses for action on his legislation, the Senate leadership might be unable to spare either President Bush or itself the predictable blow-back: As of today, the Senate Web site indicates the Idahoan has 61 cosponsors, two more than are needed to cut off debate and bring the legislation to a vote; 11 more than would be needed for its passage.

In short, thanks to intense pressure from an unusual coalition forged by the agricultural industry and illegal alien advocacy groups, the Senate might endorse the sort of election altering initiative that precipitates voter response—like that made famous by the movie ''Network News'': ''I am mad as hell and I am not going to take it anymore.'' Some, perhaps including the normally shrewd Mr. Craig, may calculate that such voters will have nowhere to go if the alternative to Republican control of the White House and Senate would be Democrats who are, if anything, even less responsible when it comes to amnesty (and social services, voting rights, etc.) for illegal aliens.

The truth of the matter, though—as President Bush's political operatives apparently concluded after they trotted out their amnesty-light initiative last January—is voters don't have to vote Democratic to change Washington's political line-up. They just have to stay home on Election Day. And S. 1645 could give them powerful reason to do so.

[From the New York Times, March 22, 2004]

IN FLORIDA GROVES, CHEAP LABOR MEANS MACHINES

(By Eduardo Porter)

IMMOKALEE, FLA.—Chugging down a row of trees, the pair of canopy shakers in Paul Meador's orange grove here seem like a cross between a bulldozer and a hairbrush, their hungry steel bristles working through the tree crowns as if untangling colossal heads of hair.

In under 15 minutes, the machines shake loose 36,000 pounds of oranges from 100 trees, catch the fruit and drop it into a large storage car. ''This would have taken four pickers all day long,'' Mr. Meador said.

Canopy shakers are still an unusual sight in Florida's orange groves. Most of the crop is harvested by hand, mainly by illegal Mexican immigrants. Nylon sacks slung across their backs, perched atop 16-foot ladders, they pluck oranges at a rate of 70 to 90 cents per 90-pound box, or less than $75 a day.

But as globalization creeps into the groves, it is threatening to displace the workers. Facing increased competition from Brazil and a glut of oranges on world markets, alarmed growers here have been turning to labor-saving technology as their best hope for survival.

''The Florida industry has to reduce costs to stay in business,'' said Everett Loukonen, agribusiness manager for the Barron Collier Company, which uses shakers to harvest about half of the 40.5 million pounds of oranges reaped annually from its 10,000 acres in southwestern Florida. ''Mechanical harvesting is the only available way to do that today.''

Global competition is pressing American farmers on many fronts. American raisins are facing competition from Chile and Turkey. For fresh tomatoes, the challenge comes from Mexico. China, whose Fuji apples have displaced Washington's Golden Delicious from most Asian markets—and whose apple juice has swamped the United States—is cutting into American farmers' markets for garlic, broccoli and a host of other crops.

So even while President Bush advances a plan to invite legal guest workers into American fields, farmers for the first time in a generation are working to replace hand laborers with machines.

''The rest of the world hand-picks everything, but their wage rates are a fraction of ours,'' said Galen Brown, who led the mechanical harvesting program at the Florida Department of Citrus until his retirement last year. Lee Simpson, a raisin grape grower in California's San Joaquin Valley, is more blunt. ''The cheap labor,'' he said, ''isn't cheap enough.''

Mr. Simpson and other growers have devised a system that increases yields and cuts the demand for workers during the peak harvest time by 90 percent; rather than cutting grapes by hand and laying them out to dry, the farmers let the fruit dry on the vine before it is harvested mechanically.

Some fruit-tree growers in Washington State have introduced a machine that knocks cherries off the tree onto a conveyor belt; they are trying to perfect a similar system for apples. Strawberry growers in Ventura County, Calif., developed a mobile conveyor belt to move full strawberry boxes from the fields to storage bins, cutting demand for workers by a third. And producers of leaf lettuce and spinach for bag mixes have introduced mechanical cutters.

American farmers have been dragging machines into their fields at least since the mid-19th century, when labor shortages during the Civil War drove a first wave of mechanical harvesting. Mechanization grew apace for the following 100-plus years, taking over the harvesting of crops including wheat, corn, cotton and sugar cane.

But not all crops were easily adaptable to machines. Whole fruit and vegetables—the most lucrative and labor intensive crops, employing four of every five seasonal field workers—require delicate handling. Mechanization sometimes meant rearranging the fields, planting new types of vines or trees and retrofitting packing plants.

Rather than make such investments, farmers mostly focused on lobbying government

for easier access to inexpensive labor. California growers, the biggest fruit and vegetable producers in the nation, persuaded the government to admit Mexican workers during World War I. Later, from 1942 to 1964, 4.6 million Mexican farm workers were admitted into the country under the bracero guest-worker program.

Investment in technology generally happened when the immigrant spigot was shut. After the bracero program ended and some farm wages began to rise, scientists at the University of California at Davis began work on both a machine to harvest tomatoes mechanically and a tomato better suited to mechanical harvesting.

By 1970, the number of tomato-harvest jobs had been cut by two-thirds. But the tomato harvester's success proved to be a kiss of death for mechanical harvesting. In 1979, the farm worker advocacy group California Rural Legal Assistance, with support from the United Farm Workers union of Cesar Chavez, sued U.C. Davis, charging that it was using public money for research that displaced workers and helped only big growers.

The lawsuit was eventually settled. But even before that, in 1980, President Jimmy Carter's agriculture secretary, Bob Bergland, declared that the government would no longer finance research projects intended to replace ''an adequate and willing work force with machines.'' Today, the Agricultural Research Service employs just one agricultural engineer: Donald Peterson, a longtime researcher at the Appalachian Fruit Research Station in Kearneysville, W. Va.

''At one time I was told to keep a low profile and not to publicize what I was doing,'' Mr. Peterson said.

As the government pulled out, growers lost interest as well, refocusing on Congress instead. In 1986, farmers were instrumental in winning passage of the Immigration Reform and Control Act, which legalized nearly three million illegal immigrants—more than a third under a special program for agriculture.

Farmers' investments in labor-saving technology all but froze, and gains in labor productivity slowed. From 1986 to 1999, farm labor inputs fell 2.4 percent, after a drop of 35 percent in the preceding 14 years. Meanwhile, farmers' capital investments fell 46.7 percent from their peak in 1980 through 1999.

About 45 vegetable and fruit crops planted over 3.6 million acres of land, and worth about $13 billion at the farm gate, are still harvested by hand, by a labor force made up mostly of illegal immigrants. On average, farm workers earned $6.18 an hour, less than half the average wage for private, nonfarm workers, in 1998, the year of the Labor Department's most recent survey of agricultural workers.

Florida's orange groves have reflected the broader trends. In the 1980's, a 20-year research effort into mechanical harvesting ground to a halt. With frosts upstate taking 200,000 acres out of production, orange prices soared and the demand for labor fell.

But as is often the case in agriculture, farmers overreacted to the market's strength, flocking to plant groves among the vegetable patches, pastures and swamps in the southwestern part of the state. By the early 1990's, the market looked poised for a glut. With the prospect of bumper crops in Brazil, where harvesting costs are about one-third as high as in Florida, a crisis loomed—driving orange growers back into technology's embrace.

In 1995, the growers decided to plow $1 million to $1.5 million a year into research in mechanical harvesting. By the 1999–2000 harvest, the growers had achieved their technological breakthrough, with four different harvesting machines working commercially. Last year, machines harvested 17,000 acres of the state's 600,000 acres planted in juice oranges, said Fritz M. Roka, an agricultural economist at the University of Florida.

''Mechanical harvesting is the biggest change in the Florida citrus industry since we switched to aluminum ladders,'' said Will Elliott, general manager of Coe-Collier Citrus Harvesting, one of seven commercial contractors that are shaking trunks and brushing canopies around the state.

Mr. Brown, the retired Department of Citrus official, estimates that in five years, machines will harvest 100,000 acres of oranges here. But there are obstacles. Machines work best on the big, regularly spaced, groomed young groves in the southwest, and some do not work at all on the smaller, older, more irregular acreage in central Florida. Machines are hard to use on Valencia orange trees, because shaking them risks prematurely dislodging much of the following year's harvest.

Still, the economics are in mechanization's favor. A tariff of 29 cents per pound on imports of frozen concentrated orange juice lets Florida growers resist the Brazilian onslaught—but not by much. According to Ronald Muraro and Thomas Spreen, researchers at the University of Florida, Brazil could deliver a pound of frozen concentrate in the United States for under 75 cents, versus 99 cents for a Florida grower.

Mechanical harvesting can help cut the gap. Mr. Loukonen of Barron Collier estimates that machine harvesting shaves costs by 8 to 10 cents a pound of frozen concentrate.

The spread of mechanization could redraw the profile of Immokalee, which today is a rather typical American farming town. Seventy-one percent of the population of 20,000 is Latino—with much of the balance coming from Haiti—and 46 percent of the residents are foreign born, according to the 2000 census. About 40 percent of the residents live under the poverty line, and the median family income is below $23,000—less than half that of the United States as a whole.

Philip Martin, an economist at U.C. Davis, points to the poverty as an argument in favor of labor-saving technology. He estimates that about 10 percent of immigrant farm workers leave the fields every year to seek better jobs. Rather than push more farmhands out of work, he contends, introducing machines will simply reduce the demand for new workers to replenish the labor pool.

And there are some beneficiaries among workers: those lucky enough to operate the new gear. Perched in the air-conditioned booth of Mr. Meador's canopy shaker, a jumpy ranchera tune crackling from the radio, Felix Real, a former picker, said he can make up to $120 a day driving the contraption down the rows, about twice as much as he used to make.

Yet many Immokalee workers are nervous. ''They are using the machines on the good groves and leaving us with the scraggly ones,'' said Venancio Torres, an immigrant from Mexico's coastal state of Veracruz who has been picking oranges in Florida for three years.

Mr. Loukonen, the Barron Collier manager, said the farm workers were right to be anxious. ''If there's no demand for labor, supply will end,'' he said. ''They will have to find another place to work, or stay in their country.''

Mr. CRAIG. Mr. President, our Federal Government has got to do better, faster, in improving our border security and meeting the growing problem of illegal immigration.

That is why Congress has been beefing up the border patrol and buying high-tech verification systems for the Department of Homeland Security.

That is why, whether you agree on the specific methods or not, the House of Representatives attached national drivers' license standards and asylum changes, in the so-called REAL ID provisions, to the Iraq supplemental appropriations bill.

That is why I have supported Senator BYRD on an amendment to this bill to increase border security, hire more investigators and enforcement agents, and boost resources for detention.

That is why I am cosponsoring a bill to help States deal with undocumented criminal aliens.

And that is why I have worked to bring the AgJOBS—bill the Agricultural Job Opportunities, Benefits, and Security Act—to the Senate floor.

I truly wish we did not have to have this debate on this bill on the Senate floor.

However, the House of Representatives has forced this opportunity upon us. By putting border, identification, and asylum provisions in the supplemental, the House has turned this bill into an immigration bill.

I am committed to making this debate as brief as possible, and as full and fair as necessary. As far as I am concerned, a thorough debate on AgJOBS does not need to take more than a couple hours, if we can get agreement from Senators who oppose the amendment.

The Senate has enough time for this amendment. If anyone is going to unduly delay this bill, it is not this Senator. As a member of the Appropriations Committee and on this floor, I fully support prompt appropriations for our men and women in uniform and for operations necessary in the war on terrorism.

AgJOBS is only an installment toward an overall solution to our nation's growing problem of illegal immigration. However, it is a significant installment, a logical installment, and one that is fully matured and ready to go forward.

I have worked with my colleagues and numerous communities of interest on AgJOBS issues for several years. The amendment I bring forward this week has been, in all its major essentials, well-known and much discussed in the Senate and the House for more than a year and a half.

This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others.

We have now built the largest bipartisan coalition ever for a single immigration bill. This letter was just delivered this week to Senate offices. There are about 100 more signatures on this letter than a similar letter delivered a year ago. Support for AgJOBS is growing.

That support reflects the fact that, in agriculture as in other sectors, the current immigration and labor market system is profoundly broken.

An enforcement-only policy is not the answer and doesn't work.

The United States has 7,458 miles of land borders and 88,600 miles of tidal shoreline. We can secure those frontiers well but not perfectly. As we have stepped up border enforcement, we have locked undocumented immigrants in this country at least as effectively as we have locked any out.

With an estimated 10 million undocumented persons in the United States, to find them and flush them out of homes, schools, churches, and work places would mean an intrusion on the civil liberties of Americans that they will not tolerate. We fought our revolution, in part, over troops at our doors and in our homes.

History has shown us what does work: A coupling of more secure borders, better internal enforcement, and a guest worker program that faces up to economic reality.

The only experience our country has had with a legal farm guest worker program—used widely in the 1950s but repealed in the 1960s—taught us conclusive lessons. While it was criticized on other grounds, that program dramatically reduced illegal immigration from high levels to almost nothing, while meeting labor market needs.

AgJOBS is a groundbreaking, necessary part of this balanced, realistic approach. American agriculture has boldly stepped forward and admitted the problem. AgJOBS is a critical part of the solution.

Agriculture is the sector of the economy for which the problem is the worst. Fifty to 75 percent of farm workers are undocumented. As internal enforcement has stepped up, family farms are going out of business because they cannot find legal workers.

This mighty machine we call American agriculture is on a dangerous precipice—perhaps the most dangerous in our history. This year, for the first time since records have been kept, the United States is on the verge of becoming a net importer of agricultural products.

To keep American-grown food on our families' tables, we need a stable, legal, labor supply. To keep suppliers, processors, and other rural jobs alive, American agriculture needs a stable, legal, labor supply. It has been said, foreign workers are going to harvest our food; the only question is whether they do it here or in another country.

Whatever the case is in other industries, in agriculture, we really are talking about jobs that Americans can't or won't take. This physically demanding labor is seasonal and migrant in nature. Few Americans can or will leave home and family behind, to travel from State to State, crop to crop, for only part of the year, living in temporary structures. The planting, growing, and harvesting seasons occur at different times in different States—usually when students are not available.

AgJOBS is also part of a humane solution. Legal workers can demand a living wage and assert legal rights that undocumented workers—smuggled into the country and kept ''underground''—cannot. Every year, more than 300 persons die in the desert, the boxcar, or the back of a truck trailer. For a civilized, humane country, that is intolerable.

For the long term, AgJOBS reforms and streamlines the profoundly broken H–2A program that is supposed to provide legal, farm guest workers. It is now so bureaucratic and burdensome, it admits only about 40,000 workers a year—2 to 3 percent of farm workers.

However, we cannot expand the H–2A program overnight. A system of consulate system, a Homeland Security bureaucracy, and a Department of Labor bureaucracy that, today, chokes on processing 40,000 workers a year will need several years to ramp up to several times that amount. Growers, almost all of which do not use H–2A today, will need time to get into the system. Also, growers will need time to build housing and prepare for the other labor standards that H–2A has always required to prevent foreign workers from taking jobs from Americans.

As a bridge to stabilize the workforce while H–2A reforms are being implemented, AgJOBS includes a one-time-only earned adjustment program, to let about 500,000 trusted farm workers, with a proven, substantial work history here, continue working here, legally. The permanent H–2A reforms would make future farm worker adjustments unnecessary.

AgJOBS is not amnesty or a reward for illegal behavior.

Requiring several years of demanding, physical labor in the fields is an opportunity to rehabilitate to legal status—to earn the adjustment to legal status.

Adjusting AgJOBS workers would have to meet a higher standard of good behavior than other, legal immigrants, in the future. Once a worker is in the adjustment program, he or she has to obey all the laws that other, legal immigrants have to. In addition, an adjusting worker would be deported for conviction of one felony; or three misdemeanors, however minor; or, in the amendment before, a single serious misdemeanor, defined as an offense that results in 6 months of jail time.

Part of earning adjustment involves the immigrant surrendering to some limits on his or her legal rights—including a substantial prospective work requirement in agriculture and meeting a higher legal standard of good behavior than other, legal immigrants.

The adjusting worker can apply for permanent residence—a green card—at the end of the adjustment process. As a practical matter, obtaining a green card would take about 6 to 9 years after the worker enters the adjustment process. For the work involved, the economic contributions made, and the diligence required over a long period of time, this is fair. Sharing the American dream with persons who want to be—and will be—law-abiding members of the community, is fair.

AgJOBS workers, both adjusting and H–2A, would be free to leave the country at the end of the work season and not be ''locked in'' the country, between jobs.

Finally, AgJOBS is good for our homeland security.

With background checks, AgJOBS would let American families know who is putting the food on our tables. That means ensuring a safe and stable food supply for American families.

When we stop sending investigators and enforcement agents into the potato fields and apple orchards, we will be able to devote critical resources where they belong—hunting down real criminals and stopping terrorists.

AgJOBS is a win-win-win, for growers, workers, taxpayers, and homeland security. I urge my colleagues to support this amendment.

I also ask unanimous consent to have printed in the RECORD several documents setting out facts about AgJOBS, the need for AgJOBS, frequently asked questions, and letters of endorsement from the New England Apple Council, Americans for Tax Reform, and from former U.S. Trade Representative and Secretary of Agriculture, Clayton Yeutter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTS ABOUT AGJOBS

THE AGRICULTURAL JOB OPPORTUNITY, BENEFITS, AND SECURITY ACT OF 2005—S. 359/H.R. 884

The Problem: Some 50 to 75 percent of America's farm work force is undocumented. As border and internal enforcement improves, work force disruptions are increasing and some operations are simply shutting down because growers cannot find a reliable, legal labor supply. This comes at a time when American agriculture is in perhaps its most precarious condition in our history, and we are on the verge of importing more food than we grow, for the first time since records have been kept.

Long-Term Solution: A permanently reformed H–2A program would be streamlined, easier to use, and more economical, providing a legal work force for farm jobs Americans won't take. Legal guest workers would go back to their home countries when the work season is over. The current H–2A system is profoundly broken and supplies only 2 to 3 percent of farm workers (30,000 to 40,000 a year out of a work force of 1.6 million).

Short-Term ''Bridge'': A one-time-only earned adjustment program would allow growers to retain trusted, tax-paying employees with a proven work history, to stabilize the ag work force as the industry (and the government bureaucracy) transitions to greater use of a reformed H–2A program. Based on DOL statistics, about 500,000 workers would be eligible to apply.

Rehabilitation, not ''amnesty'': A significant prospective work requirement (at least 360 days over 3 to 6 years, including at least 240 days in the first 3 years) in agriculture—among the most physically demanding work in the country—means adjusting workers could earn the right to stay and work toward legal status. Adjusting workers would have to meet a higher standard of good behavior than other, legal immigrants, being subject to deportation for any 3 misdemeanors, regardless how minor.

Good for homeland security: Hundreds of thousands of undocumented workers would be brought out of the shadows and given background checks. DHS could re-focus more resources on fighting more dangerous threats.

Good for American consumers: American families would be more certain of a safe, stable, food supply grown in America, and we would know who is growing our food.

Not a ''magnet'' for new illegal immigration: Only workers with a substantial, proven work history (at least 100 days) in agriculture in the USA before January 1, 2005, would be eligible to apply for the earned adjustment program.

Not ''taking jobs away'' from American workers: H–2A labor standards (including wages, housing, and transportation) ensure that American workers are not ''underbid'' for H–2A jobs. Whatever arguments some may make about other industries, most of the work in labor-intensive agriculture is seasonal and migrant in nature. Most American workers cannot and will not leave their families and homes behind, to move from farm to farm, living in temporary quarters, following temporary work.

Humane, good for workers: It is intolerable that, every year, hundreds of workers die packed in boxcars or truck trailers or crossing the desert. Many thousands are preyed upon by human smugglers. Stepped-up border enforcement has locked in as many as it has locked out, as returning home at the end of the work season becomes as treacherous and deadly as entering the country. Workers with legal status can assert legal rights against exploitation and safely leave the country when the work is done.

THE NEED FOR AGJOBS LEGISLATION—NOW

Americans need and expect a stable predictable, legal work force in American agriculture. Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. All workers deserve decent treatment and protection of basic rights under the law. Consumers deserve a safe, stable, domestic food supply. American citizens and taxpayers deserve secure borders, a safe homeland, and a government that works. Yet we are being threatened on all these fronts, because of a growing shortage of legal workers in agriculture.

To address these challenges, a bipartisan group of Members of Congress, including Senators Larry Craig (ID) and Ted Kennedy (MA) and Representative Chris Cannon (UT) and Howard Berman (CA), is introducing the Agricultural Job Opportunity, Benefits, and Security (AgJOBS) Act of 2005. This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others. In all substantive essentials, this bill is the same as S. 1645/H.R. 3142 in the 108th Congress.

THE PROBLEMS

Of the USA's 1.6 million agricultural work force, more than half is made up of workers not legally authorized to work here—according to a conservative estimate by the Department of Labor, based, astoundingly, on self-disclosure in worker surveys. Reasonable private sector estimates run to 75 percent or more.

With stepped up documentation enforcement by the Social Security Administration and the Bureau of Immigration and Customs Enforcement (the successor to the old INS), persons working here without legal documentation are not leaving the country, but just being scattered. The work force is being constantly and increasingly disrupted. Ag employers want a legal work force and must have a stable work force to survive—but federal law actually punishes ''too much diligence'' in checking worker documentation. Some growers already have gone out of business, lacking workers to work their crops at critical times.

Undocumented workers are among the most vulnerable persons in our country, and know they must live in hiding, not attract attention at work, and move furtively. They cannot claim the most basic legal rights and protections. They are vulnerable to predation and exploitation. Many have paid ''coyotes''—labor smugglers—thousands of dollars to be transported into and around this country, often under inhumane and perilous conditions. Reports continue to mount of horrible deaths suffered by workers smuggled in enclosed truck trailers.

Meanwhile, the only program currently in place to respond to such needs, the H–2A legal guest worker program, is profoundly broken. The H–2A status quo is slow, bureaucratic, and inflexible. The program is complicated and legalistic. DOL's compliance manual alone is over 300 pages. The current H–2A process is so expensive and hard to use, it places only about 30,000–50,000 legal guest workers a year—2 percent to 3 percent of the total ag work force. A General Accounting Office study found DOL missing statutory deadlines for processing employer applications to participate in H–2A more than 40% percent of the time. Worker advocates have expressed concerns that enforcement is inadequate.

THE SOLUTION—AGJOBS REFORMS

AgJOBS legislation provides a two-step approach to a stable, legal, safe, ag work force: (1) Streamlining and expanding the H–2A legal, temporary, guest worker program, and making it more affordable and used more—the long-term solution, which will take time to implement; (2) Outside the H–2A program, a one-time adjustment to legal status for experienced farm workers already working here, who currently lack legal documentation—the bridge to allow American agriculture to adjust to a changing economy.

H–2A Reforms: Currently, when enough domestic farm workers are not available for upcoming work, growers are required to go through a lengthy, complicated, expensive, and uncertain process of demonstrating that fact to the satisfaction of the federal government. They are then allowed to arrange for the hiring of legal, temporary, nonimmigrant guest workers. These guest workers are registered with the U.S. Government to work with specific employers and return to their home countries when the work is done. Needed reforms would:

Replace the current quagmire for qualifying employers and prospective workers with a streamlined ''attestation'' process like the one now used for H–1B high-tech workers, speeding up certification of H–2A employers and the hiring of legal guest workers.

Participating employers would continue to provide for the housing and transportation needs of H–2A workers. New adjustments to the Adverse Effect Wage Rate would be suspended during a 3-year period pending extensive study of its impact and alternatives. Other current H–2A labor protections for both H–2A and domestic workers would be continued. H–2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. Growers would be protected from frivolous claims, exorbitant damages, and duplicative contract claims in state courts.

The only experience our country has had with a broadly-used farm guest worker program (used widely in the 1950s but repealed in the 1960s) demonstrated conclusive, and instructive, results. While it was criticized on other grounds, it dramatically reduced illegal immigration while meeting labor market needs.

Adjustment of workers to legal status

To provide a ''bridge'' to stabilize the ag work force while H–2A reforms are being implemented, AgJOBS would create a new earned adjustment program, in which farm workers already here, but working without legal authorization, could earn adjustment to legal status. To qualify, an incumbent worker must have worked in the United States in agriculture, before January 1, 2005, for at least 100 days in a 12–month period over the last 18 months prior to the bill's introduction. (The average migrant farm worker works 120 days a year.)

This would not spur new immigration, because adjustment would be limited to incumbent, trusted farm workers with a significant work history in U.S. agriculture. The adjusting worker would have non-immigrant, but legal, status. Adjustment would not be complete until a worker completes a substantial work requirement in agriculture (at least 360 days over the next 3–6 years, including 240 days in the first 3 years).

Approximately 500,000 workers would be eligible to apply (based on current workforce estimates). Their spouses and minor children would be given limited rights to stay in the U.S., protected from deportation. The worker would have to verify compliance with the law and continue to report his or her work history to the government. Upon completion of adjustment, the worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives adjusting workers no advantage over regular immigrants beginning the legal immigration process at the same time.

AgJOBS would not create an amnestv program. Neither would it require anything unduly onerous of workers. Eligible workers who are already in the United States could continue to work in agriculture, but now could do so legally, and prospectively earn adjustment to legal status. Adjusting workers may also work in another industry, as long as the agriculture work requirement is satisfied.

AGJOBS IS A WIN-WIN-WIN APPROACH

Workers would be better off than under the status quo. Legal guest workers in the H–2A program need the assurance that government red tape won't eliminate their jobs. For workers not now in the H–2A program, every farmworker who gains legal status finally will be able to assert legal protection—which leads to higher wages, better working conditions, and safer travel. Growers and workers would get a stable, legal work force. Consumers would get better assurance of a safe, stable, American-grown, food supply—not an increased dependence on imported food. Law-abiding Americans want to make sure the legal right to stay in our country is earned, and that illegal behavior is not rewarded now or encouraged in the future. Border and homeland security would be improved by bringing workers out of the underground economy and registering them with the AgJOBS adjustment program. Overall, AgJOBS takes a balanced approach, and would work to benefit everyone.

FREQUENTLY ASKED QUESTIONS ON AGJOBS AND EARNED ADJUSTMENT

Q. Amnesty doesn't work. Why try it again?

A. Amnesty doesn't work. That's why I never have supported it. The country has tried amnesty in the past and it's failed. Our current immigration law is flawed and enforcement has been a miserable failure. The government has pretended to control the borders while the country has looked the

other way and ignored the problem. That's precisely why we need to try a new, innovative approach like AgJOBS.

Q. How can you justify rewarding people who came here illegally by allowing them to become legal?

A. The only workers who apply for the adjustment program will be those who want to become law-abiding in every respect. They will have to register with the government and verify their continued employment. Their adjustment to legal status will be complete only after they earn it with continued, demanding labor in agriculture for the next 3–6 years. If an adjusting worker breaks other laws, he or she is out. The Adjustment Program would be there to benefit hard-working, known, trusted farm workers who did and will obey our laws in every other way. This is not a reward, but rehabilitation.

Q. Won't the promise of status adjustment encourage more illegal immigration?

A. Not in our AgJOBS bill. If someone wants to enter the United States to take advantage of our bill, they are already too late. To begin applying for adjustment, the worker must have been here before January 1, 2005—3 weeks before the bill was introduced—with a substantial record of work in agriculture. We are talking about stabilizing the current farm work force—working with persons who already are here.

Q. Why should agriculture get this special treatment?

A. That's the sector of our economy most impacted by illegal immigration. The crisis in agriculture must be addressed immediately—and it took us years just to get agreement between growers and labor, between key Republicans and Democrats, on this new approach. If AgJOBS works—and I believe it will—it will help us figure out how to solve the much bigger problem of an estimated million illegal aliens in this country.

Q. Illegal aliens have broken the law. Why not just round them up and deport them?

A. (1) We can't, as a practical matter. The official 2000 Census estimated that there are more than 8.7 million illegal aliens in the U.S. There are more today. That's the consequence of looking the other way for decades. Finding and forcibly removing all of them would make the War on Terrorism look cheap and would disrupt communities and work places to an extent most Americans simply wouldn't tolerate. If a law has failed, you can ignore it or fix it. Looking the other way only encourages more disrespect for the law. We need a new, innovative solution. AgJOBS is the pilot program.

(2) Up to 85 percent of all farm workers are here illegally. If we could round up and deport every illegal farm worker, that would be pretty much the end of American agriculture—the end of our safe, secure, homegrown food supply. That's how I first got involved in this issue, because agriculture is critical to the economy of Idaho—and the nation. We need to bring these workers out of the shadows, out of the underground economy, and turn them into law-abiding workers.

Q. Won't more illegals to sneak across the border, claim they were already here as farm workers, and abuse this new program?

A. Unlike the 1986 program—which was amnesty and was very different—our bill requires workers to provide documentary proof that they already were established here as farm workers—for example, tax records or employers' records.

Q. Once this wave of ''adjusting workers'' settle in, what's to prevent the demand for ANOTHER amnesty program in a few years?

A. Our bill would help stabilize the farm work force in the short term so that American farmers can adjust to the economy of the 21st Century for the long term. The Adjustment Program would give us the time we need to reform and significantly grow the other program in the bill, the H–2A Program, which employs legal, temporary ''guest workers'' who enter the U.S. only under government supervision and leave when the work is done. Because the H–2A Program has been broken for decades, there's been no effective vehicle for workers to come here legally to work in agriculture when domestic workers aren't available.

Q. Aren't these illegals stealing jobs from Americans?

A. I hear about that in other industries. I don't know that I've ever received one complaint from an American citizen who wanted to do the physically demanding labor of a migrant farm worker and felt an illegal alien had kept him or her out of that job. But I have heard from farmers who have gone out of business because they couldn't find a legal work force. This is why many of our legal visa programs are industry-specific—because the economy and labor markets are different for different industries. This is precisely the reason to try the AgJOBS solution in agriculture.

Q. How will this bill help us control our borders?

A. We can't possibly seal off thousands of miles of borders and coastlines. But we can control them better and improve our homeland security. Thousands of AgJOBS workers would be registered with, and in a job program supervised by, the Federal Government. This would be a major step forward toward a longer-term, more comprehensive solution.

Q. Who's going to pay for the medical bills and social services for adjusting workers?

A. Remember, in the AgJOBS Adjustment Program, we are talking only about workers who already are here, with substantial jobs in agriculture. So, AgJOBS does not add one bit to this burden. In fact, if anything, it starts helping to provide relief. When these workers gain legal status, they will be in a better position to earn more and do more to provide for themselves than they can today.

NEW ENGLAND APPLE COUNCIL INC.,
April 18, 2005.

Hon. SENATOR CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: The New England Apple Council was formed more than 35 years ago, at the end of the Bracero program. Our 185 growers, me included, have used H2A workers or workers under previous programs for more than 50 years. The first foreign workers to come to New England to harvest crops were in 1943. Over the last decade we have been struggling to keep the H2A program working. I don't need to tell you the program is broken and in order for our growers to keep a legal workforce the program needs fixing.

I listened to Senators Sessions and Byrd speaking against Ag-Jobs on Friday and was extremely disturbed by what they were saying. They read from letters sent by a few associations and agents who are opposed to Ag-Jobs. The growers using the H2A program ARE IN FAVOR OF AG-JOBS!! Some associations and agents are not. Why? Because if we reform H2A so that it really works many growers will be able to use it without an association or agent. That's what H2A reform is all about, and we are in favor of it!! Workers who have held H2A jobs and meet the required days of employment will be rewarded for playing by the rules. Senator Sessions stated Friday that ''only people who break the law will be rewarded'', that is not true!! We have many workers who for many years, some since before 1986, have been coming yearly and going home at the end of their contract. Nationwide between 7 and 10% of the adjusting workers will be those H2A workers who have obeyed the law, and they will finally be rewarded. Some agents and some associations see that as a bad move, which will cause disruption in the workforce, most growers say it's time to reward those workers who have obeyed the law.

As a longtime user of H2A workers and Executive Director of New England Apple Council and past President of the National Council of Agricultural employers I believe I have the feel of most agricultural employers in the United States. They are overwhelmingly in favor of Ag-Jobs. The Jamaica Central Labour Organization, which supplies most of the H2A workers to employers in the Northeast, is in favor of Ag-Jobs. The Association of Employers of Jamaican Workers, which I am Chairman of, supports Ag-Jobs. And lastly the 520 Organizations who signed the letter to congress sent on April 11th. Support Ag-Jobs. Please tell the Senate that an overwhelming number of the U.S. employers of H2A labor support Ag-Jobs.

Thank you for your support on this very difficult issue.

Sincerely,

JOHN YOUNG.

AMERICANS FOR TAX REFORM,
Washington, DC, April 12, 2005.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.
Hon. CHRIS CANNON,
House of Representatives,
Washington, DC.

DEAR SENATOR CRAIG AND CONGRESSMAN CANNON: I would like to take this opportunity to commend you for the introduction of S. 1645 and H.R. 3142, ''The Agricultural Job Opportunity, Benefits, and Security Act of 2005.'' The ''AgJobs'' bill is a great first step in bringing fundamental reform to our nation's broken immigration system.

AgJobs would make America more secure. 50 to 75 percent of the agricultural workforce in this country is underground due to highly-impractical worker quota restrictions. Up to 500,000 workers would be given approved worker status, screened by the Department of Homeland Security, and accounted for while they are here. Any future workers coming into America looking for agricultural work would be screened at the border, where malcontents can most easily be turned back.

The current H–2A agricultural worker program only supplies about 2–3 percent of the farm workforce. That means that the great majority of workers who pick our fruit and vegetables have never been through security screening. In a post-9/11 world, this is simply intolerable. Workers that are here to work in jobs native-born Americans are not willing to do must stay if food production is to remain adequate. However, those already here and new workers from overseas should have a screening system that works, both for our safety and for their human rights. Your bill does just that.

Sincerely,

GROVER G. NORQUIST,
President.

POTOMAC, MD, *April 13, 2005.*

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: History demonstrates that there are moments in time when special opportunities arise for political action that successfully addresses multiple challenges. Today is one of those occasions. The opportunity is Senator Larry Craig's AgJobs bill, S. 359.

News headlines are alerting American voters of concerns about our trade deficit,

American jobs lost to off-shore competition, long-term funding of the Social Security system, and a seemingly irreversible pattern of increasing illegal immigration. A significant opportunity for political action that begins to address all of these challenges is within reach.

That opportunity, if taken, will strengthen American labor-intensive agriculture and ensure its future role as a major U.S. export industry. A growing agriculture sector will keep jobs in America, because studies show that every laborer in production agriculture generates 3.5 additional jobs in related businesses. The workers in all these jobs will be participants in the Social Security system that is dependent upon a large workforce. Perhaps most significantly, reputable studies confirm that the best solution for stemming the tide of illegal immigration is guest worker programs that function.

Government statistics and other evidence suggest that at least 50 percent and perhaps 70 percent of the current agricultural workforce is not in this country legally. The immediate reaction of some is to say that these workers have broken the law and should be deported, and that U.S. farmers would not have a labor problem if wages were increased.

That ''easy'' answer ignores the reality that few Americans are drawn to highly seasonal and physically demanding work in agriculture. At chaotic harvest times, a stable, dependable workforce is essential. My experience over many years tells me that agricultural employers do not want to hire illegal immigrants. What they want is a stable, viable program with integrity that will meet their labor force needs in a timely, effective way. What they do not want is a program with major shortcomings, for which they will inevitably be blamed. Unfortunately, that is what our laws have imposed upon them.

As a Nation, we can and must do better—for agricultural employers, for immigrant workers, and as insurance to secure a strong agriculture business sector. Many of these workers have come to the U.S. on a regular basis. Many have lived here for years doing our toughest jobs, and some would like to earn the privilege of living here permanently. Why not permit them to do so, over a specified timeframe, thereby keeping the best workers here? That has the additional advantage of permitting our government to better focus its limited monitoring/enforcement resources, particularly where security may be a concern. Let's use entry/exit tracking, tamper proof documentation, biometric identification, etc. where it will truly pay security dividends, and let's stop painting all immigrants with the same brush.

A limited, earned legalization for agriculture is nothing like an amnesty program. It would apply only to immigrants who are at work, paying taxes, and are willing to earn their way to citizenship so that they too can share in the American dream. These workers form the foundation of much of our Nation's agricultural workforce. We need them!

Agricultural employers need an updated guest work program to replace the antiquated ''H2A'' temporary worker system, which is too expensive and too bureaucratic to be of practical use. Necessary reforms include fair and stronger security and identification measures, market-based wage rates, and comprehensive application procedures.

The reform program I have outlined already has broad bipartisan support, thanks to the good work and leadership of Senators LARRY CRAIG and TED KENNEDY, among others, and a bipartisan group of House colleagues. Their approach deserves immediate and serious consideration by the Senate. The status quo is simply unacceptable. The reforms now being proposed are a practical solution to a serious problem that is a genuine threat to the future of American agriculture.

As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is in our great country's interest to enact these reforms and reap the harvest of political action at a special moment in time.

Sincerely,

CLAYTON YEUTTER,
Former Secretary of Agriculture and Former U.S. Trade Representative.

APRIL 11, 2005.

DEAR MEMBER OF CONGRESS: The undersigned organizations and individuals, representing a broad cross-section of America, join together to ask you to support enactment of S. 359 and H.R. 884, the Agricultural Job Opportunities, Benefits and Security Act of 2005 (AgJOBS). This landmark bipartisan legislation would achieve historic reforms to our nation's labor and immigration laws as they pertain to agriculture. The legislation reflects years of negotiations on complex and contentious issues among employer and worker representatives and leaders in Congress.

A growing number of our leaders in Congress, as well as the President, recognize that our nation's immigration policy is flawed and that, from virtually every perspective, the status quo is untenable. America needs reforms that are compassionate, realistic and economically sensible—reforms that also enhance the rule of law and contribute to national security. AgJOBS represents the coming together of historic adversaries in a rare opportunity to achieve reforms supportive of these goals, as well as our nation's agricultural productivity and food security.

AgJOBS represents a balanced solution for American agriculture, a critical element of a comprehensive solution, and one that can be enacted now with broad bipartisan support. For these reasons, we join together to encourage the Congress to enact promptly S. 359 and H.R. 884, the Agricultural Job Opportunities, Benefits, and Security Act of 2005.

Thank you.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 496

Mr. COCHRAN. Mr. President, I have requests to make in behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

I call up amendment No. 496 on behalf of Mr. REID of Nevada which is technical in nature.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for Mr. REID, proposes an amendment numbered 496.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title XVIII of the Social Security Act to make a technical correction regarding the entities eligible to participate in the Health Care Infrastructure Improvement Program, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. TECHNICAL CORRECTION TO THE MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''or an entity described in paragraph (3)'' after ''means a hospital''; and

(B) in subparagraph (B)—

(i) by inserting ''legislature'' after ''State'' the first place it appears; and

(ii) by inserting ''and such designation by the State legislature occurred prior to December 8, 2003'' before the period at the end; and

(2) by adding at the end the following new paragraph:

''(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

''(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

''(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

''(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.''.

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

''(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447).

Mr. COCHRAN. Mr. President, I think we can have a voice vote on this amendment.

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

The amendment (No. 496) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 473

Mr. COCHRAN. Mr. President, I call up amendment No. 473 on my own behalf regarding the business and industry loan program.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 473.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the use of funds to deny the provision of certain business and industry direct and guaranteed loans)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. None of the funds made available by this or any other Act may be used to deny

the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

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

The amendment (No. 473) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 536

Mr. COCHRAN. Mr. President, I send to the desk an amendment on behalf of Mr. BOND regarding insurance fee requirements.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BOND, proposes an amendment numbered 536.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Make technical correction to mortgage insurance fee requirements contained in the FY 2005 Omnibus Appropriations bill)

Insert the following (and renumber if appropriate) on page 231, after line 3:

''SEC. 6047. (a) Section 222 of title II of Division I of Public Law 108–447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking ''subsections'' and inserting ''subsection'', and

(2) striking ''or (k)'' each place that it appears.''.

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

The amendment (No. 536) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 491

Mr. COCHRAN. Mr. President, I call up amendment No. 491 on behalf of Mr. MCCONNELL regarding debt relief in tsunami-affected countries.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 491.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide deferral and rescheduling of debt to tsunami affected countries)

On page 194, line 19 after the colon insert the following:

Provided further, That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka; *Provided further,* That of the funds appropriated under this heading, up to $45,000,000 may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: *Provided further,* That such amounts shall not be considered ''assistance'' for the purposes of provisions of law limiting assistance to any such affected country:

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

The amendment (No. 491) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 492

Mr. COCHRAN. Mr. President, I call up amendment No. 492 on behalf of Mr. LEAHY regarding Nepal.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], FOR MR. LEAHY, proposes an amendment numbered 492.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the Sense of the Senate in support of the immediate release from detention of political detainees and the restoration of constitutional liberties and democracy in Nepal)

At the appropriate place in the bill, insert the following:

NEPAL

SEC. (a) FINDINGS.—The Senate makes the following findings—

Whereas, on February 1, 2005, Nepal's King Gyanendra dissolved the multi-party government, suspended constitutional liberties, and arrested political party leaders, human rights activists and representatives of civil society organizations.

Whereas, despite condemnation of the King's actions and the suspension of military aid to Nepal by India and Great Britain, and similar steps by the United States, the King has refused to restore constitutional liberties and democracy.

Whereas, there are concerns that the King's actions will strengthen Nepal's Maoist insurgency.

Whereas, while some political leaders have been released from custody, there have been new arrests of human rights activists and representatives of other civil society organizations.

Whereas, the King has thwarted efforts of member of the National Human Rights Commission to conduct monitoring activities, but recently agreed to permit the United Nations High Commissioners for Human Rights to open an office in Katmandu to monitor and investigate violations.

Whereas, the Maoists have committed atrocities against civilians and poses a threat to democracy in Nepal.

Whereas, the Nepalese Army has also committed gross violations of human rights.

Whereas, King Gyanendra has said that he intends to pursue a military strategy against the Maoists.

Whereas, Nepal needs an effective military strategy to counter the Maoists and pressure them to negotiate an end to the conflict, but such a strategy must include the Nepalese Army's respect for the human rights and dignity of the Nepalese people.

Whereas, an effective strategy to counter the Maoists also requires a political process that is inclusive and democratic in which constitutional rights are protected, and government policies that improve the lives of the Nepalese people.

(b) Whereas, now therefore, be it

Resolved, That it is the Sense of the Senate that King Gyanendra should immediately release all political detainees, restore constitutional liberties, and undertake good faith negotiations with the leaders of Nepal's political parties to restore democracy.

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

The amendment (No. 492) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I ask unanimous consent that it be in order that three amendments en bloc be called up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENTS NOS. 388, 443, 459, AND 537

Mr. REID. Mr. President, I send to the desk amendments on behalf of Mr. DURBIN, No. 443; Mr. BAYH, No. 338; Mr. BIDEN, No. 537; and Mr. FEINGOLD, No. 459; and I ask unanimous consent that they be set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments en bloc are as follows:

AMENDMENT NO. 388

(Purpose: To appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs))

On page 169, between lines 8 and 9, insert the following:

UP ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $742,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $742,000,000 shall be available for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for armored security vehicles.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

AMENDMENT NO. 443

Purpose: To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances)

On page 231, after line 3, insert the following:

AFFIRMING THE PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 6047. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term ''torture'' has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

AMENDMENT NO. 459

(Purpose: To extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office)

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking ''obligated'' and inserting ''expended''.

(b) Subsection (f)(1) of such section is amended in the matter preceding subparagraph (A) by inserting ''appropriated funds by the Coalition Provisional Authority in Iraq during the period from May 1, 2003 through June 28, 2004 and'' after ''expenditure of''.

(c) Notwithstanding any other provision of law, of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE'' and under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'', $50,000,000 shall be available to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

AMENDMENT NO. 537

(Purpose: To provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the reduction in the highest income tax rate for individual taxpayers)

At the appropriate place, insert the following:

SEC. ____. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ AND AFGHANISTAN AND FOR OTHER DEFENSE-RELATED ACTIVITIES THROUGH PARTIAL SUSPENSION OF REDUCTION IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003, 2004, and 2005	25.0%	28.0%	33.0%	35.0%
2006 and thereafter	25.0%	28.0%	33.0%	38.6%''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF MARK FITZGERALD

Mr. ISAKSON. Mr. President, as we are in the midst of this important debate on the war supplemental, immigration, and other pressing issues, all over America things are happening that don't always make it to this floor.

This week in my State and in my home city, where I was born, Atlanta, GA, there will be a retirement. Mr. Mark Fitzgerald will retire from his years of service with the Home Builders Association of Metropolitan Atlanta, an association he has built to become one of the largest in the United States of America. He will be honored. There will be testimonials. There will be gifts. But the greatest gift is the service he and his association have given to the economy of our State, for the betterment of our State, and in the entrepreneurship and freedom that we all love in this great country of ours.

So I want to pause this moment and let the RECORD of the Senate reflect that this week, as we debate the issues of the day, all over America there are those who have given their lives in service to their country through the free enterprise system.

Today and this week, in Georgia, one Mark Fitzgerald is one who will be honored. I commend him for his service, his commitment, and his citizenship in this great country and in our home State.

CAMERAS IN THE COURTROOM

Mr. FEINGOLD. Mr. President, I am proud to once again support the Grassley-Schumer bill on cameras in the courtroom. This proposal was reported by the Judiciary Committee on a bipartisan vote in the last two congresses, and I very much hope we can get it signed into law this year.

When the workings of Government are transparent, the people understand their Government better and can more constructively participate in it. They can also more easily hold their public officials accountable. I believe this principle can and should be applied to the judicial as well as the legislative and executive branches of Government, while still respecting the unique role of the Federal judiciary.

We have a long tradition of press access to trials, but in this day and age, it is no longer sufficient to read in the morning paper what happened in a trial the day before. The public wants to see for itself what goes on in our courts of law and I think it should be allowed to do so.

Concerns about cameras interfering with the fair administration of justice in this county are, I believe, overstated. Experience in the State courts—and the vast majority of States now allow trials to be televised—has shown that it is possible to permit the public to see trials on television without compromising the defendant's right to a fair trial or the safety or privacy interests of witnesses and jurors.