

country, other than Japan, in that region. I believe that a free-trade agreement will help build on that constructive partnership in fighting terrorism and ensuring other security issues.

Despite all this, I saw a disturbing trend while I was there; that is, the possibility that some of the more radical views of extremism and intolerance in religion may be raising their ugly head in religion in Malaysia.

Most recently, a Malaysian woman who was born Azalina Jailani, changed her name to Linda Joy, and has been waiting for the federal courts to approve her conversion from Islam to Christianity. It was reported that when her application came to change her religion, it was rejected, and she was sent back to the Sharia or religious courts. Her lawyer has been arguing before Malaysia's highest court that Joy's conversion be considered a right under the constitution and not a religious matter.

We are watching this case with great interest. There are reports that provinces in Malaysia are going to change their law to implement the Sharia, or harsh religious law, as law of the province.

Sixty percent of Malaysia's people are Muslim, and Christians of various denominations make up about 8 percent. The rest are Buddhist, Taoist, and Hindu. We look forward to seeing a decision reasserting Malaysia's commitment to democratic principles and a rejection of intolerant religious laws.

Malaysia Prime Minister Abdullah Badawi has been an outspoken champion of tolerance. He has pointed out the obvious political dangers of taking that road, but I hope he will not succumb to the pressures that appear to be increasing to move down a path toward less tolerant and potentially more extremist forms of religion.

The pressures for adopting harsh religious laws are also being applied to Indonesia where President Susilo Bambang Yudhoyono has been another strong advocate of tolerance, freedom, and democracy.

The Muslim countries in that region, we hope, will continue on a path of secular, pluralistic, democratic societies or the choice is to see them turn from that path to a potential breeding ground for terror and instability.

Speaking of terror and instability, one country where I am not fearful of that occurring is Cambodia, which I also visited in August. I was stunned to see the World Bank put out a list of "failed states" with the danger of becoming harbors for terrorism, and they listed Cambodia.

To me, Cambodia is definitely heading in the right direction in terms of fighting terrorism. They are making great economic progress. We have been cooperating with them. They have contributed to counterterrorism efforts in the region.

Prime Minister Hun Sen said:

If we aren't active enough in fighting terror, we risk becoming the hostage.

They set up a national committee to fight terrorism. After the attacks on the United States on 9/11, Cambodia offered overflight rights to support our operations.

Cambodia has contributed peacekeepers to Sudan. The United States has provided international military education and training funds for the first time, and we are planning military exercises with Cambodia later this year.

The IMET contribution of \$45,000 is small, but it shows we are willing to work with them and ensure their military has civilian control, appropriate rules of engagement, and other means of conducting themselves in this very difficult time.

There is an economic issue that I hope we can resolve successfully with respect to Cambodia because they are moving on the path toward what we would want to see, and that is democracy and human rights in this part of the world and free markets.

The economy of Cambodia has been growing since 1999, boosted by a bilateral textile agreement, and we believe that has been a reason for the strong economic growth.

Mr. President, I don't see any other Senators wishing to take the floor. I ask for 2 additional minutes.

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

Mr. BOND. Mr. President, Cambodia has adopted international labor rights and standards touted by the International Labor Organization as a model for other developing countries, and they are beginning to flourish. This is a country that has half its population under the age of 20 because of the unbelievable depredations of the Khmer Rouge in the late seventies and widespread murder and genocide. But it is on the right track.

However, with the expiration of the bilateral textile agreement, countries such as Cambodia are now losing out in the competition with economies such as China and India. I strongly support and hope we can pass a measure to enhance economic opportunities such as the Tariff Relief Assistance for Developing Economies, or TRADE Act, that will allow least developed countries, such as Cambodia, to remain competitive by enhancing economic growth. They need to create a better investment environment.

They are clearly not a Thomas Jefferson democracy yet. They have had a very colorful and very deadly past, but we think that with our help and support, they can redevelop what was once Southeast Asia's rice basket—prior to the Khmer Rouge's destruction of small irrigation infrastructure and the execution of anyone with agricultural expertise—again to a strong contributing economy.

We must adopt initiatives such as these for Cambodia and for other countries in the Southeast Asia region. We have to work to continue improving

education, emancipation, economic development, and promoting democracy in Southeast Asia, as around the rest of the world.

Doing so is not only good neighborly, it will not only help the Southeast Asian nations move toward economic and political reform, but it will be the most important thing we can do against the war that radical Islam has declared upon our world and keep these countries from turning to the extremist violence, the terrorism we now see primarily in the Middle East and have seen too frequently, as noted in "The Second Front," in Southeast Asia.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. VITTER). Morning business is closed.

SECURE FENCE ACT OF 2006— MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 6061, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to H.R. 6061, an act to establish operational control over the international land and maritime borders of the United States.

The majority leader is recognized.

Mr. FRIST. Mr. President, in May of this year, this body passed comprehensive immigration reform. We are a nation of immigrants, but we are also a nation of laws. We must honor both of those heritages. Accordingly, we pursued in this body a four-pronged approach to reform: first, fortify our borders; second, strengthen worksite enforcement; third, develop a strong temporary worker program; fourth, develop a fair and realistic way to address the 12 million people here already who entered our country illegally, but under no circumstances would we offer amnesty.

Unfortunately, at this point it is pretty clear to everyone that we will not reach a conference agreement on comprehensive immigration reform before we break in September. While I have made it clear that I prefer a comprehensive solution, I have always said that we need an enforcement-first approach to immigration reform—not enforcement only but enforcement first.

We share a 1,951-mile border with Mexico, and it doesn't take too much creativity to imagine how terrorists might plot to exploit that border. It is time to secure that border with Mexico. As a national security challenge, that is absolutely critical to fighting a strong war on terror. That is the approach of this bill, the Secure Fence Act of 2006, a bill on which we will shortly vote.

Earlier this year, with passage of the supplemental appropriations, we provided almost \$2 billion to repair fences

in high-traffic areas, to replace broken Border Patrol aircraft for lower traffic areas, and to support training for additional Customs and Border Patrol agents. In addition, we deployed more than 6,000 National Guard troops to our southwest border, and subsequently—and this is tremendous news—we saw a 45-percent drop in border apprehensions.

But we have to do more. The Secure Fence Act picks up where that supplemental left off. It lays the groundwork for complete operational control over our border with Mexico, and it will go a long way toward stopping illegal immigration altogether. Customs and Border Protection will take responsibility for securing every inch of our border with Mexico. Engineers and construction workers will erect two-layer reinforced fencing along the border. Hundreds of new cameras and sensors will be installed. Unmanned aircraft will supplement existing air and ground patrols.

We are enhancing and fortifying our borders to entry so we will have better control over who enters the country, how they come, and what they bring. We know this approach to enforcement works. We saw a drastic downturn in illegal immigration when Congress mandated a 14-mile stretch of fence in San Diego, from 200,000 border violations in 1992 to 9,000 last year.

The Secure Fence Act is a critical component of national security. It is an essential first step toward comprehensive immigration reform. So we can't afford to demean it with partisan political stunts.

Mr. President, very shortly we will have a vote to bring this bill to the floor. But the vote isn't just about this bill. It is about bolstering national security. It is about keeping America strong. It is about ensuring the safety of each and every American. With action here to secure our border, Congress and the Nation can turn to resolving the challenges of worksite enforcement, of a strong temporary worker program, and the challenges of the 12 million illegal aliens who live among us, with respect and care and dignity.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I would like to make some comments on this legislation and ask that I be notified after 8 minutes.

The PRESIDING OFFICER. Will the Senator suspend? Under the previous order, there will be 1 hour for debate equally divided between the two leaders or their designees.

The Senator is recognized.

Mr. SESSIONS. Mr. President, we are indeed a nation of immigrants. We will always have immigrants coming to our country, and they have enriched our Nation in so many different ways. It is time for us, however, to recognize that the policies we have adopted as a Nation are not working; that the law that

we as Americans respect so greatly is being made a mockery of; the system is in shambles, and the American people are very concerned about it—as they rightly should be. I believe public officials are coming to understand the gravity of the problem after the American people have led them at last to that event.

For the last 30 or 40 years, the American people have been right on this subject. They have asked for a lawful system of immigration. They have asked for a system of immigration that serves the interests of the United States of America. And they have expressed continual concern about the illegality that is ongoing. Frankly, the politicians and Government officials have not been worthy of the good and decent instincts and desires of the American people.

Finally, I think those voices are being heard today.

We want to talk about the House bill that is on the floor of the Senate today. We are asking that this legislation be considered by the Senate. The majority leader has had to file for cloture because apparently some in this body do not even want to consider this legislation. They do not want to talk about it, push it away through surreptitious legerdemain. They want to figure out a way to undermine whatever legislation has been passed and make sure nothing ever gets done. That has been the problem. I hate to say it. We have gone again and again, and we have promised we are going to do something and we tell the American people we are going to do this and we are going to do that. But they are not ignorant, they know we have not done anything, except for the last few months we began to take a few steps that had some significance. But for the last 40 years we have basically had a system driven by illegality that is not worthy of the American people, not worthy of our heritage of law, and it must end.

Let me tell you what happened in the Senate about the fencing issue. Five months ago, May 17, my colleagues, by a vote of 83 to 16, after talking to their constituents, I submit, approved my amendment to mandate the construction of at least 370 miles of fencing and 500 miles of vehicle barriers along the southwest border. That totals 870 miles of physical barriers, either a fence or a vehicle barrier. Admittedly, that was a strong vote in this body, indicating that fencing on the southern border is and should be a part of our plan to recapture a legal system of immigration in America. It remains one of our important priorities.

On August 2, my colleagues, this time, by a vote of 93 to 3, voted to fund the construction of those miles of fencing and barriers on the DOD appropriations bill as part of the National Guard effort at the border. Today we will vote again. I expect and hope that the Senate will have the votes for cloture so we can move forward with this bill and not have it obstructed from even being

debated in the Senate. The miles of fencing contained in this bill are not that different from what the Senate had already voted for, 93 to 3 to fund this year.

The Senate has already voted to fund them, and we are moving forward. This bill simply requires—the House bill that has been passed by the other body—that more of those miles be fencing in designated areas.

I will make this point: We are not there yet. Just because we have had these votes, just because the House has voted for fencing, just because the Senate, by an overwhelming vote, has authorized fencing, we have not begun to construct that yet. We have to get the money, and we have to get a final bill. The amendment I offered—that passed 83 to 16—was part of the comprehensive immigration bill. That bill is not going to become law. That whole bill is not going to become law. So if we are going to commence now to build a barrier on the border, we need to pass this legislation that actually authorizes it. So don't go back home and say I voted for it, but I didn't vote for this bill. This bill is going to determine whether we actually do something and we authorize it and direct how it is to be done, not your previous vote.

That is what has been happening. We have always said we have had these votes, but when the dust settled we never made it law and never made it reality. I urge my colleagues to understand that. Without this legislation we are not going to get there in the way you previously voted, and everybody needs to understand that.

Let me tell you a little bit about what is in the legislation. The majority leader summed it up correctly. I appreciate his leadership and his strong support from the beginning for sufficient border barriers. Majority Leader FRIST is committed to a good and just solution of the immigration problem in America, but he has come to understand that we have to take steps and do some things, and one of them is fencing.

This is what this bill will do. It will establish operational control of the border. Most people think we ought to have that now but we do not. We do not have operational control of the border. So not less than 18 months after the enactment of this bill, the Department of Homeland Security must take all actions necessary and appropriate to achieve and maintain operational control of the border. Isn't that what we want? Isn't that what we have been asking for, for 30 years?

Within 1 year of enactment, and annually thereafter, the Secretary must report to Congress and to the American people on the progress made toward achieving operational control of the border. We are not going to just pass a bill this time and forget it. We are going to have some reports and some analysis so we can monitor whether we are being successful.

Operational control under the legislation includes systematic surveillance

of the international land and maritime borders through the use of personnel and technology such as unmanned aerial vehicles, ground-based sensors, satellites, radar, and cameras. Those are all going to be part of any effective system. We know that. We are not opposed to that. But don't let anybody tell you only those things will make the system work. They will not.

The PRESIDING OFFICER. The Senator has used 8 minutes.

Mr. SESSIONS. Thank you, Mr. President.

Physical infrastructure enhancements to prevent illegal entry of aliens and to facilitate access to international land and maritime borders by the Customs and Border Protection Agency are important. The bill further defines operational control as the prevention of unlawful entry into the United States, including entry by terrorists, unlawful aliens, instruments of terrorism, narcotics, and contraband. Second, the bill extends the current requirement for border fencing in San Diego, requiring that fencing be installed by 2008 through several urban areas. It mentions those. All the fencing in the bill is focused on the heavily trafficked areas on the southwest border. None of the fencing extends further than 15 miles outside high trafficking areas.

Let me just say this: The system that we have today is failing so badly that last year we apprehended 1.1 million people entering into this country illegally. Tell me that is a functional system.

By sending in the National Guard, by building these barriers, by adding to the number of agents, each one of those steps will help send a message throughout the world that we are not wide open, that our borders are going to be enforced. You should not come illegally. You should wait in line and come legally.

Those are facts that I think all of us need to consider as we evaluate this legislation.

Mr. President, I see the Democratic leader here, Senator REID. I know his day is busy. I will be pleased to yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. I so appreciate the courtesy that is so normal and usual from my friend from Alabama.

Mr. President, it is so interesting that here it is 5 days before we are set to adjourn, 6 weeks before an election, and this border fence bill has been brought forward. The majority and the President have had 5 years since 9/11 to secure our borders, but they basically ignored, for 5 years, this issue of national security. Now, with the elections looming, suddenly they want to get serious about protecting America. If they want to have this debate, I am happy to join in it.

First of all, we can build the tallest fence in the world, and it will not fix

our broken immigration system. To do that we need the kind of comprehensive reform that the Senate passed earlier this year. We have been waiting for months for the majority to appoint conferees so we can move forward on this bill, but they have not done that.

Mr. President, I direct your attention and that of my distinguished friend from Alabama to this document called "Immigration and America's Future." I just completed a meeting with Senator SPENCER ABRAHAM and Congressman LEE HAMILTON, who are coauthors of this Task Force on Immigration and America's Future. Twenty-five of the most prominent people in America have met to recognize that our system is in bad shape. This document will be made public in a matter of hours. It will be made public today. I so much appreciate their coming and talking about what they believe is good and bad about our system. I think it is without any exaggeration that they think the House suggestion that we can do it through just security will not work.

Our bill, our Senate bill—I am sure they are not going to endorse it but, of course, they think it is better than the House bill by a far measure.

Because it appears very clear to me that the President and the majority leader are not going to help us get this conference appointed—we have waited weeks and weeks for a conference—I hope that we can, when we come back next year, do something about immigration, something serious and substantial.

I have not read this document. I have the greatest respect for the people who have come up with this document, and I think we can find a lot of substance in it. We need a bill that combines strong and effective enforcement of our borders, tough sanctions against employers who hire undocumented immigrants, a temporary worker program, and an opportunity for undocumented immigrants currently in this country to have a pathway to legal immigration. They need to work hard, pay their taxes, learn English, and stay out of trouble. Only a combination of these elements will work to get our broken immigration under control.

President Bush says he supports comprehensive reform, but he has a strange way of showing it. I heard my friend, who is one of the Senate's lawyers. Rarely does he come to the Senate floor unless he has an element of the law on which to speak. One of the things he talked about, last year they apprehended a little over a million people coming across the borders. However, that is down 30 percent from the time President Bush took office until now. Prior to that, we were picking up close to 2 million. We have a system that just does not work.

It is not just people coming across our border; it is what they are bringing across the border. The General Accounting Office reported that they were able to bring nuclear materials

across our border. Now, 6 months after we received that report from the General Accounting Office, the Republicans want to get serious about border security. What has taken so long?

For years, we have had procedures and laws in place to secure our borders—not well but certainly better—and they have been virtually ignored. The September 11 Commission told the President he should work with other countries to develop a terrorist watch list that our Border Patrol agents could use to check people coming in. Did he do that? No. The September 11 Commission gave him a failing grade.

In the 9/11 Act—we all remember that—Congress provided for 2,000 new Border Patrol agents. Guess what. Like so many things, they are authorized but not paid for. We have been unable to get the President and the Republican Congress to pay for these new Border Patrol agents. We authorized them and do not pay for them.

We did not oppose the sensible fence on the border. Almost all of us voted for a 370-mile fence as part of the comprehensive bill. If I am not mistaken, it is the Senator from Alabama who moved forward to have the fence paid for. That is good. Now we have an amendment to build 700 miles of extremely expensive fencing—some estimate it will cost as much as \$7 billion—with no plan to fix our broken immigration system.

The majority has made very clear they have no interest in negotiating with the Senate to enact legislation. What we are doing today is about November 7th. In addition, we now hear the majority may try to include the entire House enforcement package in the Homeland Security appropriations conference report. This is the package that the House Republicans put together after their unprecedented summer of sham hearings about the Senate's comprehensive immigration reform bill.

Among the measures included in the package is a provision making the 12 million undocumented immigrants subject to arrest and detention. This provision has long been opposed by State and local law enforcement authorities who already are stretched thin and do not want to jeopardize the policing efforts in immigrant communities.

This is clearly an effort to sneak the controversial criminalization provisions of the House enforcement-only bill through the back door. I strongly oppose this illegitimate maneuver. If the Republicans want to move forward on these provisions, they should have agreed to a conference on immigration bills that each Chamber passed.

Enforcement measures alone will not secure our border. It is crucial we get control of our border. That is without any question. But, like many of my colleagues on the other side of the aisle, and like President Bush, I believe we can only secure our border through comprehensive reform. No amount of grandstanding will change that.

This is a rehash of a battle we already have fought. The Senate has spoken and profoundly disagrees with the House. The Senate is ready to sit down with the House and work out a real solution. We need the President and the majority leader to help find the solution. We have offered practical, workable, fair solutions to solve our immigration systems. The President and the majority leader said they supported what we were trying to do, but it does not appear they are interested in real solutions, just political posturing at this stage.

On the motion to proceed to this bill, I will vote aye in the hope that the majority leader will allow Members to amend it to reflect the Senate's bipartisan support for comprehensive immigration reform. At the very least, there are certain key things we need to do. The fruits and vegetables in our country are being thrown away at harvest time because we do not have the people to pick the fruit and vegetables and work at the processing plants. I hope that amendment would be allowed—at least the farm workers provision.

I wish we were in a different position. I, again, direct my colleagues' attention to this work done by Senator ABRAHAM, Congressman HAMILTON and 23 others. It is a bipartisan group. As I have indicated, I have not read this—I have gotten a briefing on it—but we need to have a new direction in immigration in this country. Hopefully, this document will allow that new direction.

Again, I so appreciate my friend allowing me to speak. I appreciate it so very much.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Democrat leader and his citing of that report. I look forward to reading it.

The reason that is important, this so-called comprehensive reform bill that actually passed the Senate, with a substantial number of no votes, is nothing more than an extension of the current failed system. It is not a comprehensive reform of immigration at all.

We had a hearing last week at my request. We had some of the best minds in America on immigration. They said our present system is completely ineffectual. I think that is fair way to summarize what they said.

They all spoke favorably of the Canadian plan, the Australian plan, and other plans being developed by developing nations around the world. It makes every sense that we do that. I am looking forward to analyzing that report. I am confident it will be further evidence that business as usual in immigration must end.

Next year we need to come forward—and I will commit to working with my colleagues—and have a real dialog on what immigration should be for America. The seminal expert in America, Professor George Borjas, himself an immigrant, at the John F. Kennedy

School at Harvard, has written the most authoritative and best-known book on immigration, "Heaven's Door." He just testified at our hearing last week. He has said in his book and in his testimony, fundamentally, America needs to ask this question: Are you crafting an immigration policy that serves your national interests?

If that is what we are doing, then he has some ideas that help us do that. But that is not what we have been doing. We have never had a discussion of the Canadian plan that gives preference to people with education. We have never discussed the Canadian plan that gives preference to people who already speak English. We have not discussed the system in Canada that gives preferences to people who bring business investment or have skills that are important in the workplace.

Isn't that what a rational nation would do? This bill that passed the Senate is fatally flawed. We need to start over completely. I believe, that report will validate the things I just mentioned.

Of course, let me say to all of our colleagues, no one suggests that building a fence is the end to the problem. Mr. T.J. Bonner, head of the Border Patrol Agents Association, testified at our committee. He said there are two things we need to do: We need to strengthen the border and eliminate the magnet of the workplace by cracking down on illegal hiring in the workplace.

The Senator from Nevada, the Democratic leader, is correct. We have seen some reduction in the numbers being apprehended. I hope that indicates we are seeing a reduction in those attempting to enter the country. I believe it does.

What should that tell us? That should tell us that if we continue to take strong steps, we can end this worldwide perception that our border is wide open, that anyone can come through our country legally or illegally and end that whole perception and shift toward that magic tipping point where people realize they are not going to be successful getting in our country illegally, and they are not going to be able to get a job once they get here. We can do both of those.

The American people need to know, our Members of Congress need to know, if we continue the course we are on and actually follow through on the things we have discussed, we can create a lawful border. It is not impossible. Don't have anyone say that is impossible. It is part of the steps. To say we should not do border fencing because that is just one step and that is not the whole thing is silly. If we have to take 20 steps to get to the goal, why say it is worthless to take 2 of those steps? Certainly we ought to take the steps we know we can do right now.

The American people are a bit cynical about what we are doing. The leader asks, Why do we want to bring it up now? We are about to finish the ses-

sion, and we still haven't gotten it done. I don't want to go home without having done some things to improve the legal system of our border. I don't think most Members do. We have to get it done. We should have already had it done. I agree with that.

I was sharing some thoughts before the minority leader, the Democratic leader arrived, about what is in this bill, how it actually is effective and will actually work and will actually reduce the immigration in our country from illegal sources by a significant amount.

I was able to travel with Senator SPECTER, chairman of the Judiciary Committee, to South America recently. We were in a number of countries. We saw a report on polling data in Nicaragua that said 60 percent of the people of Nicaragua would come to the United States if they could. I mentioned that to the State Department personnel in Peru. They told me that 70 percent of the people in Peru would come to the United States if they could, according to a recently published poll. This is a wonderful place. America is a great country. All over the world, millions and millions and millions would like to come here. We cannot accept everyone that would like to come. I wish we could, but it is just not possible.

We need to set standards and appropriate behaviors to create a system that is lawful, No. 1; also, a system that lets people come in on the basis of merit and what is in the best interests of our country.

The House bill we are now considering has some important and valuable things in it. It calls for interlocking surveillance camera systems that must be installed by May of next year. They are going to keep waiting. How much longer can this go on? We need Homeland Security to get moving. It says all of the fencing must be installed by May of 2008. That is a good step. That says we are going to get serious and we are going to do something.

Laredo-Brownsville would be given until December of 2008. The bill provides the Secretary of Homeland Security the flexibility to substitute fencing with other surveillance and barrier tools if the topography of a specific area has an elevation or hillside of greater than 10 percent.

I ask what the balance is on both sides.

The PRESIDING OFFICER. The majority side has 11 minutes remaining and the minority side has 20 minutes remaining.

Mr. SESSIONS. Mr. President, the bill that is before us today requires the Secretary, not later than 30 days after passage, to evaluate the authority of our Customs and Border Protection agents to stop vehicles that enter the United States illegally and that refuse to stop when ordered to stop. Compare that authority with the authority given to the Coast Guard to stop vessels on the high seas that don't stop

when they are ordered to stop, and to make an assessment about whether the Border Patrol authority needs to be expanded. We have a real problem with people just riding by and placing people at risk by not stopping. That situation needs to end.

We need to give our agents authority sufficient for their own personal safety and the protection of the laws of this country.

The Secretary would be required to report his decision within 60 days.

The bill further calls for a northern border study to assess the feasibility of a state-of-the-art infrastructure security system. The report will assess the necessity for such a system, the feasibility of implementing a system, and the economic impact of the system.

We need to look at the northern border. We are not arresting 1 million people-plus a year on the northern border. It does not have anything like the impact of the movement of people illegally such as we have on the southern border, but we need to watch that, too.

Fencing is proven. In San Diego, where they built a fence a number of years ago, crime has fallen dramatically. According to the FBI Crime Index, crime in San Diego County—the whole county—dropped 56 percent between 1989 and 2000. Can you imagine that? Just by ending the open border that existed, vehicle drive-throughs where they do not stop—and the reason they have fallen from between 6 and 10 a day before the construction of the fence, to only 4 drive-throughs in 2004, the whole year.

This is a mockery of law when 6 to 10 people are just driving through the border ignoring the Border Patrol officers who are there. What kind of mockery of law is that?

Fencing has reduced illegal entries in San Diego.

According to the numbers we have, apprehensions decreased from 531,000 in 1993 to 111,000 in 2003. That is by four-fifths. That is only one-fifth the number being arrested today as there were 10 years ago as a direct result of serious enforcement bolstered by physical barriers.

Fencing has also reduced drug traffic in San Diego. In 1993, authorities apprehended over 58,000 pounds of marijuana coming across the border. In 2003, only 36,000 pounds were apprehended. In addition, cocaine smuggling decreased from 1,200 pounds to 150 pounds.

I am glad to hear that the majority leader—and the Democratic leader—indicated he would move to have this bill come forward on the Senate floor. If there is some tweaking which needs to be done, that will give us an opportunity to do that.

I think the bill is fundamentally sound in all respects. I urge my colleagues to look at it. I think they will feel comfortable that it is consistent with their previous votes in this body for a fencing measure.

But the Members of our body need to understand that our first vote on fencing,

which we authorized on the immigration bill, is not going to be effective because that bill is not going to pass. It was an amendment to that bill. If we are going to do anything before we leave this year—and the American people should be watching us carefully—this is what we need to do. We have an opportunity now to stand up and make real what we have talked about and what we voted for. If we don't do it, we will not make that reality come into effect, and we will not be faithful to the promises we made to our constituents. And, once again, we will see this kind of cynicism and disrespect for Congress because of our inconsistency in what we say and what we do.

Too often I have observed in this body when we come up with an idea about immigration that does not work, it will pass. If you come up with something that actually does work, for some reason or another, even if it is voted and passed in one body or other, it never seems to really become law. This time we need to make our legal system work.

I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 4 minutes 10 seconds.

Mr. SESSIONS. Mr. President, I am convinced that physical barriers at our borders—fencing in particular—are an important and central cost-effective solution to border security.

My colleague, the Democratic leader, has used a figure of \$7 billion. We think that is greatly exaggerated. We believe it can be done for much less than that, although that money has been floated. A private contractor has indicated he could do it for about \$1.8 billion, and that is the money we put into the bill. And with the help of the National Guard, I think we ought to be able to build fencing at a rate far less than that.

I note that this is a one-time expenditure. This expenditure is going to reduce the 1 million apprehensions a year dramatically. A barrier like this will enhance the ability of each and every single Border Patrol officer to do his or her job. It will enable them to be far more effective. It is going to enable us to not have to hire nearly as many people. It will send a signal to the world that our border is not open. That means we will need fewer bed spaces.

We are going to be moving toward reaching that tipping point where the border is perceived as being closed, where the legal system is being honored in America again, and where we can make a difference in this whole system. Manpower alone cannot work.

Are they going to have to stand every 500 yards on the border and try to catch people? When you apprehend somebody, you have to pay to take them to a facility and then take them back across the border; or if there is

some distant country, pay for a plane ticket and send them back home and put them in a detention place until that occurs. We think we need a catch-and-release program. But even if we do this, it is still very costly.

A fence is going to save us billions of dollars over the years. It is going to allow us to be effective, with fewer Border Patrol agents. It is going to help us reach that tipping point where we will need far fewer bed spaces and far fewer planes to charter to take people back home. We will have far fewer efforts to move people back across the border, at a great savings to this country. This is a cost-savings bill. It is a statement bill, I submit. When you count the costs of salaries and the time and insurance for our Border Patrol, the risk at which they are placed, a fence is going to be a tremendous asset to them. We will have a roadway so they can move down in their vehicles along the border to pick up people who have entered. The word is going to get out that it is not easy to do that anymore.

There are a lot of other things we need to do. We need to clarify the current law as it exists.

Along with my staff person, Cindy Hayden, a lawyer on the Judiciary Committee, my chief counsel, we wrote a Law Review article for the Stanford Law Review. We talked about the authority of the local law enforcement officers. They have authority in most instances, but it is blurred and confused, and as a result most State and local law enforcement officers are afraid to do anything. We need legislation that will fix that. We need the workplace enforcement.

All of these are steps that need to be taken so that people can't come into the workplace fraudulently and get a job as they are today. Those things can be done, but a critical part of this entire process is securing the border first. The American people expect us to do that.

This legislation gives us that capacity. We can make that difference, and the result will be that we are going to see further improvements in the number of apprehensions.

Then, next year we need a good dialog. As Senator HARRY REID said, we need to take Professor Borjas's book, "Heaven's Door," and take other testimony that we have seen and reviewed and build on that and develop a comprehensive program that we can be proud of, that will allow talented immigrants to come here, people whom we know scientifically from studies and analyses will be successful in America, who will pay more in taxes than they take out. And the numbers are really scary.

Large numbers of people coming in today are high school dropouts, do not have a high school diploma. According to the National Academy of Sciences, a person coming into our country without a high school diploma, over a lifetime, will cost the U.S. Treasury almost \$90,000. Think about that. They

will have a low-wage job. They will not be paying income tax. They will be receiving other benefits. That does not include extra schools and highways that will have to be built. It only includes what they will be getting in terms of earned-income tax credit or Food Stamps and other benefits such as medical and the like.

We are moving now. The American people's voices are beginning to be heard. But I think we are going to have to study this issue. If the American people will stay in tune, if they will insist on the highest and best values, including law and decency and generosity and a positive view of immigration, we will have all those values at play in our decisionmaking process. We can come up with legislation next year that actually could do more good than most people realize.

I can't tell you how exited I am about it. But it is absolutely essential that we take steps today to gain credit with the American people; to have them understand that we are listening, that we are going to make the legal system work. And then we can enter into a dialog with them next year to develop, as Professor Borjas's book says, policies that serve the legitimate interests of our Nation.

Why shouldn't we do that? Other countries are doing that. Are we saying that Canada is not an advanced and humane nation? Are we saying that the policies that New Zealand adopted are not humane and decent and effective? Look at it. We will find that they are. In fact, they allow quite a number of people to come into their country every year, but they try to allow those to come who have the best chance of being the most successful.

It has exciting possibilities for us. It is important that the misguided legislation that has come through this Senate has now ground to a halt, that the House has flatly rejected it, and that we in our own body are reevaluating it—I think rightly—and we will be at a point where we can start over, start afresh and develop a comprehensive plan.

Let's get credibility with the American people.

Let's make this border a lawful border again, and we will see a reduction in crime. We will see increasing economic and commercial development in the areas where enforcement becomes a reality. We can tell the world that you have an opportunity to come to our country, but you are going to have to meet standards. You will have to apply, and you will be objectively and fairly evaluated. And if you meet those criteria, you will rise up in the list. If you do not, you may not be able to get in. We are sorry, because everybody cannot come in here. We wish it were different, but it is just so. We cannot accept more and more and more. We have to decide what the right number is, what skills and assets they bring that we want for our country, and make a selection process on that basis. It is really exciting, that possibility.

In our situation today—I say to my colleagues, I would like to share this one thought with you—and I am sure the report that Senator REID mentioned probably has some discussion of it because it is a defining event—only 20 percent of the green cards—that is the card that gives one permanent residence in the United States—only 20 percent of those are given out based on the skills of the applicant. Think about that. How can that be in our national interest? The experts we have heard say it is not in our national interest. Canada and other nations have analyzed this. They have decided that is not where they want to go. So they are trying to get to 60, to 70 percent based on skills.

Yes, we will always have those subject to persecution around the world, humanitarian cases, who we will allow in our country. But the number and the way we are doing it now is not a sensible way to proceed.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I notice that none of my colleagues are here. Senator REID, I am pleased to say, indicates he will be supporting moving forward to the bill and cloture. I will take time, as we are heading up to the hour to vote, to share a few additional thoughts.

The only way we are going to get an authorization of the fencing is to pass this amendment. The authorization for border barriers I offered as an amendment, which was adopted as part of the comprehensive so-called immigration bill, will not become law because that bill will not become law. This is the way we have now to do it.

The House has passed a bill that is thoughtful, that makes sure we are not playing a shell game with the American voters but that we actually create a mechanism to ensure that the fencing gets built on a timetable. It includes a number of other things, such as technology and sensors and the like.

The second aspect of the legislation is very, very important. We voted in this body 93 to 3—and the majority leader and the Democratic leader both made reference to it—to fund it at \$1.8 billion. That was a commitment we made. We said we were for that. This budget that we passed has \$20 billion set aside for emergency funding as part of our budgetary expectations for this year. How much of that will go to homeland security? We have to be careful to watch. And even though we authorized these barriers at the border, which are going to make a huge, huge difference in reducing illegal entry into America—it is going to be so positive—but if we do not fund it so we can actually build it, it cannot be built. That requires an appropriations.

So I am getting worried about that. I am hearing some things—that the \$1.8 billion we passed with such an overwhelming vote may not be funded. So

isn't that the shell game we are talking about now? Isn't that the deal? We thought we had done it on the Defense bill. It would be built through the National Guard who is already on the border. And the money would go to them to supervise, to contract out, or utilize their own personnel to construct this fencing.

That is what we thought we had done. But as often happens around here, subtle things happen. You think you have something in your hand and like a will-o'-the-wisp it just disappears. I hate to use the words "shell game" because it is not always planned out that way, but the effect can be the same. First you think you have it, and then it disappears. You think it is under that shell, you think you have it, and it is not there.

So I am going to have to tell our leadership on both sides of the aisle I am pleased to see we have a commitment to building the fences. We voted twice now, and the House has overwhelmingly voted for this. But we need to make sure we don't play a shell game where we don't have the money at the end to build it because somebody wants to spend it on a pet project they have.

This is a matter of national interest. It is a matter of national security. It is a matter we cannot fumble the ball on. It is a matter we are committed to by our previous votes. So let's make sure we do it. And setting priorities is what we do. That is what we are paid to do. We cannot do everything. So we will have a bit of a test as the session winds down to see if the appropriations process—the actual appropriating of the money to do the things that are needed to be done—is carried out and the funding is there and the barriers are built.

Again, I repeat, this would be a one-time expenditure. I believe the numbers we are hearing are too high. We felt like \$1.7 billion, \$1.8 billion would do the 370 miles of fencing, including 500 miles of vehicle barriers. There is enough money to fund that. But if we are going to have to have that, we can't have no funding, a third of the funding, or a half of the funding or we are not going to be able to do this job. And if it turns out we are wrong and the cost is higher than we expected, we are not going to come close to doing what we are telling the American people we intend to do. So we will have to watch that.

I will just share, in conclusion, my thoughts about the nature of the American Republic of which we are a part. It is a good and decent nation. We have a positive view of immigration. We have been a nation of immigrants from our founding. We believe in immigration. But we are also a nation of laws.

I was a Federal prosecutor for 15 years, and it breaks my heart to see the Federal United States law be made a mockery along the border of our country, that without fencing people are driving by, and not even stopping when the Border Patrol attempts to detain them.

We had a hearing yesterday on crime in America. We had the Director of the Bureau of Prisons. He told us that in the Federal prison penitentiaries 27 percent of the people detained are not American citizens. Can you imagine that—27 percent?

Now, I am absolutely convinced that overwhelmingly the people who come to our country are law-abiding; even if they come to our country illegally, they are law-abiding, other than their entry. But I have to tell you, if I were in big trouble somewhere in some foreign country, and they were trying to arrest me in my hometown, and the chief of police knows my name, and I am facing a big, serious crime, why would I not want to scoot across the border and go to the United States where nobody would know me?

I think we are picking up an excessive number of people who may even be fleeing prosecution in their towns or people who have come here to set up drug distribution networks and things of that nature. So somehow we are picking up a larger number of the criminal element than we ever have. When I asked Mr. Lappin about the prison system and the fact that he said 27 percent of the people in the Federal penitentiaries are noncitizens, I asked him: Does that include those we detain at the border who are being held waiting to be deported? He said, No, it does not even include those.

So this Nation, in our own interest, has every right—indeed, we have a duty to our people—to make sure our borders are not wide open, terrorists do not come here, drug dealers do not come here, people in trouble for sexual offenses and child pornography and those kinds of things, and child abuse, who flee their own countries, do not run across the border to safety in the United States, where they are never apprehended and live here.

So this is all part of it. If we are coming through with the right funding, we will be successful in taking the historic step to creating a lawfulness in this country.

Mr. President, 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. SESSIONS. 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. SANTORUM. Mr. President, I wish to say a few words before we move to the cloture vote on H.R. 6061, the Secure Fence Act of 2006. Colleagues, the purpose of the fence is to prevent illegal pedestrian and vehicular traffic crossing the international border of the United States with Mexico.

This bill does four main things. First, it authorizes over 700 miles of two-layered reinforced fencing along the southwest border with prioritized placement at critical, highly populated

areas. Second, the legislation mandates that the Department of Homeland Security, DHS, achieve and maintain operational control over the entire border through a “virtual fence” that deploys cameras, ground sensors, unmanned aerial vehicles, UAVs, and integrated surveillance technology. Third, it requires DHS to provide all necessary authority to border personnel to disable fleeing vehicles, similar to the authority held by the U.S. Coast Guard for maritime vessels. Finally, the bill requires DHS to assess the vulnerability of the northern border.

Some of my colleagues ask why we need these additional border control tools. When combined with high-tech detection devices, a secure fence should make attempts to cross our border more time-consuming so that the Border Patrol has time to respond and catch those trying to breach the border. Having a state-of-the-art border security fence system should ensure that it cannot be easily compromised. The business of apprehension is manpower-intensive, slow, and legally complex. If we only build a “virtual fence” without additional physical barriers, we will spend millions on technology that is subject to ordinary downtime and then spend even more money to chase down, apprehend, process, and deport the illegal border-crossers.

I believe instead we should add these tools to the toolbox of the Border Patrol, as requested by DHS. An increased manpower alone approach would have the Border Patrol remain vulnerable to decoys and other tactics designed to draw our border agents into one area so that another area is left exposed. This fencing will help border control efforts and will not be an inhibitor to legitimate entry to this country.

More importantly, we know that fencing works. With the establishment of the San Diego border fence, crime rates in San Diego have fallen off dramatically. According to the FBI Crime Index, crime in San Diego County dropped 56.3 percent between 1989 to 2000. Vehicle drive-throughs in the region have fallen from between 6 to 10 per day before the fence to only 4 drive-throughs in 2004, and those occurred only where the secondary fence was not complete. According to numbers provided by the San Diego Sector Border Patrol in February 2004, apprehension decreased from 531,689 in 1993 to 111,515 in 2003.

The Senate should take up and pass the Secure Fence Act of 2006 and give the Border Patrol all of the tools it needs to do its job. The Senate should send a clear message that we need this fence and we need it now. Let's send this bill to the President before we leave at the end of the month.

Mrs. HUTCHISON. Mr. President, I rise today to again voice my strong support for securing our Nation's borders, which remain porous. We must immediately address this threat to our national security.

I have consistently supported and voted in favor of border security efforts such as the installation of reinforced fencing in strategic areas where high trafficking of narcotics, unlawful border crossings, and other criminal activity exists. I have also supported installing physical barriers, roads, lighting, cameras, and sensors where necessary.

However, I object to the Congress making decisions about the location of border fencing. These decisions should be made by State and local law enforcement officials working with the Department of Homeland Security, not dictated by Congress. The border States have borne a heavy financial burden from illegal immigration; their local officials are on the front lines. They should be part of the solution.

Ours is a nation of laws and we must be a nation of secure borders. I stand resolved to work with my colleagues to enact meaningful legislation in this session of Congress that addresses border security first and enacts comprehensive immigration reform.

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the clerk will report the pending motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

Bill Frist, Ted Stevens, Robert Bennett, Lisa Murkowski, Mike Enzi, Pat Roberts, Jeff Sessions, Orrin Hatch, Wayne Allard, Thad Cochran, James Inhofe, Trent Lott, John Ensign, Jon Kyl, Tom Coburn, Mitch McConnell, John Cornyn.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to H.R. 6061, the Secure Fence Act of 2006, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. MENENDEZ) would each vote “yea.”

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

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Alexander	Domenici	Mikulski
Allard	Dorgan	Murkowski
Allen	Durbin	Murray
Baucus	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Feingold	Obama
Biden	Feinstein	Pryor
Bingaman	Frist	Reed
Bond	Graham	Reid
Boxer	Grassley	Roberts
Brownback	Gregg	Rockefeller
Bunning	Hagel	Salazar
Burns	Harkin	Santorum
Burr	Hatch	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Isakson	Shelby
Chafee	Jeffords	Smith
Chambliss	Johnson	Snowe
Clinton	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Sununu
Collins	Leahy	Talent
Conrad	Levin	Thomas
Cornyn	Lieberman	Thune
Craig	Lincoln	Vitter
Crapo	Lott	Voinovich
Dayton	Lugar	Warner
DeMint	Martinez	Wyden
DeWine	McCain	
Dole	McConnell	

NOT VOTING—6

Akaka	Inouye	Kerry
Dodd	Kennedy	Menendez

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. STABENOW. Mr. President, I ask unanimous consent to claim my 1 hour at this point and ask to speak as in morning business.

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

JOB LOSSES

Ms. STABENOW. Mr. President, I rise today to talk about the most pressing issue that I believe families feel across this country and certainly in my home State of Michigan, and that relates to the squeeze that families are feeling on all sides today. It starts with the issue of jobs. We see that almost 3 million jobs have been lost in the manufacturing sector in the last 6 years—almost 3 million jobs. When we look at this chart, under this administration we see that we have the slowest job growth of any administration in over 70 years. We have to go back to Herbert Hoover to see the kind of job loss that we are now seeing—the slowest job growth in over 70 years.

In my home State of Michigan it is even worse than that, because what we are seeing is the impact of a lack of a 21st century manufacturing strategy on those in my State who have been the global leaders—who are the global leaders—in manufacturing. Almost 3 million jobs have been lost in manufacturing alone, and 260,000 of those jobs have been in manufacturing in Michigan.

Now, to add insult to injury, we see expenses going up on all sides for families. They are losing good-paying jobs.

Mr. SARBANES. Mr. President, would the Senator yield for a question about the previous chart?

Ms. STABENOW. Absolutely. I yield to my dear friend who is the ranking member on the Banking, Housing, and Urban Affairs Committee.

Mr. SARBANES. Mr. President, as I understand it, this figure here reflects the amount of annual growth rate of employment under the Bush administration.

Ms. STABENOW. That is correct.

Mr. SARBANES. At four-tenths of 1 percent.

Ms. STABENOW. That is correct.

Mr. SARBANES. We should compare that with the job growth that has taken place in all of these previous administrations. This is the smallest amount until we get back to Herbert Hoover, is that correct?

Ms. STABENOW. Absolutely. Prior to the Great Depression.

Mr. SARBANES. Right. It is a matter of very great concern. This chart is a dramatic demonstration that this so-called economic recovery has not really produced jobs, which, after all, is one of the main purposes that we seek in terms of the workings of the economy.

Ms. STABENOW. Absolutely. In my home State of Michigan, because we are the global leaders in manufacturing, and I know in my good friend's home State of Maryland it is the same way, in terms of manufacturing, that number is even worse because of the lack of effectiveness in enforcing trade-offs, because of our inability to address health care and being able to change the way we fund health care, because of the lack of investment in education and innovation. That number does not reflect the fact of the impact of the loss of good-paying jobs, the kind of jobs that have built the middle class of this country.

Frankly, I am very proud to represent a State that has been at the forefront in the auto industry, with an industry that has created the middle class in this country—middle class jobs, not only in autos, in furniture production, in other manufacturing.

The reality is that we have lost almost 3 million jobs that created the middle class of this country. Even though there has been just a tiny little bit of an increase here over all, we see it is the lowest, slowest job growth of any administration. We have to go way back to Herbert Hoover to find an administration that has a worse jobs record than this particular President.

I have to say it is particularly insulting to those of us in Michigan who, given this record and the fact that we have almost 3 million jobs that have been lost, and 260,000 manufacturing jobs in Michigan alone, that when the President of the United States came to Michigan a couple of weeks ago to do political fundraising, he didn't have 30 minutes to meet with the auto industry. He didn't have 15 minutes to meet with the executives of the largest em-

ployers in the country. In fact, he has postponed or canceled I believe three different meetings with them and now says he is prepared to meet with them after the election.

This isn't about elections. This isn't about politics. This is about a fight for a way of life. This is a fight for a way of life in this country. While he is waiting until after the elections to meet with the auto industry and to begin to engage to do something about these numbers, we have folks who are facing layoffs today. We have headlines. We have Ford Motor Company and their latest headlines. We have struggles going on throughout the industry. Every day, somebody in Michigan gets up in the morning and worries about whether or not they are going to have a job, worries about whether or not they are going to be able to afford to send their kids to college, whether or not their health care is going to still be there, and whether or not they are going to be able to pay for it.

To add insult to injury, too many people who have worked all their lives and who have paid into a pension are now finding themselves in a situation where that pension won't be there. I think that is the ultimate outrage. In the United States of America, I never thought I would have to stand on the floor of the U.S. Senate and say somebody may be in a situation to lose a pension they have paid for their whole lives. We addressed this issue on a bipartisan basis, and I am very proud we put in place efforts that are going to save many of those pensions because of the work that we did a few weeks ago. But too many people still find themselves on the line as a result of that, and that should not be an issue. Bankruptcy or no bankruptcy, in this country you ought to get your pension, period.

So we have a situation where more and more families are on the edge, more and more families who believe in America, who believe in playing by the rules, who get up every day and work hard at one job, two jobs, three jobs, and still find themselves falling more and more behind.

On top of the job situation that they are concerned about, they are being squeezed on all sides by all of the other costs that relate to their families. We see, for instance, a 44 percent increase in the cost of college tuition, room, and board—a 44 percent increase. So here we are, we are in a transition. We hear that the economy is changing. We need to be investing in education. We need to be investing in opportunity for the future, and in innovation and, at the same time, we see the costs going up, and the exact opposite policies are being put in place in terms of cutting opportunity for people.

We all want our children to have a better opportunity than we have had. I am very fortunate to have two children who have worked their way through school and a wonderful stepdaughter who just graduated. I understand about

student loans and what that means. I know the costs have gone up, because we have watched them go up over the last several years. There is no question that families are feeling more and more squeezed as it relates to creating opportunity for their children to be successful, and that makes no sense in this country. That makes no sense at this time when we could be doing something about it.

Health insurance premiums have gone up 71 percent. Seventy-one percent under the Bush policies and this administration—71 percent. Now, this is an issue for us in Michigan with not only families and individuals who are struggling to be able to pay for what I believe should be a right in this country, not a privilege, which is health care, but we know what it is doing to our businesses as well. We know that in a global economy, we are the only industrialized country that pays for health care the way we pay for it. So we add to the burdens on our manufacturers, our small businesses, and others by having health care predominantly on the backs of business.

To make it even worse, we end up, because of our system, because of the craziness of our health care system, paying twice as much of our GDP for health care as any other country, but we have 46 million people with no health insurance. What is wrong with this picture? The United States of America has the highest infant mortality rate. Shame on us. We can do better than that. All this takes is a matter of political will, to make the changes that are necessary so no family has to go to bed at night praying that the kids are not going to get sick; no small business has to worry about whether they are going to be able to find health care for themselves and their employees; and no manufacturer should have to worry about whether they are going to be able to compete internationally and still provide health care for their workers.

Health care costs have gone up 71 percent. To add insult to injury, gasoline prices experienced a 104-percent increase. They are coming down now. They are coming down a little bit before the election. We know what will happen after the election. And we also know what has happened to people trying to go to work, trying to take the kids to school.

In my home State, in Michigan, where we have a very robust tourism season, we want everybody to be able to go to the cottage up north, take the boat out, and enjoy the wonderful Great Lakes or go fishing on the inland lakes and rivers. This is a major economic factor for us, gas prices. What happens to individuals who have to take more money out of their pockets just to be able to get to work? Maybe this summer they didn't take that trip they normally take, which means our small businesses up north were hurt. It means economically we are not seeing the robust investment in tourism that normally we have seen in Michigan.

Families are being squeezed on all sides. This is just a fraction of the cost we have seen going up. What has been the response of this administration? What has been the response of the Republicans in Congress? Unfortunately, the response has been, first of all, to block our efforts to ban price gouging. As part of the Energy bill that passed a year ago, an amendment of mine was agreed to that required the Federal Trade Commission to do a complete investigation of price gouging. It took them way too long, but they finally came back and indicated that on the surface of it, they didn't think it was happening and they really didn't have the tools. We had not defined price gouging so that they could really be serious about that. The administration basically took a pass on whether there is price gouging. So we introduced legislation to define it. That has not been able to move because there has been no support to do that.

Health care costs? We could go on and on in all of the areas in which, instead of coming together and doing what we can do, efforts have been blocked. Here are some of the basics, starting with the Medicare prescription drug program. Instead of having a plan that works for seniors and the disabled, a plan was written that was great for the drug industry. Included in that was the outrageous provision that we are not allowed—Medicare is not allowed to negotiate group discounts. Can you imagine that anywhere else? Anybody knows bulk purchasing is cheaper, negotiating group prices is cheaper. Yet, in the area of Medicare, in behalf of the industry, that is prohibited.

What is the result of that? First of all, we have a Medicare plan, essentially, that is privatizing Part D, requiring those to go through private insurance rather than directly through Medicare. There is just a great big hole. Some folks have called it a doughnut hole, this gap in coverage, because there is not enough money to pay for complete coverage because they can't negotiate group prices. All the money is going to the industry rather than going to make sure there is comprehensive coverage.

There is a better way to do that. I am introducing legislation that would allow us to go directly to Part D. Any senior, any person with disabilities, could go directly to Medicare, sign up under Part D under the normal copays and premiums, go to their local pharmacy, they negotiate prices, we eliminate the gap in coverage, and folks would get what they need without all of the confusion and complexity. But that has stalled. We have not been able to move that forward because of the administration and those in control.

Mr. SARBANES. Will the Senator yield for a question?

Ms. STABENOW. Absolutely.

Mr. SARBANES. Isn't it the case that the VA, in providing health care for veterans, can use its bargaining position with the pharmaceutical compa-

nies to get lower drug prices and therefore is in a better position to provide more extensive coverage for the veterans as a consequence? But on the Medicare for our seniors—I remember the Senator opposing that provision so strongly here on the floor—it is prohibited that Medicare enter into this bargaining with the pharmaceutical companies, bulk purchasing, in order to get lower prices on the drugs?

Ms. STABENOW. The Senator is absolutely correct. We have the model. It is the VA. They have done it very well. They have been able to get a better deal, anywhere from a 35-percent to a 40-percent lower price because they negotiate prices. I don't know anywhere else in the Federal Government where we are not trying to get the best price, where we are not trying to negotiate, except in the area of prescription drugs, except in the area of lifesaving medicine where somebody may need it or they may not be able to live or may not be able to treat their symptoms for high blood pressure or diabetes or get their heart medicine or get their cancer medicine—except in the area that is lifesaving.

Even with the VA, which does a marvelous job in negotiating prices, we are able to do that in every area except Medicare—Medicare, the health care system for older Americans and the disabled. It is the only place where the decision was made to go with the drug companies rather than to go with the people who are on Medicare.

There are so many areas in health care costs we should be addressing—health IT, bringing down the cost of prescription drugs with the use of generic drugs, addressing the issue of health care costs. Senator DURBIN and Senator LINCOLN have a very important proposal that would allow small businesses to pool together nationally and to be able to have a pool—whether it is Blue Cross, whether it is other private insurance, whether it is HMOs—be able to pool together to get the best price. That came to the floor and was voted down.

I have legislation that would provide a catastrophic tax credit for our manufacturers. We know about 1 percent of employees in a business will be seriously ill during the year, but it is 20 to 25 percent of the cost of the health care paid during that year. We could take a major step forward if we provided a tax credit for catastrophic costs to help our manufacturers and our businesses.

This is not rocket science. It is about having the political will and the right values and the right priorities. This has not happened here, and every day people continue to struggle with their health care. Too many people end up in emergency rooms where we pay twice as much because they are sicker than they should be and they are not getting the care at the time they should be getting it. They get treated. The hospital, of course, does the treatment, as it should. Then the costs roll over onto everybody with insurance. That is why

we pay so much for health care, and we in the Senate should be focusing on this as a No. 1 priority.

I mentioned college tuition before. Right when we need to be focusing on more opportunity for people in a changing economy—we all talk about education all the time—what happens here? Right before Christmas, we had the largest cut in student loans in the history of the country, \$12 billion. For everybody who had to refinance their loan by July 1 and saw their interest rate go up, it was as a result of that.

Then, on top of that, we see the President proposed the largest cut in education for next year, the largest ever proposed since the Department of Education was established. Who would believe that at this time, in a global economy, that we ought to be proposing and passing the largest cuts ever suggested for education? These are the wrong priorities and the wrong direction.

And then, certainly, time and time again, we have tried to pass a minimum wage bill that truly raises the minimum wage for everyone. It is something that makes sense. It is something where workers in every State will find that their minimum wage will be raised.

Let me just say that I see our distinguished colleague here, Senator REED, who has played such a distinguished role on economic issues, and I will yield to him to speak in just a moment, but when you look at the numbers and you look at what is happening to families across this country, we need a new direction. We need a new direction. We need to create a new set of priorities based on a different set of values that put Americans first—American businesses and American workers.

What I see happening in this country is a willingness by the President and those in charge of Congress to accept a race to the bottom in a global economy. Too many workers in my State have been told: If you only work for less, pay more in health care, and lose your pension, we can be successful. That is a lose-lose strategy. First of all, there is always going to be somebody in another country who can work for less.

I don't want to win that race. Nobody in Michigan is interested in winning a race to the bottom. What we understand is that we need to do what America does best, which is make this a race to the top. In order to make it a race to the top, we have to have a level playing field on trade. We can compete with anybody if the rules are fair, if it is a level playing field. We have to change the way we fund health care and address health care costs for businesses and families. We have to change. We have to start passing legislation that addresses health care in a positive way, to truly bring down costs, not just shift them around but bring down costs in a real way and make health care available and affordable and support businesses and families.

We have to continue to say we are going to protect pensions. We did make a step forward in that area, and I am proud that we did that together.

Then we have to race like crazy on education and innovation. That is what we do in America. Let's race up. Let's make every other country race to keep up with us. Let's be the ones who are continuing to invest in education, in opportunity for every child, in opportunities for everybody to be able to go to college and focus on areas of math and science and technology and engineering and all of those things we need to do to make it a race up, areas of health research, creating new opportunities and new discoveries. That is what we do in America. That is what we have always done in America. But we have seen in the last 6 years a willingness to put that all aside for other priorities, put that all aside and make this a race to the bottom. That is not good enough.

We believe in a race to the top, and we know that is going to take a new direction. It is going to take a different set of priorities. It is going to take a different set of values to do that. But in a global economy, if we are going to keep our middle class, we have to do that.

We are in a fight for our way of life in this country. It is not going to do any good if a few people have a lot of money if the average person has no money in their pocket to be able to buy that house, that car, send the kids to college, get the boat, and be able to enjoy the beautiful lakes in Michigan, be able to buy their medication. It is not going to matter if everybody is being asked to race to the bottom.

So I am hopeful—in fact, insistent—that we turn things around. America can do better. We need a new direction. We need a race to the top. We can do this. It just takes people who get it, people who get it to be in charge with the right values and the right priorities, and Americans are expecting that to happen. In fact, they are tired of waiting for it to happen. And so am I.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Rhode Island.

Mr. REED. Madam President, I am very pleased to join my colleague, Senator STABENOW, and my colleague, Senator SARBANES, to talk about the reality that is confronting the American family across the country. That reality is, they are being squeezed, and they are feeling every day increased pressure from an economy that is not resulting in higher wages and income but is demonstrating increased costs to every family in the country. Between flat, stagnant incomes and increasing costs, they are seeing their dreams shredded.

It is our obligation, our duty to respond. This administration has not responded. The President tries to paint a rosy picture of the economy, but the American people know better because every day they see the high gasoline

prices, and increased costs of education. They look at their paychecks and see no significant increases. And they wonder, really, for the first time in my lifetime, whether their children will have a better life than they enjoyed.

It was taken as an article of faith in America when I was growing up in the 1950s and 1960s that your children would do better than you did. They are probably going to college, if you hadn't gone to college. If you were fortunate to be a college-educated person, they certainly would go to college and maybe on to professional school beyond. They would be able to enjoy a home in a good community. They would be able to use their talents and their energies to provide for their families and to build a strong America. But, again, for the first time in generations, many, many people are wondering whether their children will be able to afford what they did, and be able to accomplish what they have done. Can they afford a home in the same community they grew up in? In many cases, that is not true in America today. Will they have a pension that they can depend on when they get older 40 or 50 years from now? Will they have the ability to send themselves to school, to educate themselves, not just through college but throughout their lifetime?

This is not something that is just the impersonal effect of the world economy and globalization. This is something that Government has a duty to respond to, and this administration has not responded to it.

The facts are very clear. After adjusting for inflation, the income of the typical family is lower than it was when President Bush took office. The typical family has fallen behind in the last 6 years. The economy has gone through the most protracted job slump since the Great Depression. Even though job creation has turned positive, the pace of job creation has been modest and real wages are not growing.

The administration likes to point to statistics that show an increase in average income or compensation. But it seems pretty clear that these averages reflect gains by highly compensated individuals who receive bonuses, who exercise stock options, while ordinary workers see their wages falling behind with rising living costs.

When you talk about an average, if you have a lot of poor people and you have several highly compensated individuals, that average moves up. That is what the President is talking about.

What we should be looking at is, how do we help those low-income Americans see more in their paychecks? How do we help them protect against rising prices in so many critical areas?

This first chart demonstrates what has happened between 2000 and 2004. This is the median inflation-adjusted household income. This is the centerpoint of households in the U.S., 50 percent below, 50 percent above. So

it takes away the distorting effect of a few, a handful of terribly wealthy households in the country. This is the most accurate view of what has been happening. You can see in 2004, the median income was \$47,399; in 2005, in inflation-adjusted terms, \$46,326, a fall of \$1,273. Median household incomes fell. That is not the sign of a good economy. In fact, that is the sign of a failing economy.

This is accompanied by another phenomenon. The second phenomenon is that prices are increasing. In fact, they are rising dramatically in critical areas.

This is a chart that shows the middle-class squeeze under the Bush administration. College tuition, room and board, up 44 percent; households have \$1,300 less at the median; their expenses for college are going up 44 percent. Health insurance premiums, if you can afford them or you have access to health insurance at all, because there is a growing number of Americans who can't buy health insurance; those premiums are going up 71 percent.

Gasoline prices, up by 104 percent. Even in the last few weeks of lower prices, they are still extraordinarily high given the prices in 2000.

What you have seen is a situation—this is just arithmetic—income goes down, costs go up, families are squeezed. They have to put on hold a lot of their dreams and hopes for the future—for college, in some cases. They have to worry about whether they will be destroyed financially by a health care crisis at home because they cannot afford health care coverage.

Certainly we are all seeing throughout the economy how expensive it is just to get around because of the price of gasoline. For upper income Americans, the people who are certainly above the median income, this is a problem. For the vast majority of Americans, low-income Americans, the extra \$10 or \$15 per fillup means they cannot take the kids out for even a modest meal. They can't do things that they took for granted. They certainly cannot save.

One of the other phenomenons we have seen is virtually a zero savings rate for households in the country. They are not getting ahead.

I can recall—I think we all can recall as children—when parents talked about trying to get ahead, trying to get a little bit ahead, something that will give them not only some financial security but peace of mind. For some families in the last 6 years they are not only not getting ahead but they are falling behind. It is not predestined; it is not inevitable. It is because of the policies of this administration.

One of other startling aspects of the Bush administration is that employment has not grown. This is a chart showing the growth of nonfarm employment throughout administrations in the country going back to Herbert Hoover. The Bush administration has

the worst nonfarm employment growth of any administration since Herbert Hoover. That is not a comparison anyone would like to entertain.

We have seen it go up and down through administrations, but this is the worst. Under the Clinton administration, there was a 2.4 percent per year growth in nonfarm employment. That has been reversing.

This is a situation where people are looking around, again despite all the happy talk of the administration, people just have to look around. The jobs are going away and they are not coming back. Pick up the paper. About every day you see a big American company announcing 20,000 jobs being let go, changes, restructuring, et cetera. That causes people great concern.

Again, we have to do something, and nothing of consequence is being done by this administration. It is the worst job record since Herbert Hoover.

That is a damning epitaph for the economic policies of this administration.

Coupled with the anemic job growth has been a similar anemic growth in earnings. Here again is a comparison. Between 1995 and 2000, under the Clinton administration, and between 2000 and 2005 under the Bush administration. What you see in the Clinton administration is a strong growth in earnings, weekly earnings, for every category of worker, from the lowest to the highest.

In fact, I should point out that the highest-income Americans did much better under the Clinton administration than they are doing under this administration. But what is startling is that this picket fence of the Clinton administration of growth in every income level, strong positive growth, is not the case in the Bush administration. In fact, in the lowest 10 percent you are seeing negative growth, a loss in terms of weekly earnings. The poorest Americans are not only not keeping up, they are falling behind. It is not just at the bottom, it is all the way up to the 50th percentile. Half of American full-time workers have seen a loss in the last 5 years in their usual weekly earnings. They are losing ground, and they know it. They are not getting ahead. They are falling behind.

You see at the upper income levels a slight increase. It was much, much better under the Clinton administration.

One of the ironies here is that the economic policy, relatively speaking, is benefiting the wealthiest Americans, but it is not benefiting them as much as under the Clinton administration.

Again, these are weekly earnings. This figure would be much, much different if we put in all forms of compensation. There you are seeing even a more pronounced view of the upper income Americans because of stock bonuses, because of all sorts of compensation that is not in the form of weekly earnings.

Mr. SARBANES. Madam President, will the Senator yield?

Mr. REED. I would be happy to yield to the Senator.

Mr. SARBANES. If I understand that chart correctly, the people up to the 50th percentile in the last 5 years have actually fallen behind. They have not had an increase, they actually have had a decrease in their real weekly earnings. Is that correct?

Mr. REED. That is absolutely correct.

Mr. SARBANES. Then beyond that, while there has been some increase, it is far less than what occurred in the previous 5 years of the Clinton administration? Is that right?

Mr. REED. That is right.

Mr. SARBANES. Of course, that helps to explain what people are thinking about the economy. I know our distinguished colleague from Michigan talked earlier about the increase in health care costs, the increase in tuition costs, education costs, and the increase in energy costs. That is one side of the squeeze on the middle class and working America. But this is the other side of the squeeze on the middle and working Americans. They are being squeezed down in their earnings and they are being squeezed from the other direction by the increase in costs. So they are really caught in a vise. Their income is not as good and key costs are going up—and at a rather rapid rate. Will the Senator agree with that?

Mr. REED. The Senator is right. It is absolutely a phenomenon between being crushed by falling real income and rising costs. It is not a situation where incomes are falling and being compensated by falling prices. It is a situation where they are being caught in this vice. The pain is palpable to working families throughout this country. These are all of our citizens. These are the people we all say we are here to help. And we are not helping them—not this Congress, not this administration. Not only are we not helping these individuals but it turns out the very policies of this administration and this Congress are rewarding those people who are doing the best, not those who need the assistance. That is evident in the tax policy being pursued by this administration and supported by this Republican Congress.

This is the average amount of capital gains and dividend tax cuts by household incomes in 2005. This is one of the centerpieces of the administration's proposal. They have to cut capital gains taxes. They have to cut dividend taxes. Here is where the benefits go. If you make under \$50,000—that is an awful lot of Americans—you get \$6 in benefits. If a person is making between \$50,000 and \$100,000—most Americans within that range are considered to be pretty prosperous folks—they get \$55 in benefits. If a person makes over \$1 million, they get \$37,000 in benefits. One of the reasons for this is the fact that most working Americans, if they hold stock, they hold it in their retirement accounts. These retirement accounts do not benefit directly from these capital gains and dividends tax cuts. So

for the vast majority of Americans, we are seeing virtually no direct benefit from these capital gains and dividends tax cuts. Of course, for the wealthiest, it is a bonanza.

Now, if this somehow stimulated a huge spurt in economic activity, growth, job performance, and increased employment, that might be a justification—not the most compelling, but a justification. We are not even seeing that.

What we are seeing—because, again, ultimately this is about arithmetic as much as anything—we are seeing a decrease in the resources and revenues of the Federal Government. So we can't compensate for increased cost of tuition. In fact, this administration, as the Senator from Michigan suggested, is sending up a budget that has record cuts in Pell grants and Stafford loans and those supports for education that are so critical at a time when everyone reflexively says we have to be the best educated country in the world because we must compete today with an emerging India and an emerging China.

We can no longer sit back on our laurels saying we have the best educated people. We have to keep investing in education. We have dissipated those resources in a way that does not benefit the vast majority of Americans but benefits very few. As a result, not only are the costs of education going up, but our Federal support for education is going down.

I should say something else, too. The last several weeks the President hasn't missed an opportunity to remind the American people that we are at war. We are. And we have to support our forces in the field. I saw a figure today that to keep an Army division in operation in Iraq for 1 month costs \$1.5 billion. Those costs have to be met.

With the tax policy rewarding the wealthiest Americans without benefiting the rest of America, without contributing in a demonstrable way to significantly increase employment, without contributing to supports and programs so essential to investments for the future of this country, we are not only dissipating our resources, we have also engaged in an international policy that requires spending that is very difficult to avoid, nigh impossible. Who is bearing the burden? It is all being rolled into the next generation of Americans as we accumulate a huge amount of debt going forward.

This is the most reckless economic policy I have ever seen. It is "credit card economics," borrow as much as you can to fund military operations abroad, but we cannot afford domestic programs. What resources we have we give away in the form of tax cuts that are not strengthening the economy.

It is a massive shift of resources from the vast majority of Americans to the wealthiest Americans; from a generation in the future that will pay for it, to a generation today that seems to be consuming it.

Ultimately, these policies will catch up with us. They have already caught

up with the families of America. As we debate these issues today, they are looking at sticker shock in health care, education, at the gas pumps, and housing. And they are looking at their stagnant paychecks.

Not only can we do better, we must do better. This Government has in the past been able to sort these problems out. We have a record over the last 5 years of the preceding decade of growth across the board in terms of income at robust levels, of significant employment gains, of fiscal responsibility. All of that today is history.

Mr. SARBANES. Will the Senator yield?

Mr. REED. I yield.

Mr. SARBANES. As I understand it, we have had this tremendous runup in the debt. We are just saddling this burden on the next generations.

One of the things that has happened and needs to be underscored, at least as I am informed, is that the amount of the debt that we are borrowing from overseas has escalated tremendously. In fact, we have borrowed more from overseas—in other words, foreign-held debt—under President George W. Bush than all of the previous Presidents combined.

It is not only that we are incurring the debt and the problems that go with that in terms of the future burden, but more of that debt is being held externally by people overseas rather than being held internally. Before, we were paying it to ourselves. It meant working people were paying money to people who held the Government bonds, but at least it was all within the country. Now there is a tremendous tariff on working people to send this money overseas to the debt that is being held abroad.

Isn't that the case?

Mr. REED. That is absolutely right. The Senator is right.

We have extraordinary debt being held by countries such as China. Even Mexico is a creditor of the United States today. That debt has to be serviced. That money goes overseas. It is not kept within the United States for investment here.

It also not only economically weakens us, it puts us into a position internationally where we do not have the kind of leverage we used to have when we were an economic power that did not have these huge debt burdens, and we did not rely upon the kindness of strangers. We are relying on the kindness of lots of countries who, sometimes, are not our friends.

We can see that manifested in situations such as our relations with North Korea, China and our relationship with Iran. The Senator is a senior member of the Foreign Relations Committee. We are struggling now to control the Iranians' race for nuclear technology. A key player is the Chinese. We cannot push them hard to take a tough line, in some cases because they hold a lot of our debt. That is a reality not only economically but also in terms of international affairs.

Mr. SARBANES. If the Senator will yield, as the Senator points out, we have become dependent, as Tennessee Williams said, on "the kindness of strangers."

On the one hand, we say we are the world's superpower. In many respects, that is quite true. However, economically, the foundations are weakening. They are not as solid and as strong as they once were.

In the last years of the Clinton administration we were running surpluses and paying down the debt. The Bush administration came in and made these very excessive tax cuts at a time when we moved into a war footing. We have never done that before in this country. When we have gone into a war footing we have always concerned ourselves with how to meet the budgetary demands of the war. That did not happen here. All of a sudden we have switched from running surpluses to running these large deficits, year after year after year. The projections are that they will go out into the future as far as the eye can see.

The Bush people say: We will lower the deficit a little bit. As long as we are running the deficit, we are still building up the debt. We are adding to the debt every step of the way. As we noted previously in our discussion, more and more of that debt is being held overseas. To the extent that happens, we are subject to the kind of leverage that others have.

The United States has gone from being the world's largest creditor nation; now we are the world's largest debtor nation.

Mr. REED. The Senator is absolutely right. He realizes, as I do, when the Bush administration came into power, we were running a surplus. We had a projected surplus over several years in the trillions of dollars, an opportunity to do lots of critical and important tasks for America: to try to reform our health care system which will require not only changes in rules, regulations, and procedures, but probably additional resources; to try to reinvigorate public education at the elementary and secondary level and try to make college more affordable. These were investment goals. At that juncture we had the resources to do it.

The Senator listened, as I did, to proposals which we thought were fanciful: the suggestion that if we did not cut taxes, our surplus would grow so great it would be unmanageable. What has grown so great and what is unmanageable now is not a surplus but a deficit.

The Senator also recognizes, as we look ahead and as we see this continued deficit finance and growing debt, there are structural issues which will drive the deficit further. For example, we have to somehow come to grips with a longer term solution to the alternative minimum tax which will take additional revenues and resources away from the Federal Government.

There are proposals, and we have heard them, of a full-scale repeal of the

estate tax. Again, that would be an additional denial of revenues and resources to the Government at a time when we are running a huge deficit and we are fighting a war.

All this adds up to what the Senator pointed out: not only annual deficits but a hugely increasing debt funded by foreigners, leaving us vulnerable not only to economic shocks but also to the fact, as the Senator suggested, that we are dependent. Dependency, in many respects, is the opposite of strength. We have surrendered a great deal of economic strength through these policies.

The bottom line of this discussion is that this is not some theoretical macroeconomic research topic. This is reflected in the daily lives of Americans who are struggling, and in the future they are seeing every day a decreasing sense of confidence that they can provide their sons and daughters at least as good a quality of economic life, family life, and support as they have enjoyed. That is distressing the American public.

Mr. SARBANES. If the Senator will yield, furthermore, we have an opportunity to strengthen the economy in so many ways, including addressing the Social Security system which can be done with a number of relatively sensible steps.

The Bush administration, of course, has been pressing this privatization. For the moment, they have been beaten back on that and people are turning their attention elsewhere, but it is very clear they have not given up.

The President, at the end of June, said:

If we can't get it done this year I'm going to try next year. And if we can't get it done next year, I'm going to try the year after that.

The majority leader in the House of Representatives says:

If I'm around in a leadership role come January [this coming January], we're going to get serious about it [privatizing of Social Security].

And the chairman of the House Ways and Means Subcommittee on Social Security said that privatization would be a top priority in the Congress in 2007.

The American people have to understand this is still very much on the agenda of this administration and its supporters.

Now they want to abolish the estate tax. Why not keep the estate tax and devote the revenues from the estate tax to strengthening the Social Security system? Then there would be a better retirement for everybody.

Mr. REED. Well, I think the Senator has a very valid point about Social Security, that, yes, you are right, from what I read into those comments, the President and the Republicans in the House of Representatives are committed to, once again, going after Social Security. It seems to me to be contradictory to everything that Americans are experiencing today.

The one phenomenon that is frightening everyone is the loss of defined

benefit pensions, left and right. Thinking back to when I was beginning to enter the workforce, in the 1960s and 1970s, if one of my colleagues had said: I have just taken a job as a machinist at United Airlines—you would say, you are set for life, just like your father was. You are going to work for 30 years, and you are going to retire with a nice pension and have benefits like health care. You, financially, are in a good position.

Now we are hearing stories about machinists' pensions being abrogated because of bankruptcy proceedings, companies that we took for granted as being solid trying to get rid of their pension liabilities. The only thing left for most Americans is Social Security.

Now, we hope they all have 401(k)s and private investments. But there is that credit card commercial about how something costs \$50 and something costs \$80, but at the end there is that priceless element. The priceless element, when it comes to pensions, is Social Security because at least you know every month you will get a certain amount of money, you will have something, you will know what it is. And that is worth a great deal because it gives a certain peace of mind. For most Americans, it is very modest, but at least it is something they can say they will have as long as they live.

This administration wants to eliminate that. They want to put every American into a market which has great ups, but also great downs. It has cycles where everyone is doing well and cycles where people are not doing very well at all.

That cannot be the bedrock of retirement. We have to maintain Social Security. So it is shocking to me that despite what America said over the last several months—essentially, take your hands off my Social Security—this administration is going to try again.

And, of course, there are ways we can fund Social Security. I think we did that under the leadership of you and your colleagues in the 1980s, where changes were made to the formulas, changes were made to the rates of taxation, changes were made to strengthen Social Security.

They are not interested, I think, in strengthening it because their objective is not making sure that American families have something to rest their dreams on in retirement. This is, in some respects, simply another example of catering to the market, of letting these investments be turned over to private markets. And there is some advantage to that, but not fundamentally with respect to Social Security.

I am afraid we are going to have to fight this fight again.

Mr. SARBANES. Will the Senator yield on that point?

Mr. REED. Yes.

Mr. SARBANES. In fact, the administration states the problem in such a way I think to sort of panic people, and then use that panic to push them toward the privatization of the Social Security system.

For example, the administration says the Social Security system is bankrupt. The Social Security system is not bankrupt. The Social Security system, at the moment, is taking in more money than it pays out in the trust fund. Of course, the administration then borrows that money to cover its deficits. That is a separate issue. But there is more flowing into the system than is flowing out. That will last until about 2020.

After that, they will start paying out more than flows into the fund, so they will start drawing down the fund. And they can continue to pay out all the benefits until 2046—in other words, 40 years from now, under the projections; of course, the projections are all problematic because it depends a lot on how the economy functions—but under their best projections, before they draw the fund down. At that point, they will still be able to pay 75 to 80 percent of the benefits from what is coming in to the Social Security trust fund. So the worst scenario is a 20- to 25-percent shortfall 40 years from now.

Now, there are many things you can do now, next year, the year after, with an administration that really wants to support the Social Security system, to take care of that problem. The magnitude of that problem is not out of bounds in terms of being able to address it.

But it has been dramatized as though it is an immediate crisis I think to sort of help scare and panic the American people and then have them be more open to these privatization proposals, which, as the able Senator from Rhode Island points out, would be to shift people from a guaranteed benefit—where they are told, as they are with Social Security: You are going to get so much a month and that is guaranteed to you—to a defined contribution plan, where you do not know what you are going to get.

The people who worked at Enron and WorldCom thought they had wonderful retirements. They had these 401(k)s and everything—they thought they had company plans—they thought they had wonderful retirements, and they were going to be living quite well in their retirement years, and it all collapsed. But they still have—

Mr. REED. Social Security.

Mr. SARBANES. Their Social Security, with its guaranteed benefit every month. So at least they have that basic form. People need to understand how important Social Security is to more than half of Americans who get more than 50 percent of their retirement income from Social Security. And 20 percent of retired Americans get more than 90 percent of their retirement income from Social Security.

So Social Security is really essential to providing that base. In fact, it has helped to lift the seniors out of poverty. It used to be that the age group most in poverty was the elderly. Because of Social Security, essentially—and other things—but because of the

improvements we have made to it now, that is the age group least in poverty. So we have made a substantial change. But Social Security is essential to achieving that.

And I do not know why the administration put it out there. The country rejected it, clearly. And it was reflected by Members of Congress from both parties who said: No, no. And now they continue to talk about coming back to this issue and privatizing. They have not given up on privatizing the Social Security system.

Mr. REED. Well, I think the Senator is absolutely right in terms of his analysis. He has stated very eloquently and accurately about how many Americans depend upon Social Security; how, over the long term, it is a program that will be solvent—with no changes—for 20-plus years, and 50 years even if it is not paying full benefits.

Frankly, I cannot think of another Federal program where we can say we can guarantee 25 years from now you are going to get what we told you you are going to get. That is one of the few programs of the Federal Government that will do that.

I think the other point that should be made is that these actuarial assumptions are rather conservative. So this is not a situation where we are trying to, with smoke and mirrors, create an artificial picture of the funding stream going forward. And I have the same shock that you have, in a way, at these proposals because right now Social Security is even more important.

There was a period in our economic history, from the end of World War II up until fairly recently, where many Americans were looking at and anticipating not only their Social Security but a defined benefit private pension—a rather good private defined pension—and their private investments. Frankly, we all understand that the best retirement plan has, as a foundation, Social Security, but it is not only Social Security. It has to have private savings, private investments over time.

Sometimes—I am sure the Senator might have some of the same feelings I have—if we have all these proposals—benefiting the wealthiest Americans, why can't we give incentives for average Americans—more incentives—to save for their retirement, to put money away? We have some, but they are not enough. We can do that. But that is a conscious choice to favor, in this respect, the wealthiest over the vast majority of Americans.

I do not think it makes much sense in terms of economic policy, fiscal policy, and also social policy. But today we have seen those private pensions too often disappear. Today it is more important to maintain the defined benefit program of Social Security, and I hope we can.

But again, I say to the Senator, like you, I am concerned there is another movement afoot. Just listen to what the President says and what the chairman of the relevant subcommittee in

the House and also the House majority leader say. If they get a chance, next year, they are going right back after Social Security, despite, as you point out, the rejection by the American people. And this was not some type of narrow, close call. Seniors, middle-income Americans—all Americans, I think—were standing up basically saying: This is not a sensible approach.

Mr. SARBANES. If the Senator will yield further, I think this does much to help explain the anxiety that Americans are feeling about the workings of their economy.

Now, as the Senator so ably showed earlier, working people are being pressed from two directions. Their wages are not going up to keep pace with inflation, and key costs are increasing. That is compounded by the fact that the retired people are in a state of anxiety because they are constantly being told: Social Security will not be there for you—although I think that is a false cry.

Furthermore, as the increase in educational costs indicates, younger people—not yet in the workforce but moving in that direction—see the opportunities for education and training not opening up but closing down. Senator STABENOW pointed out earlier, we have the most significant cuts in Federal aid to education that we have experienced since the Federal Government began to try to provide assistance in that area.

So through every age group, as they look at the situation, they find themselves being constrained, to deny them the opportunity—the young people—to get an education. Working people are being squeezed badly. And our retired citizens are kept in a constant state of agitation about the safety and the security of their retirement income.

I think that explains why you are getting all these articles now in the major periodicals and in the major newspapers about this sort of anxiety that is running through the society about the workings of our economy. And when they look at it, it is very clear what is happening: the benefits are all being—as that chart indicates—focused right up at the top of the income and wealth scale. And everyone else is left in a state where they are really quite concerned about their future.

Mr. REED. I think the Senator is absolutely right. I think what Americans are seeing is a bifurcated society. That is a fancy term for the haves and the have-nots. The haves are doing quite well.

I remember Warren Buffett once said: "If this is class warfare, my class is winning." And it is not class warfare. What it is is a series of economic policies that are not creating the jobs, that are not creating circumstances so that those jobs provide growing compensation to workers, and then on top of that, developing tax policies which favor the very wealthy and do not do enough to help those who do need assistance. Then it is complicated further

by budget policies that are undercutting education and health care. We are debating a cut to physicians in terms of their compensation which goes into the overall effect of the health care system.

One point I would make, in addition to this issue about education, is that one of the reasons we saw a spectacularly productive decade in the 1990s and previous decades is not because anything was done in the 1990s, it is because of the Pell grants and Stafford loans of the 1960s when Americans with talent and ambition could go to college. Twenty-five years later, they were inventing new products. They were developing new ways to develop and provide services. They were leading the world economy in every dimension—health care, business, all these things.

If we stop investing in education now, we will lurch along for a few years, but we will start slowing up in terms of momentum, and we will ask ourselves 20 years from now: Are we still the preeminent economy, the preeminent area of scientific research? And that is a question mark.

People understand that. I think it goes back to the point we have all tried to make, which is that these charts are illustrative of what is going on from a statistical and analytical point; but just ask the average family and they will say simply: My wages are stuck, my expenses are going up, I cannot provide for my children the way I thought I could, and I need help. We should be giving them help and we are not.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEMINT). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, where are we at this point?

The PRESIDING OFFICER. Postcloture on the motion to proceed to H.R. 6061.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak for up to 7 minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. CHAMBLISS. Mr. President, I rise today in support of H.R. 6061, the Secure Fence Act of 2006. As I traveled back home over the summer, particularly over the month of August, there was not a single issue I heard more of from my constituents, whether they were in the north Georgia mountains, vacationing on Georgia's coast, or working on farms in south Georgia, than illegal immigration. This is by far the most emotionally charged issue with which I have dealt during my 12 years in Congress.

Earlier this year, the American people watched as Congress debated how

to handle the growing crisis of illegal immigration. During that debate, there were a wide variety of views expressed regarding the best way to stop illegal immigration and how to address the presence of 15 to 20 million illegal aliens currently in the United States. However, there was one issue on which everybody agreed; that is, the need to secure our borders. This legislation we are considering today takes an important step in the right direction to do just that.

Securing the borders is not anti-immigrant. There is more to this debate than the presence of illegal immigrants. Securing our borders will stop illegal commercial activities, such as human trafficking and drug and weapons smuggling—the three most lucrative illegal commercial activities in the world. Human traffickers profit by exploiting people who seek to come to the United States to seek a better life for themselves and their families. It is estimated that 20,000 people are trafficked into the United States each year, primarily women and children. In addition, porous borders result in illegal drugs and weapons being smuggled into our country.

If drug and weapons smugglers can get cocaine and firearms into our country, what is to prevent them from bringing nuclear, chemical, or biological weapons across the border? It is an important national security matter for us to take the appropriate steps to gain operational control of our borders. We have all heard from our constituents and know they demand no more and deserve no less.

Earlier this year, when the Senate considered the comprehensive immigration reform bill, this body voted overwhelmingly to authorize construction of 370 miles of fencing and 500 miles of vehicle barriers along the southwest border. This totals almost 900 miles of barrier on that border. Late this summer, the Senate voted to fund the construction of fencing and barriers we previously authorized.

Some may ask: Why are we considering this legislation if the Senate has already considered something very similar? We all know Congress is not going to pass the comprehensive immigration reform bill before we leave. Passage of this bill will allow us to move forward with the process of getting these necessary tools in place to secure the border.

Finally, the American people have questions about the commitment of Congress when it comes to comprehensive immigration reform. Congress tried to sell this idea to them in 1986 when it said that we would allow all of those people who were here illegally to adjust their status. In exchange, we pledged to secure the border and have real interior enforcement. We all know what happened. Millions of people were allowed to obtain lawful permanent residence, but we did not secure our borders. Now 20 years later, some in Congress are trying to sell the same

idea again, and the American people simply are not buying it, and rightfully so.

This bill will give Congress an opportunity to move in the direction of gaining the trust of the American people on the issue of immigration and allows us to prove to the American people that we are serious about securing our borders.

Once we have operational control of our borders and can know who is coming into and going out of the country, I think the American people will be more receptive to temporary guest worker programs. Once we have operational control of our borders, the American people will be willing to engage in a debate about whether we should increase the number of people our country accepts for permanent resident status each year. Until we have operational control of our borders, most people think we will simply have a repeat of the 1986 amnesty.

I don't believe a fence is a panacea, and I don't believe we need to build a fence across the entire stretch of our borders. However, we know fencing and vehicle barriers are effective border security tools. Combined with state-of-the-art technology, it is possible for us to gain control of our borders and then have a healthy, responsible debate about our Nation's immigration policies.

Mr. President, I yield the floor, and 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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FEDERAL TAX GAP

Mr. BAUCUS. Mr. President, I have repeatedly raised the problem of the ever-growing Federal tax gap. What is that? The tax gap is the difference between taxes legally owed and taxes actually paid. That gap is \$345 billion a year, and it is growing. That is right. Every year, about \$345 billion in taxes legally owed is not paid—\$345 billion a year.

One of the things that contributes significantly to the tax gap is confusion. Many taxpayers simply claim credits or deductions by mistake, and that error rate is about to get worse. As IRS Commissioner Everson pointed out in a Finance Committee hearing this month, the IRS and taxpayers will face unnecessary confusion and compliance errors if Congress does not finish its changes to the tax law soon. Taxpayers will face more mistakes and hassles if we do not extend the expired tax provisions soon. "Soon" means prior to October 15, according to Commissioner Everson.

If Congress does not reinstate the expired tax incentives before it recesses for the election, then the IRS will have to print tax forms for next year's filing

season applying the law "as is." That means reprint; more expense. The IRS will print the forms without the tax credit for U.S.-based research jobs, without the tax deduction for State sales taxes, without the tax credit for hiring welfare workers, and without the tax deductions for classroom supplies that teachers buy—without those deductions. That is what would have to be printed by the IRS.

If Congress does not extend these provisions by the end of next week, then the IRS will have to spend taxpayers' money to rush printing for supplemental documents to describe these incentives if and when Congress actually passes them.

Millions of families, businesses and workers utilize these popular tax incentives. These are not obscure tax benefits claimed on separate forms or schedules.

For example, look at the front page of the basic form 1040, which I have at my right. Look at line 23, right here, in the category "adjusted gross income." That line 23 is labeled "educator expenses."

What should the IRS do with the classroom teachers' deduction? Look at line 34, right here: "Tuition and fees deduction." What should the IRS do with the tuition deduction for middle-income families? They both expired at the end of 2005, so the IRS really cannot print them. It cannot do so on the 2006 tax form. It cannot print them because Congress has not extended those provisions.

But if the IRS does not print them on form 1040, and it cannot do so, how many teachers will miss out on this deduction? School started not too long ago this year. How many teachers will miss out if the IRS merely mentions the deduction in some supplementary instruction guide?

What about the millions of taxpayers who use software to assist in tax preparation? Those software providers have deadlines, too, and they have told us mid-October is their "drop dead" date, just as it is for the IRS. They will try to have their products in stores and on the shelves by Thanksgiving. That would be literally days after our lame duck session, when some believe that we should extend these benefits appearing on form 1040.

You might ask why these software providers cannot just send updates to customers. The providers tell us they cannot force the customer to receive the update. Millions of customers will miss the update; they just will not know about it. They will miss it. Millions of customers will ignore the update and millions will lose out.

Earlier this year the Finance Committee held an investigative hearing and looked at the "free file" alliances, which provide free electronics services to many taxpayers via the IRS Web site. The committee found many members of the "free file" alliance simply declined to include any of the Katrina-related tax benefits. Why? Because

Congress enacted those benefits into law so late in the year it simply was not feasible for providers to include them.

Delay has costs. Delay costs taxpayers money. Delay impairs the effective tax administration by the IRS.

I am again asking my colleagues to support my unanimous consent request to pass the negotiated tax extenders. If my amendment is agreed to, it will retroactively restore all those popular benefits. We are going to enact them, but the real cost and the irresponsibility will be if we don't pass them in the next couple of weeks but, rather, later on in the year when it will cause all these costs I just mentioned. My amendment will also provide the compromise reached on the Abandoned Mine Land trust fund, or AML.

We need these tax cuts. We cannot wait until the next tax period.

Mr. President, I do not see anybody on the floor who might object, except for the Presiding Officer. I guess he will object in his role of a Senator from his State.

UNANIMOUS-CONSENT REQUEST—H.R. 4096

Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 326, H.R. 4096, that the Senate adopt my amendments numbered 5003 and 5004, which are the agreed-upon tax extender package, that this bill be read a third time and passed, the motion to reconsider be laid on the table, and all this occur without intervening action.

I repeat, Mr. President, before the Chair in his role as a Senator objects, because he has been instructed to do so by the majority party, I think it is extremely irresponsible for this body not to enact these extenders right away. As I stated, it is going to happen, so why put the American people through this unnecessary, ridiculous additional cost? Why can't we as a body just do what is right? What is right is to pass these extenders now before we recess in a couple of weeks. That is the right thing to do instead of all the games we have been playing around here. I wish those games would not be played. But, frankly, the party in control of this body has chosen to object to this request. I am very disappointed in the U.S. Senate for not doing what is right.

The PRESIDING OFFICER. In my capacity as a Senator from South Carolina, I object.

The Senator from Nevada.

Mr. REID. Mr. President, before my friend leaves the floor, I want to have the RECORD spread with my appreciation for who he is and how he has operated as a Member of Congress, first in the House of Representatives and now in the Senate. Our ranking member on the Finance Committee has been the chair of our Finance Committee, the chair of the Environment and Public Works Committee. The people of Montana are very fortunate to have him in their corner.

I appreciate his coming here, as the people of Montana and the people of Nevada want, with just commonsense

legislation. This is going to pass. I cannot imagine that this legislative body would walk away from here and not pass this must-do legislation.

But I say I am of the opinion now that maybe this Republican Congress, which has been dubbed—not by me but by writers all over the country—as the most do-nothing Congress in the history of our Republic, I guess they want to make sure they don't lose that record as the most do-nothing Congress in history.

This is evidence of it. We sit here doing nothing all day today, doing nothing all day tomorrow, when there are important things to be accomplished.

Some of my colleagues were here earlier talking about the delicate balance we have in our economy. Housing all over the country is headed the wrong way. I have learned that highway construction and homebuilding are the two economic engines that drive our economy.

I am so disappointed, and I say that very seriously, that these important provisions have not been extended today. If we had an opportunity to vote on these it would be virtually unanimous, Democrats and Republicans, but we are not provided the ability to vote on this. I don't know why. Maybe they are trying to come up with some kind of an arrangement so that we will be forced to vote for it because, although it will have other things in it that we will not like, we will like this so much. That was tried once and it didn't work. The American people are too smart, and we speak for the American people.

Some things are so important. I have a niece. Her name is Lari, named after my father and brother. She struggled to get through school. She worked. She finally got to become a schoolteacher. She now teaches high school at Las Vegas High School, but she doesn't have much money.

She spends money out of her own pocket to buy school supplies. The school district should buy them but they don't. Under the provisions we are trying to extend, schoolteachers all over America can deduct up to \$250 a year for school supplies they buy out of their own pocket.

Mr. President, \$250 to my niece means a lot. It may not mean a lot to millionaires and all the people who benefited so much during this Republican administration, but to my niece it means a lot. She will not get that unless we put on these extenders.

Mr. BAUCUS. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. BAUCUS. I deeply appreciate the Senator's comments, but let me ask if the Senator heard, as I have, in a good number of companies, if these provisions are not enacted the companies are going to have to begin to restate their financials and take a charge against earnings because of the loss of the work opportunity tax credit and loss of the research and development tax credit.

I wonder if my good friend from Nevada has heard that, learned that, and what he might tell us the consequences of that might be when a company has to take a charge because of the failure of the other side of the aisle to let this provision pass, which we all know is going to pass.

Mr. REID. I say to my friend, I received a call before the last recess from the chair of the Business Roundtable. This is a group composed of Democrats and Republicans but, frankly, more Republicans than Democrats, and they represent the American business community. The chairman of that group said something to me. I asked him, Of all these provisions, which is the most important? And he said, We only care about one: the research and development tax credit has to pass. It is so important to the American business community. If we don't have that, it is going to have a tremendously detrimental effect on business.

We have not done it.

So I say to my friend, there are so many problems and he has outlined them very clearly. I listened to my friend—I just saw him walk through here—the chairman of the committee.

Mr. BAUCUS. He wants to do what I am suggesting.

Mr. REID. He made a wonderful statement. He said, Why should the Federal Government have to pay extra money for what we aren't doing?

Mr. BAUCUS. Right.

Mr. REID. They are waiting, as you indicated. They need to prepare these forms. It costs money to do this. In my State—it is different than your State—we pay a very large sales tax. In your State you don't have a sales tax, you have an income tax.

Mr. BAUCUS. Correct.

Mr. REID. You get a deduction. There are 12 million families in States without a State income tax, and they are not going to have the benefit of that—12 million families.

I talked to my friend—I don't think he would be embarrassed if I mentioned his name—Steve Wynn, who is one of America's great businessmen. He has done so much for Las Vegas. He is a modern business giant. He comes up with new ideas. His hotels are magnificent.

He called me up about a situation today. I am trying to work it through the last few days of this session. We have a Republican in the House and a Republican in the Senate who are fighting over a bill. He didn't know who. He thought one of them was a Democrat. I said, No, these are two Republicans fighting over this. He said, That's the way it always is, HARRY.

I said, Steve, I'm sorry to say you are right. What do you think the American people think of this?

We mentioned just a few things. I again mentioned my little niece, the schoolteacher and the \$250. To us, we get a big fat salary, we Members of Congress, and all the tax cuts the administration passed on. They don't

care about my niece; \$250, what does it mean to them? To her it means a lot. What do the American people think we are doing here? These provisions have to be passed.

Mr. BAUCUS. I thank my friend very much.

Mr. REID. I so appreciate your leadership. I have never come to this floor, ever, and criticized the chairman of the Finance Committee. I can't say that about other chairmen, but I have never criticized the farmer from Iowa, because he has a heart of gold. He can be very tough and hard. But he has been saying everything he can publicly that has supported our position. I hope the majority will allow this most important piece of legislation to come before it.

Mr. BAUCUS. I appreciate that. The chairman of the Finance Committee more than anything else wants to do what is right. He doesn't like to get involved in politics. That is what the American people want, not to get involved in politics, but to do what is right. That is why they should listen to the chairman who very much agrees with what you have talked about here.

Mr. REID. I am sorry to talk about my niece so much. Her name is Lari Dawn. She is named after my dad and my brother, Larry. We love Lari Dawn. But she is one of 3.3 million teachers who are forced to reach into their own pockets to provide supplies for their students. They are going to lose that. Again, that doesn't sound like much, but for the American people they get their money's worth for every Lari Dawn of the world who is out there trying to educate their children. For the 3.3 million teachers and the head of the Business Roundtable, all aspects of our society benefit from this legislation.

Again, I express my appreciation to the Senator from Montana.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. DEMINT. Mr. President, I ask unanimous consent that the pending business be set aside.

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

Mr. DEMINT. Mr. President, I just had the unfortunate experience of being trapped in the Presiding Officer's chair as some of my Democratic colleagues presented a sad scenario of how Republicans had not taken up an important bill that would continue important tax credits for Americans and American businesses. Unfortunately, they failed to admit that we all had a chance to vote on that bill only a couple of weeks ago when Republicans, attempting to work with Democrats, brought all of these "tax extenders," as we call them, to the floor, along with

the increase in the minimum wage, which our Democratic colleagues had spoken so often for, and a reform of the death tax, a compromise plan to tax only the larger estates in this country. We put this together in order to try to move some business through the Senate—a very important piece of legislation that we called the Family Prosperity Act because, indeed, that is exactly what it was.

All of us were amazed at how our Democratic colleagues came to the floor and found one excuse after another why we could not vote for this important piece of legislation that would have given the tax credits for schoolteachers who buy supplies, it would have given some breaks to middle-class families who are faced with the death tax on their farm or family business, and it certainly would have given low and minimum wage workers the increase that we talked about for years. Yet the Democrats, which has been their form for month after month—in fact, during my entire time here in the Senate—when we bring something important to this floor, the Democrats block it. Then, as they did today, they come down and attempt to blame Republicans for the bill not getting passed.

I think it is important for the American people to know the truth, particularly as we head toward elections. The tax credits which are so important to America were brought to the floor by the Republicans, with a good compromise package, with an honest attempt to work with Democrats on several important issues. The Democrats to a person unanimously voted against this bill. Now they are here trying to blame Republicans.

I think it is important that we set the record straight. I intend to be a part of doing that as we try to end this session in a productive way next week.

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. THUNE. 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. THUNE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to proceed. We are in a postcloture period, having invoked cloture, 94 to 0.

Mr. THUNE. I ask unanimous consent to speak as in morning business.

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

ALTERNATIVE ENERGY FUEL GRANT PROGRAM

Mr. THUNE. Mr. President, on July 24, the House of Representatives overwhelmingly passed H.R. 5534 by a vote of 355 to 9. This bipartisan legislation seeks to provide grants, not to exceed \$30,000, to assist gas station owners and other eligible entities who install al-

ternative fuels such as biodiesel, natural gas and E85 ethanol.

As all of my colleagues know, the American public has been calling on Congress to address our Nation's overdependence upon foreign sources of energy. Senator SALAZAR from Colorado and I have a bipartisan substitute to the House-passed bill that is currently being held in the Senate at the desk. The substitute has been cleared by the relative committees, as well as by my colleagues on this side of the aisle; however, for some unknown reason, some of my Democratic colleagues have placed secret holds on this very noncontroversial bill.

The Thune-Salazar substitute has the support of the U.S. Automakers Alliance, alternative energy groups, and environmental organizations that have called upon Congress to increase the availability of alternative fuels.

I ask unanimous consent to have printed in the RECORD letters from the Alliance of Auto Manufacturers, which includes BMW Group, DaimlerChrysler, Ford Motor Company, General Motors, Mazda, Mitsubishi, Porsche, Toyota, and Volkswagen.

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

ALLIANCE OF AUTOMOBILE
MANUFACTURERS,
September 14, 2006.

Hon. DANIEL AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: I am writing in support of legislation authored by Senators THUNE and SALAZAR that seeks to expand our Nation's alternative fueling infrastructure through the use of CAFE program fines. Automakers urge the Senate to adopt this legislation prior to adjournment.

As our Nation works toward energy independence, automakers support a diverse mix of fuels to power our transportation sector. To date, automakers are proud to report that there are over nine million alternative fuel and advanced technology vehicles on America's roads. These vehicles are powered by E-85 (ethanol), clean diesel, gasoline-electric hybrid engines, as well as other emerging technologies that improve mileage and reduce our dependency on foreign oil.

However, the infrastructure to refuel vehicles capable of running on ethanol is woefully inadequate. Currently, only about 830 of the 170,000 gasoline stations in America offer E-85 for sale. Expanding availability of this, and other renewable, domestic fuel sources, can help reduce our dependence on imported petroleum.

The Thune-Salazar legislation would create an Energy Security Fund within the Department of the Treasury. The Fund would use moneys collected from CAFE program fines and penalties toward a grant program for investment in alternative fuel infrastructure. Furthermore, the Thune-Salazar proposal is similar to legislation that passed earlier this year in the House by a vote of 355-9.

Automakers support this legislation as sound public policy to spur development of an infrastructure for the distribution of alternative fuels. It is an important piece of legislation that deserves passage before the Senate concludes its business for the year.

Sincerely,

FREDERICK L. WEBBER,
President & CEO.

Mr. THUNE. I ask unanimous consent to have printed in the RECORD letters from the National Ethanol Vehicle Coalition and the National Association of Convenience Stores, representing the fuel retailers across this country.

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

NATIONAL ASSOCIATION OF
CONVENIENCE STORES,
Alexandria, VA, August 3, 2006.

Hon. JOHN THUNE,
U.S. Senate
Washington, DC.

Hon. KEN SALAZAR,
U.S. Senate
Washington, DC.

DEAR SENATORS THUNE AND SALAZAR: On behalf of the 2,200 retail member companies of the National Association of Convenience Stores (NACS), I would like to commend you for your dedication to promoting a more stable motor fuels market for America's consumers and for recognizing the challenges that face the nation's motor fuels retailers with the introduction of alternative fuel products.

As you know, many of the alternative fuels available today have chemical properties that necessitate certain adjustments to the current distribution and storage infrastructure. These adjustments can cost substantial amounts. For example, to accommodate the alternative fuel E-85, many retailers must either retrofit existing underground storage tank systems or install new systems. This can be extremely costly, ranging from \$40,000 to more than \$200,000 in some markets. Therefore, NACS supports your amendment that will provide additional funding through the Clean Cities Program for alternative fuel infrastructure grants.

It is important to note, however, that while these infrastructure grant programs will help offset the cost of converting a retail facility to accommodate an alternative fuel, there are other factors a retailer must consider before making such an investment. These include whether there is the physical capacity to store and dispense an additional fuel product without compromising the availability of traditional fuels, whether the level of consumer demand for the alternative fuel justifies the investment, and whether the alternative fuel can be offered for sale at a price that is competitive with traditional fuels on a miles per dollar basis. These considerations will be determined by individual retailers based upon conditions within their own markets.

The underlying bill, H.R. 5534, was recently approved by the House of Representatives by a vote of 355-9. Your amendment, which seeks to balance competing priorities to increase the likelihood that the proposed "Energy Security Fund" will be signed into law, will facilitate the introduction of alternative fuels to the marketplace by addressing one of the major challenges facing petroleum retailers. NACS applauds your efforts to help address the costs associated with alternative fuels infrastructure. Thank you for your continued support of the nation's convenience and petroleum retailers.

Sincerely,

JOHN EICHBERGER,
Vice President, Government Relations.

NATIONAL ETHANOL
VEHICLE COALITION,

Jefferson City, MO, August 9, 2006.

Hon. JOHN THUNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR THUNE: As you know, the National Ethanol Vehicle Coalition (NEVC)

promotes the use of 85 percent ethanol (E85) as a renewable, alternative transportation fuel. Our membership comprises a wide array of interests including ethanol producers, automakers, and health and agricultural organizations—all of which are working together to increase deployment of E85 refueling infrastructure nationally.

I am writing to express our support for the Senate version of H.R. 5534, legislation to establish a federal grant program for alternative fuel infrastructure. Your proposal incorporates an idea originally put forth by the NEVC to use penalties collected from the Corporate Average Fuel Economy (CAFE) program to promote alternative transportation fuels. This legislation would advance both the NEVC's efforts to make E85 a viable transportation fuel nationally and the CAFE program's explicit goal of reducing energy consumption by cars and light trucks.

We also understand the Secretary of Energy would have broad authority to allocate grants authorized under this bill and that the sponsors intend for the Department of Energy to maximize its benefit for the driving public. Unfortunately, the legislation does not prioritize funding for the most viable and prevalent alternative fuels or include any requirements for grant recipients to market or even sell these fuels. Without such clarification, it remains unclear how much funding will go towards deployment of E85 and how many E85 pumps will be placed in service. Therefore, we believe it essential for Congress to provide dedicated funding for E85 national deployment in Fiscal Year 2007.

We appreciate your understanding of the important role the NEVC plays in providing critical technical and marketing assistance and we look forward to continuing to work with you to expand the use of alternative transportation fuels, particularly E85.

Sincerely,

PHILLIP J. LAMPERT,
Executive Director.

Mr. THUNE. Mr. President, simply put, our substitute has no budgetary score and simply authorizes future appropriations for the annual penalties collected each year from foreign automakers who violate CAFE standards.

I hope my colleagues on the other side of the aisle will work with Senator SALAZAR and me to clear this important measure. The House has agreed to take up and pass the Thune-Salazar substitute once it clears our Chamber, allowing the bill to be sent to the President for his signature. In light of the very clear message from the American people that they want Congress to do more to increase the availability of alternative fuels, I hope my colleagues drop any objections they have so this measure can be passed by the Senate.

If we look at the state of the renewable fuel industry today and the state of our energy situation in this country, it is very clear that we need to be doing more to promote the use of alternative energy and renewable fuels.

If you look at the Energy bill that was passed last summer, it included a renewable fuels standard for the first time ever as a matter of policy for this country. We have in law a requirement that a certain amount of renewable fuel—ethanol and other types of bioenergy—be used. Now, that creates a market for ethanol.

We also have on the other side, on the production side, a lot of ethanol

plants either currently in production or under construction. In fact, back in my State of South Dakota, we have 11 ethanol plants and 3 others under construction. In just a few short months from now we will be somewhere around a billion gallons of ethanol produced annually.

So we have the production side of it. Our ethanol production is gearing up. We have the market now, the renewable fuels standard we passed last year as a part of the Energy bill, which is something I think was long overdue and much needed in terms of our energy policy in this country.

What we have is a gap in the distribution system. We do not have enough retailers out there, convenience stores, filling stations, that make E-85 available at the pump. In fact, there are 180,000 fuel retailers in this country, and of those only about 600 make E-85 available at the pump.

So what we are talking about is dealing with what, in my view, is a real sort of gap in our system; that is, making all that production that is being brought on line available to consumers in this country who really want to buy and use alternative fuels but do not have access to them because fuel retailers across this country simply do not want to deal with the cost of installing the pumps.

So what this bill does, the Thune-Salazar bill, is provide up to \$30,000. The cost for installing a new E-85 pump is considered to be somewhere between \$40,000 and \$200,000, depending on where you are in the country. But the simple fact is, we think this incentive will go a long way toward filling in that distribution gap so the ethanol production side of it, the supply side of it, can meet the demand; the demand being, of course, the renewable fuels standard we passed last year, as well as Americans' appetite for using renewable fuels and moving increasingly away from our dependence upon foreign sources of energy.

It makes perfect sense. We have an energy crisis in our country. People have reacted with extreme intensity toward \$3-a-gallon gasoline. They want to see us take steps that will make America energy independent, that will provide American energy to meet the demands that we have out there in the marketplace, to continue to drive our economy, to provide fuel for those who travel long distances.

I will say, in my State of South Dakota, we are a predominantly agricultural State. We are a State that relies heavily upon tourism. We drive long distances. We are a big user of fuels to get to where we need to go, to get to our destinations—whether it is part of our economy to get to jobs, the marketplace, whether it is farmers in the field or ranchers, or whether it is, again, tourism, which is an important component in our State's economy.

For all these very obvious reasons, we need policies that will make renewable fuels more available to more people in this country. Today, as I said,

there is a point in that distribution system that has been closed off. We have the production over here, the ethanol plants under construction, and those that are already fully operating that are producing more and more ethanol. And we have, again, the demand side, consumers who want to use renewable energy. And we have the renewable fuels standard we passed last summer as part of our policy. There is now a requirement for many of our States to get in compliance with that policy.

What we are missing right now is at the fuel retailer level. This is an opportunity to address that, to do something that is meaningful about lessening our dependence upon foreign sources of energy, about using more American energy, and meeting what is a very serious need in our economy.

So, again, I would refer people to the letters I have included in the RECORD. We have auto manufacturers in this country that are increasingly—you see more and more production of E-85, or what they call flex-fuel vehicles, those vehicles that can use E-85. I have to say, our bill does not preclude other alternative sources of energy from the pumps being installed, from them offering other energy other than E-85.

But I think it is fair to say there is a growing demand in this country for E-85. There are more and more flex-fuel cars being manufactured in America today, as evident from the letter from the Alliance of Automobile Manufacturers. But all the car companies in this country are building more and more cars that are flex-fuel vehicles that could use E-85.

The simple fact is, they cannot get access to the fuel because it does not exist, because we do not have the number of pumps that are necessary out there to provide people in this country who want to use renewable energy and want to use E-85 the opportunity to do that.

In my State of South Dakota, we have E-85 pumps installed in most of the cities across the State. Where that has been true, the cost of E-85 is somewhere from 50 cents a gallon less to up to \$1 a gallon less, in places such as Aberdeen, SD.

But the simple reality is, we could do a lot to help ease the pressure on fuel prices in this country. We could do a lot to lessen our dependence upon foreign sources of energy. We could do a lot to meet the demand that American consumers have for using renewable energy. But today we have this gap in the distribution system, and we need to address that.

This is such a straightforward piece of legislation. It is so clear and obvious that it is supported—broadly supported—with, as I said, a big bipartisan vote of 355 to 9 coming out of the House of Representatives. We have holds on it in the Senate. I do not know what those holds are. The rules of the Senate, obviously, preclude us from knowing who has holds on bills. I, urge and

plead with my colleagues on the other side who are holding up this legislation to release those holds.

It is important. This is noncontroversial. It is broadly supported. It is very necessary if we are going to follow through on the commitment we made last summer in the renewable fuels standard we passed in the Energy bill to increase the use of renewable energy in this country.

We have the production out there. These plants are coming on line. We have car manufacturers that are making flex-fuel vehicles. We have a renewable fuels standard in place that requires usage of a certain amount of ethanol, renewable or E-85. We have consumers who I believe are very conscious of, again, lessening our dependence upon foreign sources of energy and supporting American-grown energy.

For all those reasons, this bill makes so much sense. I am at a loss to explain why anybody would put a hold on it. I understand there are lots of cross pressures in an election year, but I hope that will not get in the way of doing what is right for the country, following through on the commitment that was made last year in the Energy bill in the renewable fuels standard, to put in place the distribution system, the mechanism whereby people can have access to renewable energy, to ethanol, E-85, other types of alternative fuels that would be made available under this legislation by allowing these fuel retailers to install the pumps that are necessary to deliver it to the American people.

Again, as I said, I have a letter from the National Association of Convenience Stores which represents all the fuel retailers across the country. It is important this legislation move, that it not get bogged down, and it move before Congress adjourns at the end of next week for the elections this year.

I know my colleague from Colorado is here. He has been a great advocate and supporter of this legislation. I enjoyed very much the opportunity to work with him on this legislation. I think he is as frustrated as I am at some of the secret holds that have been put on this bill. But, again, I would urge my colleagues in this Chamber, and those on the other side who have been obstructing and stopping this from moving forward, to release those holds.

There may be other issues associated with this legislation that I am not aware of, but the reality is that this bill, on the merits, is broadly supported in both Chambers by both parties. It is a necessary part of our energy policy in this country. It is high time, for the good of the American people, that we get it passed.

The Senator from Colorado is here. I am sure he wants to take some time to speak to this issue. But I appreciate his support and hard work to get it to where we are today. I know he shares my interest in getting the holds re-

leased and being able to proceed forward.

So, Mr. President, I yield back my time to allow the Senator from Colorado to be heard.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I ask unanimous consent that immediately following my comments, Senator LEAHY be recognized for his comments on the pending business.

The PRESIDING OFFICER. Is there objection?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, what is the pending business? Is there pending business, might I inquire?

The PRESIDING OFFICER. We are currently on the motion to proceed, on which cloture has been invoked.

Mr. SESSIONS. All right. Does the Senator know how long he might speak?

Mr. SALAZAR. Mr. President, I intend to speak for probably 10 minutes. And I don't know what my friend from Vermont planned on, how much time he will consume after my statement.

Mr. LEAHY. Mr. President, I tell my friends from Colorado and Alabama, I certainly would not consume more time than that.

Mr. SESSIONS. Well, Mr. President, I want to talk on a slightly different issue, so I would accept that and withdraw any objection.

Mr. LEAHY. I thank the Senator from Alabama.

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

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I thank my friend from Alabama and the Presiding Officer.

Mr. President, let me, at the outset, say that I very much appreciate the work we have done on the alternative fuels legislation that Senator THUNE and I have been sponsoring and advocating. I would hope it is legislation we can move forward to yet in this Congress. I think when we look at the issues that are confronting our world, from the issues of terrorism, to the issues of energy independence, there is an opportunity for us to do something significant that will move us down that track of energy independence.

Last year, in the passage of the 2005 Energy Policy Act, we acted together in a bipartisan way to move that legislation forward. I am hopeful the legislation Senator THUNE and I have been sponsoring will, in fact, be legislation that can, in fact, become law and reach the President's desk as a result of the work of this Congress. I appreciate his work and his advocacy in trying to find out where the problems lie with respect to this particular bill.

Mr. President, I would like to turn my attention and remarks to the border fencing bill, H.R. 6061, which is before the Senate today.

First, let me say that as I look at where we have gotten today with respect to immigration reform in this

Congress and here in America, we are now at the point where we are playing political games and gimmicks and tricks with what is a very important national security issue.

At the heart of the immigration reform debate, which has consumed so much of our time in this Senate and this country over the last year, we recognized it is in America's national security interests for us to develop a comprehensive immigration reform package. We recognized, as well, that we are a nation of laws, and as a nation of laws we should be enforcing our immigration laws in the United States of America. And, finally, we recognized there is a reality of 12 million undocumented workers who live somewhere in the shadows of this society and that we ought to move forward and create a realistic program that addresses those 12 million human beings who live in the United States of America today.

Yet somehow today we have gotten away from that comprehensive approach to immigration reform, to look at what is a 1-percent solution. It is a small part of the solution that we need to deal with for immigration reform. Yet it has been chosen that we move forward to discuss this issue because there are political agendas at stake. It is the House Republican leadership that has refused to go along with the comprehensive approach which President Bush and this Senate have advocated, which has resulted in us coming to the point where we are now talking about a fence-only bill to deal with this very complex issue of immigration reform which has gone unaddressed by this country and by this Congress decade after decade.

President Bush, himself, in his address on August 3, 2006—this year—said:

I'm going to talk today about comprehensive immigration reform.

This was just a month ago—6, probably 8 weeks ago, where he said:

I say comprehensive because unless you have all five pieces working together it's not going to work at all.

That was the President of the United States.

Earlier on, the President had said:

An immigration reform bill needs to be comprehensive, because all elements of this problem must be addressed together, or none of them will be solved at all.

Again, this is President George Bush, former Governor of Texas, who has been working on this immigration issue for a long time. He, as President, reached that conclusion. He said:

An immigration reform bill needs to be comprehensive, because all elements of this problem must be addressed together, or none of them will be solved at all. Congress can pass a comprehensive bill for me to sign into law.

Unfortunately, we appear to be failing in getting a comprehensive immigration reform package to the President that he can sign. Instead, we have devolved to the point where there is a piece of legislation which the House of

Representatives has passed which is a fence-only bill. This fence-only bill is only a very small part of the solution we face to this very complex problem.

From my point of view, it is a cop-out and a political gimmick being played on the people of the United States. Let me remind people that it was not so long ago that in this Chamber, by a large bipartisan majority, Democrats and Republicans came together and said we can pass a comprehensive immigration reform package that addresses the issues that the President and the country want to be addressed in immigration reform. It was a law-and-order bill, which we enacted out of this Senate. It was a bill that dealt in a straightforward manner with border security, with enforcement of immigration laws, and also applying penalties and registration to those people who had come forward from the shadows and registered to take them out of the shadows.

I want to briefly review the comprehensive nature of that bill and some of the components that caused me to support the bill as the right way for us to address immigration reform.

First, we said we would do border security. We are not afraid to do that. We ought to do border security because it is our right as a sovereign nation to do border security. It is our right to make sure that we are protecting America against terrorism coming across our borders.

For us, as we worked on that comprehensive bill, border security was very important. In our legislation we added 12,000 new Border Patrol agents. We created additional border fences—in fact, a 370-mile fence—through an amendment authored by my friend from Alabama. We provided new criminal penalties for construction of border tunnels, which we find in places where there are fences today. We added new checkpoints and points of entry throughout the border between Mexico and the U.S. We expanded exit-entry security systems at all land borders and airports.

So, yes, this legislation was a very tough border security bill. It was part of the comprehensive approach that we took.

Secondly, we said that it is not enough to just strengthen our borders. We need to do more in terms of what we do inside our country. We said we would do more with respect to immigration law enforcement. Instead of continuing the patterns and practices of looking the other way in this country, we said we as a nation of laws are going to enforce our immigration laws.

We said we would add 5,000 new investigators in our legislation. We said we would establish 20 new detention facilities. We said we would reimburse States for detaining and imprisoning criminal aliens. We would require a faster deportation process. We would increase penalties for gang members, for money laundering, and for human trafficking. We would increase docu-

ment fraud detection. We would create, very importantly, new fraud-proof immigration documents with biometric identifiers. And we would expand authority to remove suspected terrorists from our country.

So it was tough in terms of our saying that as a nation of laws we will enforce the laws. We didn't stop there. We said there is something else that needs to be dealt with in America—those 12 million people who are cleaning hotel rooms, working out at the construction sites, and the people who probably provided you with your breakfast this morning. There are those 12 million people here who are human beings, and we need to deal with them in a humane and moral fashion.

We said to them that we will require there to be some punishment and registration with respect to your presence in the United States of America. You must go to the back of the line, and, eventually, over a long 12-year period, after we put you in this period of "purgatory," you may end up becoming a citizen.

We said we would require a fine for their illegal conduct of several thousand dollars. We would require them to register with the U.S. Government. I don't have to register with the U.S. Government; I am a citizen. We are requiring these people to register with the Government. We require them to obtain a temporary work visa. We require them to pay an additional \$1,000 fee. We require them to go to the back of the line of the legal immigration process. We require them to pass a background check so we would make sure they would all be crime-free.

We would require that they learn English. We would require them to learn history and government. We would require them to pass a medical exam. We would require them to prove continuous employment with a valid temporary visa.

Mr. President, that was a comprehensive immigration reform law that was passed by a bipartisan group of Senators in this Senate, and it is legislation that we should be proud of.

Today, we are being asked to forget that work we did, forget the comprehensive nature of that reform, and to take a simple piece of legislation on a fence and say that we have dealt with the immigration problem of our country.

That is simply, again, a piecemeal approach to dealing with the issue, a political gimmick being used in this election year. It is a gimmick that we should stand together as United States Senators, Republicans and Democrats alike, and reject it and say we are going to move forward with comprehensive immigration reform.

Finally, with respect to this fence, when you look at what people have said about the fence, some have said it reminds them of the Berlin Wall. Some have said that it is un-American. But I would like to quote from some of the members of the administration who,

frankly, have been working with us on a comprehensive immigration reform package. Secretary of Homeland Defense, Mr. Chertoff, said:

Fencing has its place in some areas, but as a total solution, I don't think it's a good total solution.

We had a fence in our comprehensive reform bill, but it was not this fence that essentially creates a fence all across the wide chasm of Arizona and most of Texas.

Attorney General Alberto Gonzales said this about the fence:

I think that's contrary to our traditions.

He noted that "99.9 percent" of illegal immigrants "come across to seek a better life for their families," not to make trouble.

That was his quote with respect to the fence.

He also said:

I don't know if that would make much sense. We've got a 2,000-mile border. Because of natural geography, we don't need a fence or border along certain portions of that border.

Yet, today we are looking at legislation proposed in the form of H.R. 6061 that would create a fence-only solution to this very complicated problem we are facing.

In conclusion, I believe Americans deserve better from the U.S. Congress and from us in the Senate. We can, in fact, move forward with comprehensive immigration reform and deal with this issue of national security importance, of economic security importance, and of the moral importance of how we deal with the 12 million human beings who live in America today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

MILITARY COMMISSIONS

Mr. LEAHY. Mr. President, I thank my friend from Colorado and my friend from Alabama for their usual courtesy.

Over the last couple of weeks, the President, as Presidents do, used his pulpit to inform the Senate that his top priority was fixing the problem he created when he unilaterally proclaimed what laws govern military commissions. This newfound desire, this last-minute conversion to the idea of working with Congress, stands in stark contrast to his position in 2002, when a number of us, Republicans and Democrats alike, reached out to the administration and asked the President to work with us to establish the authority for fair and effective military commissions.

Four years later, after saying flat out, no, now the administration's go-it-alone plan has succeeded in having no terrorist military commission trials completed and no convictions. They are "tough on terror," but nobody has been convicted.

Still, Congress set to work and the Armed Services Committee last week reported a bill that is supported by Republicans and Democrats to authorize military commissions. They worked

with the professionals in the military, and listened to them. But this week the Senate Republican leadership has threatened to filibuster that bill, which came from a Republican-controlled committee and was voted for by both Republicans and Democrats.

I am a little bit confused. I have been here for 32 years, and I don't always follow exactly what is going on. But as I understand it, last week, the leadership was demanding immediate action on military commissions, saying they were going to be the Senate's No. 1 priority. All of a sudden, they are going to filibuster that. Just last year, the same leadership could not be more critical of what it called leadership-led partisan filibusters on the Democratic side. But apparently they are a great idea when led on the Republican side, even on legislation they supported—or said they did—in the present conference.

This week, the priority is a 700-mile fence along the southern border and a study to do the same thing along the northern border. It is getting hard to keep track of their real priorities.

In the Spring, the majority leader praised and voted for comprehensive immigration reform. The President supported it. The majority leader stood with Senators on both sides of the aisle and supported that bill. Now, he seems ready to throw our work over the side and abandon our principles.

If there is an opportunity for Senate floor time, why not use it instead to put an end to the ongoing war profiteering and contracting fraud in Iraq? Why not help those suffering from Hurricane Katrina? Why not pass a Federal budget? We are required by law to do that in April; it is now late September. Let's show the American people we will obey the law and pass one. Or we can consider the remaining appropriations bills; most have to be completed by next Saturday. Why not work on lowering health care costs? That would get a great cheer from everybody in my State. Or we can work on health insurance costs, fuel costs, or the rising costs of interest rates and mortgage rates.

The bill before us was rushed through the House of Representatives; it is not ready for consideration on the Senate floor. It has had no committee hearings whatsoever in the Senate. It is completely different than what the Senate passed, with Republicans and Democrats voting for it just a few months ago. I don't know why we could not have worked in the normal way we have done for a couple hundred years here and worked out the bills we had. Actually, this is an issue on which the President could be of help and show some leadership. He stated privately that he preferred the bill we passed, and it would be nice to hear him support it publicly.

Along with a bipartisan majority of Senators, I voted for a far more measured version of a physical barrier on the southern border. In doing so, we demonstrated our commitment to border security.

The Senate bill has a provision calling for 370 miles of fencing in the most vulnerable high-traffic areas. That is what the White House requested and recommended. That is what we were told the Secretary of Homeland Security wanted. It also had a provision, which makes a lot of sense, for consultation with the Mexican Government regarding any building of new fences to help ease the tensions that come along with such a project. We don't have an awful lot of friends around the world and we should not work to lose any friendships from our neighbors. In the Judiciary Committee, we also took into account the differences along the northern border and the very close working relationship and personal relationship with the Canadian Government, and kept out a study for a barrier on the northern border.

Look what we are debating today instead of all that. It is a hasty, ill-considered, mean-spirited measure that will cost taxpayers billions of dollars. America can do a lot better than this. A wall of this magnitude will be a scar on the landscape, a scar on a fragile desert ecosystem, and a scar on our legacy as a nation of immigrants. My grandparents were immigrants; my parents-in-law were immigrants. What does a 700-mile barrier wall say about us as a free country?

Most troubling, this bill would give the Secretary of Homeland Security unfettered power to decide what laws to follow, but even more important, what laws to totally ignore. Read the bill.

Remember, it is the same Department of Homeland Security that just last year was supposed to handle Katrina, one of the biggest governmental screw-ups in our lifetime. The Department of Homeland Security was supposed to have those people back a year later in their homes. Instead, we are spending billions of dollars, most of which have been wasted; it has disappeared. What we do see are homes intended for the victims of the Hurricane sitting in fields, empty and decaying.

This is the same Department of Homeland Security that has not managed to secure our ports, chemical plants, and our borders. It is the same Department of Homeland Security that the House of Representatives would entrust with unlimited power to "take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States."

Mr. President, we don't create czars in this country. We fought a revolution to get out of the dictatorial control of King George. We have a constitutional form of government. We don't give one person the power to set aside any law they want.

I don't think any executive official, certainly not those who horribly mismanaged our preparation for Katrina and our response to it, should be given

one more blank check. How many more blank checks should we give away? We have already given them to Halliburton in Iraq. We have given them to the Department of Homeland Security for Katrina.

Remember how this administration misinterpreted the authorization for use of military force? We told them to get Osama bin Laden and they failed miserably, even when they had him cornered. Instead, they say: What we really meant was, not to get Osama bin Laden, but that the President can violate the FISA law and secretly wiretap Americans without a warrant. It is like "Alice in Wonderland."

This is the same President who signs a law with his fingers crossed behind his back and then issues a signing statement reserving to himself the power to decide what laws to follow, and how and when.

Remember the law against torture? We all voted for that legislation. The President signs a signing statement saying: However, I will determine how best to follow it.

This is the administration to which the Republican House wants to give a blank check, even after Justice O'Connor and the Supreme Court—the Supreme Court made up of seven Republicans out of the nine members—have reminded us our Constitution provides for checks and balances, not a blank check for the administration.

As I said, instead of doing the job we should do—sitting down, having a conference, working this out, and actually voting on this legislation—what do the Senate and House Republican leadership want to do? Just give all the power to a Republican appointee, and we can all go home and campaign for reelection. God bless America.

The only thing the House left out of its bill is calling this a war on immigrants in which they view Secretary Chertoff as the commander in chief. Actually, I would like to see him take care of the problems in this country, starting with Katrina.

Have the lives lost in Iraq and the billions of taxpayers' dollars unaccounted for, the tragedy of 9/11, and Katrina taught us nothing? Everything happened on this administration's watch: Iraq, 9/11, Katrina, and billions of tax dollars wasted trying to fix the messes they created. How many more disastrous mistakes must this administration make before even a Republican-controlled Congress recognizes that abdicating our constitutional role and concentrating power in the executive branch is the wrong strategy for protecting the security and rights of the American people? Do we need to create yet another environment for crony contractors of the Bush-Cheney administration to bilk taxpayers out of billions?

Five years of this administration's incompetence has left America's borders unsecured and our immigration system broken. We joined to pass a bipartisan Senate bill with tough, prac-

tical, comprehensive immigration reforms to secure the borders, enforce our laws, and fix our immigration system. We want to bring undocumented immigrants out of the shadows. They are not just numbers; they are actual, real people—mothers, fathers, husbands, wives, children. The President and his administration say that comprehensive immigration reform will make us safer. I agree with the President on this issue. President Bush told the American people he supports comprehensive immigration reform. I told the public I agreed with him. So now, if he wants comprehensive immigration reform, he has to tell the Republican leadership in Congress to stop obstructing it. They haven't even gone to a conference.

Nor do we need a study to determine whether we should build a barrier along the 3,175 miles of the United States-Canada border. Heavens to Betsy, most of us who live up there go back and forth all the time. We are visiting our relatives, visiting our cousins. I have been visiting my wife's relatives for years. When they come down, they are not terrorists, they are our neighbors whom we welcome to the United States. As I said before, and I will say again, I have heard some cockamamie ideas in my time in the Senate, but this rises to the top.

The northern border is different. It spans the continent. It is the world's longest and safest international boundary, and Canada is our most important trading partner. Have we gone blind? It is clear to me that those who want to build this barrier have no clue about the character, the history, and the day-to-day commercial importance of the northern border and the needs of the States and communities that would be affected. It is best to nip this foolishness in the bud before Congress wastes more tax dollars on another bone-headed stunt.

America can do better than this. The Senate has already pointed the way with a bipartisan, comprehensive approach. We need comprehensive reform that reflects America's values and which will actually work. The House bill we debate today will cost the taxpayers dearly, but it will accomplish little.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Alabama.

Mr. SESSIONS. I thank the Chair.

Mrs. BOXER. Mr. President, will my friend yield for a question on how much time he would like? I would like to speak immediately following his remarks.

Mr. SESSIONS. Mr. President, I say to the Senator from California, I attempted to follow the Senator from Colorado, and Senator LEAHY wanted to speak next.

Mrs. BOXER. I don't have a problem.

Mr. SESSIONS. I am thinking about 20 minutes.

Mrs. BOXER. That is wonderful. I ask unanimous consent that at the conclusion of the Senator's remarks, I be recognized.

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

Mr. SESSIONS. Mr. President, with regard to the question of fencing along our southern border, I wish to make a couple of points.

Over 1 million people were apprehended last year along that border. One million people coming in illegally were apprehended. Probably another half million got through without being apprehended. Good fences make good neighbors. It is time for us to bring lawfulness to that border. I think the American people want that.

If somebody would like to know the differences between our parties and the differences of how we approach the question of having a lawful immigration system in America, I suggest that my colleague—I enjoy working with him a great deal on the Judiciary Committee.

My colleague referred to the legislation that we voted to move forward to consider—legislation that passed this Senate 94 to 3 to fund the fence on the border and passed 83 to 16 to authorize the fence to be constructed—as "hasty, ill-considered, and mean-spirited." He then went on to suggest Secretary Chertoff is conducting a war on immigrants.

How much of a difference can we have here? How big a gulf? Do the American people want us to just say nothing can be done one more time and just give up, or do they want us to take rational steps that would bring lawfulness to the border? I think they want us to do the latter. They have been asking us to do that for some time, and the votes in this Senate and the House of Representatives have been overwhelming in favor of that approach.

My colleague says that we had hearings in the Senate and we had a Senate bill on the floor, and he implied—I thought he said that fencing was a part of that bill, but it wasn't really. It was my amendment on the floor that moved that bill forward in a significant way. At any rate, we did discuss it, and there has been broad support both in the committee and on the floor to proceed to that matter.

I just want to say, yes, we want comprehensive reform. No, we don't want to end all immigration. The wall the Communists built in East Germany was to keep their citizens in East Germany, to keep them from fleeing their country so they could have freedom. That is quite different from an attempt to maintain a legal flow of people into the country because we just can't accept everybody. This country cannot accept everybody who would like to come.

A recent poll in Nicaragua said 60 percent would come to the United States if they could. A poll in Peru said as many as 70 percent would come if they could. The whole world has millions and millions of people who would like to come to this country. So we ought to set up a rational system, one that serves our national interest, one

that is fair, and then enforce it, set up a system that works. As long as we have a wide-open border, without control and law, we are not doing our duty. I don't think those of us in this Congress, in this Senate, want to go back home after we recess and say we didn't follow through on what probably most of us have been saying—that we do believe barriers are necessary.

The House has sent us a bill, not unlike the Senate bill that we passed 83 to 16 and we voted to fund 94 to 3. The bill I offered had 370 miles of fencing and 500 miles of barriers. The House bill has about 700 miles, I believe, of fencing and barriers and electronics. There is not a lot of difference fundamentally between the two.

We now will have an opportunity to offer amendments to discuss details. Fundamentally, we need to take action. We need to do something. We don't need to go home again and wait until next year without any action.

Then when it comes to comprehensive reform, we need to bury the proposal we have that the Senate has considered and voted on, move that aside, and come back next year with a fresh approach and create a comprehensive plan for immigration that serves our national interest, that is consistent with what our allies, such as Canada and Australia, do, and consider what they do. If we do, we will come up with some good ideas, and we will have something the American people can support.

If we gain some credibility with the American people by, first, taking action toward enforcement, we will be able to do something good, but it will have to be next year. There is no way this Senate should accept a rushed-through package before this election or after this election in some lame-duck Congress that does not have a fresh look at our policy. I will resist that with every fiber of my being, but I will not resist comprehensive reform because I think we need it.

I wanted to share those thoughts, Mr. President. I am pleased that we just had a unanimous vote to move forward to the fence bill the House has passed. We will talk about it today and tomorrow.

I also serve on the Judiciary Committee and the Armed Services Committee. We have had quite a lot of discussions on those two committees and now in Armed Services, in particular, about how to deal with the effect of the Hamdan decision and how to make sure we are in compliance with the Supreme Court opinion. I want to make a couple of points.

The President thought and believed and his top lawyers advised him—his top lawyers advised him—that the detainee interrogation program that was being conducted, that they wanted to conduct, was producing substantial results for America, obtaining information that has thwarted attacks on America and saved lives, has provided information to identify that some of

the people involved in 9/11—these are some of the people who have admitted and we have evidence against to prove were actually complicitous in 9/11, co-conspirators. The President has moved those prisoners down to Guantanamo.

The interrogation process for those have been exhausted. They believe they have obtained all the information they can expect to obtain. They need to be tried for the crimes they have committed in a war they are conducting against the United States of America. They will be tried in the forum in which they should be tried, in a forum provided for in the U.S. Constitution, in a military commission.

This is not a trial in the Southern District of New York for an American citizen for bank fraud or drug dealing. This is a military commission adjudication of whether these people are involved in a war against the United States that has resulted in the deaths of 3,000 American citizens on 9/11 and other deaths since then. So he had a legal opinion on that. They briefed it to him. And do you remember the President looking us in the eye right after 9/11, and he said just the other night, Monday night a week ago, I guess, on television, he looked the American people in the eye and said: I am going to use every lawful power I have to defend the people of this country. That is my responsibility, in effect, he was telling us, that is my duty, to protect this country, and I am going to use every lawful power I have. And we cheered. And we said: Yes, sir. And we said: Mr. President, catch those guys. Put your people out there and catch these terrorists who have attacked our country and killed our innocent people and crashed into the Trade Towers and run airplanes into them. Go get them. Do you remember that? Boy, I am telling you, people felt strongly about it.

So now what do we have? Oh, we have the complainers and the second-guessers. I just want to say this: I believe the President's program was legal from the beginning. I have researched the law. I have been involved in this. I was a Federal prosecutor. I don't know everything, but I have some understanding of it through both of the committees in which I have been involved, and I know they researched the law and they believed they were operating lawfully.

I remember the *Ex parte Quirin* case during World War II when President Roosevelt was President. They caught a group of saboteurs who were let loose on the American homeland from a submarine, I believe it was, and they came in and they planned sabotage against the American people. Do you know what they did? And the Supreme Court approved this in the famous case *Ex parte Quirin*. They took them, they caught them, they set up a commission, they tried them, and they executed most of them in short order because this was not like some normal trial. These were people coming into

our country for the purpose of sabotaging this country, people whose motives and desires were to kill innocent men, women, and children, contrary to the laws of war—contrary to the laws of war, which do not allow for that. That is the big deal.

So the people who have been apprehended, the people who were being detained and incarcerated and interrogated were not prisoners of war. This is crystal clear. You can't execute prisoners of war the way we executed the Nazi saboteurs. Prisoners of war are entitled to all of the protections of the Geneva Accords, and they have to be provided great protections and great advantages, really, and we adhere to that, we adhere to that today, and we always have. It was been taught to every soldier in America.

But these are unlawful combatants. They sneak around. They don't wear uniforms. They don't carry their weapons openly. And their goal and tactic is to utilize terror and slaughter innocent men, women, and children to promote their agenda. That is not a soldier. A soldier can drop a bomb on a military target, but a soldier can't shoot because it may unfortunately result in someone being killed. But a soldier can't deliberately have his policy to kill women and children and non-combatants. Otherwise, they are an unlawful combatant, not a lawful combatant, and they have been considered not to have been covered by the Geneva Accords.

But the Supreme Court, in my opinion fundamentally reversing the *Quirin* case, which the President relied on, came along and said that in *Hamdan*, Common article 3 of the Geneva Conventions applies to these terrorists and that we need some more rules and regulations with regard to how to try them to create a just trial.

OK. So what did the President do? Did he act unilaterally and say: I am not going to do it, I am not going to comply with the Supreme Court. Yes, he previously said he thought what he was doing was proper. No. What did the President say? He said: Congress, let's review *Hamdan*. We are sending you some proposals which will clarify what we can do with interrogations, which will fix the concerns about trying these unlawful combatants, and I want you to act on that, and we need to do it quickly because we need to continue to interrogate terrorists and we need to try those people who are responsible for the deaths of American citizens on 9/11. That is not a seizing of power—some dictator. That is not someone who comes along and says: It has to be my way or the highway.

So we have a group of Senators now on the Armed Services Committee who say: Well, they have their own plan and they have researched the law and they don't want to do what the President says. They want to do it their way. OK. This is what Congress is all about.

I agree with the President. From what I understand of the situation, I

am supporting the President's view. But I know people have different views, and I am willing to listen to those concerns. If we can reach an accord that I feel good about and the President feels good about and the Senators objecting who have their own agenda can agree to, that would be wonderful. But there are a couple of things that have to happen.

We cannot end our interrogation procedures that have been so effective. General Hayden, the Director of the CIA, has told us and pleaded with us that if we adopt the proposal the Senators have favored—and it was voted out of the Armed Services Committee—he is going to have to stop the program. Wow. He is going to have to stop that program. So we don't want to do that, surely. I mean, this is a man of integrity and ability and experience. He has talked to his people who conduct these interrogations. They are not torturing anyone. We have a statute that prohibits the torture of anyone—Federal law. People can go to jail for that. It defines what torture is in very explicit terms. If somebody has proof that our people have tortured somebody, well, let's bring them up and try them. But let's not overreach here.

We are in a dangerous world. The leader in Iran recently said that his goal was to see the United States of America bow down before Iran, in a public address. How about that? We have nonstate extremists committed to death and destruction around the world through suicidal attacks, and they represent a real threat to the peace and dignity of the whole world. So this is not an itty-bitty matter.

There are two things that have to be done, and we should do them before we adjourn. The two things are as follows: We need to establish the rules for interrogations because if you read through the lines, if you read through the lines, what you will hear those agents saying is: We thought we were serving you. We thought we were following all these rules the lawyers told us to. But we were using what we thought were legal tactics and techniques to interrogate prisoners, and we have obtained great and valuable information which will help protect our country, which has helped us identify people who attacked us on 9/11, which has thwarted attacks. We have done all of these things. That is what we thought you wanted us to do, Congress. Now you tell us we are some sort of beasts and that we have done all these things wrong and we ought to be sued. And many of our people are being sued right now—400—by terrorists, and we are going to accuse them of being less than American. They put their lives on the line in some of the most dangerous areas of this globe to capture these terrorists. And they are saying: OK, Congress, you tell us.

That is what I read General Hayden to be saying. He didn't say that exactly, but he speaks for those agents of his. And they are having to take out

insurance policies against lawsuits because they expect to be sued more by terrorists. Where did this happen—in a war, we have lawsuits?

I am suggesting that this matter is no light deal. We do not need to make a mistake and destroy the morale of those who have served us so ably, with so much fidelity and courage and hard work. We need to fix this, and we need to allow them to utilize legitimate techniques. Some of those have the ability to stress an individual for a period of time but not torture. That is against the law. That is illegal. It is not against the treaties we have signed. We can do that, but we don't need to go too far.

The next thing is, it is time to get on with the trial of the people who attacked us, in a military format because it was a military attack on us. Al-Qaida, you remember, bin Laden declared war on the United States of America for years before 9/11. He attacked our warship, the USS *Cole*, he attacked our embassies in Africa, and there have been other attacks. We are in a state of hostilities with al-Qaida directly, and we have authorized those hostilities by the Congress of the United States. So they are rightly to be tried not in the Southern District of New York, not in the U.S. District Court for the District of Columbia, they are to be tried in a military commission as an extension of the military campaign, the war we are conducting.

The military commissions are not the same as trials, I have to tell my colleagues. They are just not. It is a different animal. Because we are Americans, we want to be sure that even those terrorists we try are not unjustly convicted, that the evidence against them is legitimate and that it proves their guilt to the required degree, and only then should they be punished, as opposed to just being detained, actually punished for the crimes they committed. But it does not require that we meet the standard of Federal district court.

Let me just say these two things. We have made mistakes before. This time we are in now, we have the newspapers all excited, saying we have abused prisoners. We have leftist groups and world interest groups, and they have all said we are abusing prisoners and Guantanamo is horrible. Well, I have been to Guantanamo twice, and it is not horrible. They are treating those prisoners fairly and decently. They are not being tortured. Anybody who abuses prisoners is being disciplined.

They said: Well, you abused prisoners in Abu Ghraib. Well, they have been tried and sent to jail, the American soldiers who participated in that. They put them in jail. And it was not part of any interrogation. What they did was just an abuse of those prisoners for their own amusement, their own sick feelings or ideas. They were not interrogators. They were not interrogating them. They were not following any rules of interrogation. They were just

abusing prisoners. And we have tried them and convicted them and sent them to jail. The fact that they did that was discovered by the military itself. Our military has done its level best to treat prisoners fairly and justly, and it is a slander on them to continually suggest that is not so. People from all over the world have gone to Guantanamo.

So I want to say this warning. I am going to watch this legislation. Even if the President agrees to it, I am going to read it. I don't know what they are talking about now. I haven't seen the latest negotiations between the Armed Services Committee and the White House. I want to give this warning. It wasn't too many years ago that people in the Congress and in the news media and the world groups all raised Cain, and they said that CIA agents were out talking to bad guys, people who had criminal records, and they were paying them money to be informants for them. And some of them had actually killed people, and this was horrible. The CIA couldn't have that judgment call to make anymore, and they should never again associate themselves with people with criminal histories. The people said: This is going too far.

Many times, the only people who know anything are people who are participating in it. You have to get the information wherever you can get the intelligence. No, the Congress said, listening to the media, listening to the ACLU-type groups. No, no. We have to crack down on our agents and make sure they don't deal with people with criminal records. So we passed a law that banned that.

Then they said: Well, you know, the CIA can gather information differently than the FBI. We don't know what they might gather, so we have to create a wall between the CIA and the FBI, and the CIA can't share information with the FBI—not to prosecute somebody—just to find out what is going on. In this country, when they find out from foreign intelligence that someone is threatening the security of America, they are not able to share that information readily. I suppose they were trying to mollify the news media and the activist groups and those who are always complaining. Maybe they did, in the short run. But do you remember what happened after 9/11? I remember. We said we didn't have enough intelligence. Why didn't we know this was happening to our country? Why didn't we know?

We began to look at it and see what was happening. Both of these issues—they were passed in a fit of morality or trying to go overboard to prove we were good and decent people. They went back and found both of these tactics, the wall between the FBI and the CIA and the ban on agents talking to dangerous people with criminal records were bad, and we promptly reversed them. Can you imagine that? So we threw them out.

All I am saying is we need to watch this deal coming forward to the Senate

today. We do not need to go too far. We have laws against torture. We have laws that require us to treat prisoners with decency and respect in accordance with the Geneva Conventions. But there are things we can do consistent with our law and consistent with our treaties. It would be a mistake for us to unilaterally, out of some sort of attempt to placate opinion around the world or the opinions of those who dislike us, to adopt restrictions on our capabilities that go beyond what the law requires. How silly would that be.

It might not make a difference in this case, because he has already confessed, but what cases are we going to see in the future? What other threats will this country have? I, for one, am not going to participate in unilaterally hamstringing the ability of our military and our intelligence agencies to do their job, to protect America consistent with our law, consistent with our heritage, consistent with the treaties which we signed.

It is a tough call. The matters are very complicated. I respect people on both sides, but I am telling you we need to be careful. We don't need to make the mistakes we did when Frank Church was running the Foreign Relations Committee in the Senate and we made a lot of errors, and other errors we made over the years.

I thank the Chair for allowing me to share these thoughts as we continue to wrestle with how to establish interrogation rules and trials of those who have attacked our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

AFTER 9/11

Mrs. BOXER. Mr. President, I have listened to the Senator from Alabama. He brought us back to 9/11 and that is where I am going to start in my remarks right now, on a dreadful day when we saw the Pentagon in flames right here from the Capitol and we ran down those front steps and it was the bluest of skies and we were looking for Flight 93, was it coming our way? We all vowed to go get the people who attacked us.

I came down to this floor and with a heart full of grief. Every one of those planes was going to my State. I voted to go get the terrorists. Go get al-Qaida. Go to war against Osama bin Laden. I am sorry to say that, for whatever reason—and we are beginning to learn more about it—based on misinformation, faulty information, skewed information, we turned around and we took our resources, great resources and the greatest men and women in the military, and we went into Iraq.

The bipartisan Senate Intelligence Committee now tells us unequivocally there was never one connection between al-Qaida and Saddam Hussein. Remember all the talk and all the chatter from the Vice President and the President and Condi Rice? Remember when Donald Rumsfeld said we know where those weapons are? I re-

member sitting literally 8 feet from Donald Rumsfeld, asking him where the weapons of mass destruction were. And he said, Oh, they are all around Baghdad. You go down the street, take the left, turn to the right—there they are.

No. No. Now we have a circumstance where, because of the great work of our intelligence community, we have brought back people, some of whom were involved—that is what we believe—in 9/11. Right now we do not have a system in place so they can meet their just reward because the Supreme Court said Congress has to act and set up a tribunal in a way that respects the Geneva Conventions—this is very important.

We have three Senators with distinguished military careers on the other side of the aisle, who have said: Whatever we do we must not jeopardize our troops. Therefore, we must make sure that we do not do anything to change the Geneva Conventions. What do they get for thanks from those who have never seen combat?

My husband served in the military. I know what it is like to sit and wait, because he was 6 years in the Army Reserves, asking, Will he be called? Won't he be called? We were fortunate. Senator McCain was not that fortunate. He was a prisoner of war. He, JOHN WARNER, and LINDSEY GRAHAM, who was an attorney in the military, are guiding us to write something that makes sense so that we can try these people. And if in fact they are guilty, they can meet their just reward.

They get people on their own side of the aisle calling them out. I think it is outrageous. To quote the Senator from Alabama:

People who don't agree with the President on this, they are slandering the military.

I can't believe it. It is basically like swiftboating Senator McCain and Senator WARNER. It is unbelievable.

Who would you trust, I ask the people of America, on this military matter? People who never served a day in combat or people who put their life on the line? And then to hear them slandered in this way on the floor of the Senate—not by name, but by inference—is very disheartening. And to see a Republican do it to a Republican? I don't get it. I don't get it.

I hope we can come together to make sure we have a good plan in place because if we do not have a good plan in place, what good does it do us? It doesn't do us any good if we don't have a plan in place that passes the legal test, because it will be thrown out by the courts and we will be back to square one and we will not be able to try these people in the way they ought to be tried.

I come here to say thank you to those Senators who stepped out and said: Wait a minute; we want to do this right, Mr. President. Work with us. We want to do it right.

I think we have had enough. We have had enough of swiftboating around

here, and it has to stop in America. It has to stop in America.

I want to go back to 9/11 because when I voted to go after the terrorists, that is what I thought this Government was going to do. I thought they would throw all the resources at it. We went into Afghanistan. We freed the people there. I was proud. I went to my Afghan-American community and I was so happy for those people. They saw light. And we shorted that. We shorted them. We don't have enough troops there.

You know what is happening even in Kabul now. You are seeing attacks on women and girls, you are seeing murders. The poppy trade is growing. This was our opportunity to not only find Osama bin Laden, who was there, but also to make Afghanistan a model of democracy that the President is always talking about. He stood up at the United Nations—some of the things he said I really believe were correct. But one of the things that was not correct is when he said: We need democracy; take a look at what we have done in Afghanistan and Iraq.

I can tell you, anyone with a television set looks at what is happening in Iraq and says: Oh, my God, it's close to civil war. He puts that picture in our minds next to the word democracy? That is not going to help people. People looking around the world at that say, You know what? I really want democracy, but if my country is going to look like this, count me out.

It is just not real, Mr. President. It is not real. Just like it is not real to go after three Senators with distinguished military careers and tell them they are off-base when they try to put forward a solution to the problems that we are facing in terms of how we try these alleged terrorists. If they did what we think they did, again, I don't want them sitting in prison, I want them tried, convicted, and meet their fate. That means we need to put a system in place.

After 9/11 and after we took that turn and we didn't go after the terrorists as we should and we went into Iraq instead and we got bogged down there, year after year after year, and the President's plan is, and I quote: We will be there as long as I am President. That is his plan. That is not a plan. That is not a strategy. That is not a policy of success. It is the status quo, and it is weighing on the American people.

The President said that. I agree with him. It is weighing on the American people. What he didn't say is it is weighing down the American people because it is so expensive that it is up to near \$8 billion, \$9 billion, \$10 billion a month in Iraq.

I went to a rally on The Mall today for cancer survivors. Mr. President, I don't know if you got to go over there, but it is the most touching thing I have seen in a long time. Each State there has a tent and in the tent are the cancer survivors. They are asking us,

they are begging us, they are pleading with us to reverse the cuts that this President made in this budget for cancer research. That is what they are asking.

We spend \$5 billion a year on cancer research—\$5 billion. That is 2 weeks of the Iraqi war. Why don't we just decide we will end the war 2 weeks earlier and double the funding for cancer research?

Our families need us at their backs. They cannot do this alone. They cannot find the cure for cancer. They cannot come up with the treatments, with the science. Many of them need insurance. We spend \$10 billion a month, almost, for the Iraq war. Think about it.

So this war, which has nothing to do with the war on terror, which has been shorted because of this war, is also now stealing from the American people, and they do not want it. They want to start bringing the troops home.

We need a political solution in Iraq. We need a conference with that country and its neighbors. We need to look at semi-autonomous regions, with the Federal Government there making sure that the oil is distributed in the right way. That is a way out of this. Senator BIDEN has explained it many times. He understands that it is not a policy to just say we are just going to keep on keeping on.

Anyone who has ever read a book on Iraq knows that after World War I the Brits put together everyone in that country who didn't get along with each other and then they were just busy taking in oil while everyone else was fighting. It took a monstrosity of a man, a tyrannical man, to keep that country together—and now that man is facing his just rewards.

But there has to be a better way than the status quo. We need a new direction in Iraq, and we need it because the Iraqi people have to step up to the plate and take care of their own country. No country can survive with an occupation force running the show. It doesn't work.

They have to want freedom and democracy. They have to love each other enough to live in the same country as much as we want it for them; otherwise, this is an endless war. This is the forever war.

Come to my office. In front of the door I have four easels. I am sorry to tell you they are huge easels with small print. On those are the names of the dead from California or based in California. We are all faced with this in our States more and more—broken-hearted mothers, hysterical children. And what is the ultimate plan?

First, it was the mission: go get the weapons of mass destruction. Then we found out there were none. That mission was done. Second mission: go get Saddam Hussein. Our military was brilliant. They got Saddam Hussein. He has been brought to trial. Then they said, well, things are still not good. Maybe you ought to get his family members, and we will show them to the Iraqis. That will stop the killing. Tell

them that we mean business. Our military did it. That didn't help. Oh, well, we will get a terrorist. That will show them. That didn't help because the underlying problem is these are people who have hatreds that go way back. They have to decide if they want to set those hatreds aside. Otherwise, we will be there forever.

We are fueling terrorism. We cannot stop this civil war. And we are paying the price in dead and wounded, 20,000-plus, with the worst injuries you can imagine, including brain damage, burns, things that I don't know whether any of us here could actually imagine.

The cost is weighing us down. Everywhere you look we don't have the money for this, we don't have the money for that, we don't even have the money for what Senator SESSIONS is putting before the body, which he voted for before. There are areas of the border where you can build the fence. This isn't an issue with me. But we don't even have the money for that. It is not even in this bill that is before us. Where are we going to get it?

I wasn't going to go on and on with these different subjects because I really came to talk about the state of agriculture in my State. I am going to do that now. But when the Senator from Alabama—and he is most sincere—came down here and attacked people who are trying to find a reasonable solution to a difficult problem and said that they were slandering the military if they do not agree with the President, I had to talk about these things.

It was a Republican President who said this. I wish I had the exact quote. I will paraphrase it. This was Teddy Roosevelt. He said—and I paraphrase—that the President is the most important elected official among many, but those who say that he should not be criticized are guilty of being servile and border on the treasonous.

I can tell you when I came here, I took an oath to protect and defend my country. I told the people of California they could count on me to do that. I didn't come here to be a servile Senator, to rubberstamp any President, Democratic, Republican, Independent, you name it. And I certainly didn't come here to say to another Senator who might not agree with me that if they do not support the President they are slandering the military. I find that over the top, outrageous.

We have a bill before us that, as I understand it, the Republicans are not going to allow us to amend. I hope I am wrong. I hope Senator FRIST, in fact, will allow us to amend it because there are some very good ideas in this body that need to be heard about security, about immigration reform. And I know my colleagues in the Chamber today have worked very hard to try to bring balance into the way we approach the immigration debate. I support them on that.

I want to tell you what is happening in my State right now. We haven't

acted, and we haven't taken care of the broader issue. I have a farm community, an agricultural community that is in deep trouble. It seems to me, since we have 62 Members supporting the Craig-Kennedy bill, which is the AgJOBS bill, that at minimum we ought to be allowed to offer an amendment, which I know Senator CRAIG wants to do, to deal with this terrific problem. We must do more than one thing at a time.

To those people who say we will take care of the fence, and then after it is built we will figure out how we can take care of the rest of the immigration problem, I say that is a recipe for economic disaster, at least in the agricultural community.

I want to read to you a letter that I received from an organization that represents 1,100 organizations, the United Fresh Produce Association. The headline says: "Farmers to Congress: Support a Safe and Secure American Food Supply, Pass an Immigration Fix Before the Election of 2006."

It goes on to say that we have a horrible problem in our agricultural industry.

Here is what they say:

American labor-intensive agriculture has proactively sought a solution to its labor and immigration challenges since the early 1990's. Unfortunately, Congress has failed to act. Now, growers and producers are experiencing actual labor shortages rather than just shortages of legal workers. Labor shortages are being reported from coast to coast. Crop losses are starting to occur, from berries and pears in the West to oranges in Florida.

Specialty crops, fruits, vegetables, nursery, greenhouse and floriculture plants, turfgrass, sod, wine grapes, forage crops, and Christmas trees comprise 50 percent of the value of the American crop agriculture. They are labor-intensive crops, and they are at risk. Also at risk are poultry, dairy and livestock production.

My dairymen tell me the same thing. They talk about the fact that the 50-year-old flawed guest worker program just isn't working. It is unresponsive, it is bureaucratic, and it is expensive. It is litigation prone. They are asking for this AgJOBS bill.

You may ask: Senator, why can't you offer this amendment? The answer has to come from the Republican side. They control this place. I can tell you right now there is support from 1,100 businesses from growers to shippers, wholesalers, retailers in every state want this bill.

I ask unanimous consent that their letter be printed in the RECORD.

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

FARMERS TO CONGRESS: SUPPORT A SAFE AND SECURE AMERICAN FOOD SUPPLY—PASS AN IMMIGRATION FIX BEFORE ELECTION 2006

American labor-intensive agriculture has proactively sought a solution to its labor and immigration challenges since the early 1990's. Unfortunately, Congress has failed to act. Now, growers and producers are experiencing actual labor shortages rather than just shortages of legal workers. Labor shortages are being reported from coast to coast.

Crop losses are starting to occur, from berries and pears in the West to oranges in Florida.

Specialty crops (fruits, vegetables, nursery, greenhouse and floriculture plants, turfgrass sod, winegrapes, forage crops, and Christmas trees) comprise 50% of the value of American crop agriculture. They are labor-intensive crops, and they are at risk. Also at risk are poultry, dairy and livestock production. An estimated 70% of the farm labor force lacks proper legal status. The only available labor safety net is a 50 year-old flawed guest worker program known as H-2A, which presently provides only two percent of the farm labor force. It is unresponsive, bureaucratic, expensive, and litigation-prone.

The reforms American agriculture needs now are two-fold: An agricultural worker program, such as reformed H-2A, that meets the special needs of agriculture; A workable transition strategy that allows for more experienced workers to earn legal status while capacity is built on the farm and at the border for wider reliance on an agricultural worker program.

Last May, the U.S. Senate passed a comprehensive immigration reform bill. It contains agricultural provisions consistent with the needs outlined above. Namely, it overhauls H-2A to streamline the program, make it more affordable, and provide a balance of worker and employer protections.

By contrast last December the House of Representatives passed a harsh and anti-employer border security and internal enforcement bill. If it became law, H.R. 4437 would cause American agriculture to lose most of its workforce through mandatory and universal electronic verification of employment authorization documents.

What is at stake? America's food independence and security.

That's a matter of national security.

And the economic contributions and job-creation that exist here in America because the production is here.

A recent study by the American Farm Bureau conservatively projects that the loss of the workforce from an enforcement-only bill would result in U.S. fruit and vegetable production falling \$5-9 billion annually in the short term and \$6.5-12 billion in the long term, with impacts in other production sectors reaching upward of \$8 billion. Three to four jobs in the upstream and downstream economy are generated by each farm worker job, so well over one million good American jobs are at risk.

To avert an unfolding crisis in American agricultural disaster, Congress must enact comprehensive immigration reform that that ensures growers and producers access to a legal workforce American agriculture is unified behind these critical principles:

A safe and secure domestic food supply is a national priority at risk. With real labor shortages emerging, agriculture needs legislative relief now. The choice is simple: Import needed labor, or import our food!

If perishable agriculture and livestock production is encouraged or forced offshore, we will also lose three to four American jobs for every farm worker job.

Any solution must recognize agriculture's uniqueness—perishable crops and products, rural nature, significant seasonality, and nature of the work.

Enacting enforcement alone, or enacting enforcement-first, will cause agriculture to lose its workforce. Even "doing nothing" will worsen the growing crisis, with the border already much more secure, and worksite enforcement on the rise.

As part of a comprehensive immigration reform or stand-alone legislation, agriculture needs a program that (1) eliminates

needless paperwork and administrative delays; (2) provides an affordable wage rate; and (3) minimizes frivolous litigation.

For a successful transition, trained and experienced workers who lack proper legal status should be able to eventually earn permanent legal status subject to strict conditions like fines, future agricultural work requirements and lawful behavior.

American farmers, ranchers, and business people are depending on Congress to pass a good bill without further delay. To do otherwise jeopardizes American agricultural production and jobs and the food security of our Nation.

For more information: Agriculture Coalition for Immigration Reform, Craig Regelbrugge; National Council of Agricultural Employers, Sharon Hughes; United Fresh Produce Association Robert Guenther.

Mrs. BOXER. Mr. President, we need to pass an AgJOBS bill. Our farmers and our ranchers are begging us to do it. They need a solution. But because we haven't acted, everything is paralyzed.

I want to show you a picture of Toni Skully, a pear farmer from Lake County, CA, looking at the pear crop she lost because she didn't have enough workers to pick the trees. Pear farms are an estimated \$80-million-a-year business in California. They were unable to harvest 35 percent of their crop this year due to the lack of field and packinghouse labor. Unfortunately, situations like Toni's and the pear growers of Lake County are happening all over California.

I discussed this with my colleagues. They are telling me it is happening in their States, too. My lemon growers in San Diego are experiencing a 15- to 20-percent harvest loss. Avocado farmers in Ventura County are worried about workers for the December planting season. Tree fruit growers in Fresno County have seen their labor force increase by as much as 50 percent. In Sonoma, as many as 17,000 seasonal farm workers have not returned from Mexico to work in the fields.

According to USDA, agriculture is a \$239-billion-a-year industry. And if we refuse to provide a solution to labor shortages now, we are jeopardizing our domestic economy and our foreign export markets. We are driving up production costs that get passed on to consumers. Our consumers are already having trouble. Even with the decrease in gasoline prices, they are way up from where they were historically. They are dealing with health insurance premiums that are way up. They are dealing with college tuition costs and education costs that are way up. Now they are going to walk in the supermarket where we have such good prices and see that prices are up because of the inability to hire people because there has been a crackdown on the workers.

All of that is happening for one reason: the House wouldn't follow the Senate. The Senate had taken care of it. We had a good, broad bill that dealt with border security, additional guards at the border, and everything they needed at the border, plus a way to

deal with the agricultural industry and the millions of workers who are in the shadows who are afraid to come out of the shadows.

Let me tell you, do you think that makes us secure when we don't know who they are? I don't think it does for a minute. That is why we need to have this type of bill passed in the Senate.

But at minimum, I say to Senator FRIST, allow us to offer the Craig amendment. Senator FEINSTEIN is very strong on this.

It was interesting. Independent of one another we immediately said we ought to offer the Craig-Kennedy amendment. She and I talked to Senator CRAIG. We said: Please put us on as cosponsors.

A 2006 study done by the American Farm Bureau found that if agriculture's access to migrant labor is cut off, as much as \$5 billion to \$9 billion in annual production would be lost—and that is just the short-term prediction. If agriculture's access to migrant labor is cut off, as much as \$5 billion to \$9 billion in annual production of primarily import-sensitive commodities would be lost in the short term. That is a statistic from the American Farm Bureau Federation.

Again, this is a place where Republicans and Democrats should come together. I don't understand why Senator FRIST will not allow us to offer this Craig amendment. We have a vast majority in this body in favor of it. Our farmers say pass the AgJOBS bill now.

It is supported by United Fresh Fruit and Vegetables, the Agricultural Coalition for Immigration Reform, the National Council of Agricultural Employers, Western United Dairymen, the California Grape and Tree Fruit League, California Citrus Mutual, among many other agricultural groups.

The AgJOBS bill pulls together both the owners and the workers. This is rare in and of itself to have everybody come together, farmer groups and the agribusiness people coming together, and yet with all that support—I believe we are up to 62 supporters in the Senate—we cannot at this stage be assured that Senator FRIST, the Republican leader, will allow us to have a vote on this amendment.

The AgJOBS bill would allow immigrant farm workers who are here now to harvest the crops. It would put 1.5 million workers on a path toward legal status if they prove they worked in agriculture before enactment of the law, and if they work 3 to 5 more years in agriculture after its enactment.

It is a way to save the workforce and get people out of the shadows. We know who they are. That is key, to know who is in this country, not to have people hiding. It makes no sense.

In May, the Senate again passed immigration reform that included this very language we want to offer. It got 62 votes. Building a border fence—again, I voted for it. There are parts of our border that need that kind of structure. I don't have a problem with it.

What I have a problem with is the fact that is not going to solve our problem because we need to address the economy. We are worried about a housing slump. It is coming on pretty quick. We hope it does not materialize, but it does not look good. In many cases, a housing slump is followed by a recession. Do we want to add to the trouble by having a situation where as much as \$5 to \$9 billion in annual production is lost? I don't think so.

I will do whatever I can to convince the Republican leadership to allow Congress to take care of agriculture. When we have a bill that is supported by 62 Senators, on both sides of the aisle, that is supported by labor and management, it makes sense to move it forward. I cannot stand the thought of looking in the eyes of my dairymen and my farmers one more time when they come back here and say the first issue on their agenda is this problem they are having with their workforce.

There is a way to do this that makes sense. There is a way to do this that will give us control of our border. That is what we ought to be doing. We ought to be looking, at the minimum, to saving our agricultural industry.

I say to my Republican friends, and I am being very honest, I am not sure farmers have been my strong supporters over the years. They usually go Republican. I can read the list of supporters. What is the majority doing, shutting them out?

Let's work together. Let's work together for them, for the consumers, for the workers. We cannot afford the one-two punch of an agriculture industry that begins to fall apart as the housing industry is having problems. We just cannot afford to see another sector have a problem. Autos, housing, now agriculture?

Please, this is too important to play politics with. Help our agriculture businesses. Help our workers. Help get people out of the shadows. Do something to help America. Don't keep this bill so narrow in focus that we do not see the forest for the trees.

I hope we have some good news and that there will be a good agreement on our surveillance issue, on our military tribunal issue. I hope the leadership will open this up to save our agriculture industries. They are asking us for this.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I thank the Senator from California for the passion she brings to this issue in pointing out the fact that, indeed, there are major industries in this country that are desperately in need of a labor pool. Agriculture, as the Senator has so articulately pointed out, construction, the tourism industry—three industries that affect our State and the Senator's State—all three of those industries are enormously important.

If we want to do something for immigration and actually make what is, in

effect, amnesty now, because the law is not being obeyed, at the time the Senator and I served in the House of Representatives in the 1980s, in which we voted for that immigration bill, there were only an estimated 2 million people in the country illegally. Now it has swelled to something like 12 million.

Amnesty is the condition we have right now because the law is not being obeyed by the people who are supposed to obey it and the U.S. Government is not enforcing the law which allows all the more illegal entrants into the country.

The solution, in the interest of the United States, it seems to me, to get our hands around the problem of illegal immigration, is to pass a law that has some teeth, that will be obeyed and, at the same time, provides the labor pool so we do not wreck our economy in the meantime.

The Senator from California has just pointed out industries in her State, agricultural interests in her State that, in fact, are having difficulty getting workers to harvest the crops. It is another one of the little ironies, that people are saying amnesty, amnesty, amnesty, and what we have right now because the law is not being obeyed.

We ought to pass a bill, a bill that controls the borders—of course, there are more reasons for controlling our borders than just immigration, with terrorists coming into our country—a bill, in addition, that will address the labor needs.

UNANIMOUS-CONSENT REQUEST—S. 2810

I address the Senate on another subject with regard to seniors and their prescription drug coverage. We have long advocated there be meaningful prescription drug coverage. Two or 3 years ago we passed one. It ended up showing there are quite a few deficiencies in the prescription drug coverage Medicare Part D for senior citizens. However, it was passed and it is law.

It is our job now to improve that law and correct the deficiencies, plug the loopholes, and make the appropriate changes to this program that are going to help seniors afford the cost of prescription drugs.

Over the past several months, as we have been dealing with this issue, I advocated extending the enrollment period under the Medicare prescription drug program and the elimination of the late enrollment penalty. Under the current law, which was passed several years ago, seniors who did not sign up by May 15 of this year—that was the deadline—and who enroll at a later date, when they do enroll for the Medicare prescription drug program, they are going to pay a penalty of 1 percent of their premium tacked on for each month they delay the enrollment. If they wait to sign up until the end of the year, they are going to pay a late enrollment penalty of 7 percent.

If the whole idea of giving senior citizens some financial help with a pre-

scription drug program is to help them financially, and now we are going to slap a 7 percent late enrollment penalty on them, it works at counter purposes to what we are trying to do to help the seniors.

The Congressional Budget Office says that three million seniors are going to have to pay these higher premiums because they will have the penalties assessed. Many of the senior citizens in this country simply are not aware this penalty exists.

The Kaiser Foundation did a survey and found that nearly half of the seniors are unaware they face a financial penalty if they did not sign up by May 15. We tried, before May 15, to get Congress to extend the enrollment deadline. We got well over a majority of the votes, but we could not get the 60 votes to cut off debate. I believe we ought to at least waive that penalty for those who did not enroll and want to do so at the end of this year.

We filed a bill, S. 2810, the Medicare Late Enrollment Assistance Act, that allows Medicare beneficiaries to sign up during the next open enrollment period without a penalty.

Last May, after the deadline had just passed, this Senator worked with Senator GRASSLEY and Senator BAUCUS to introduce this bill. The bill now has 45 Senators cosponsoring it. The enrollment period for next year is fast approaching. We need to pass this bill before we adjourn. We have less than a week and a half. We have a week and 2 days until the Senate adjourns. It is imperative the Congress pass this legislation and not just continue to talk about it.

It is wrong to penalize seniors who could not enroll by the deadline. What we all ought to be doing is to make this Medicare prescription drug program more senior-friendly. That includes exactly what this bill is. It was filed on a bipartisan basis. It is time to stop playing politics with the health care of our seniors. Waiving that enrollment penalty, backed by Senator GRASSLEY and Senator BAUCUS, is the compassionate thing to do.

We are not alone in this. Listen to the organizations that have come out in favor of S. 2810, the Medicare Late Enrollment Assistance Act: AARP; American Diabetes Association; Alzheimer's Association; American Auto-immune Related Disease Association; Asthma and Allergy Foundation of America; Cystic Fibrosis Foundation; Epilepsy Foundation; Lupus Foundation; Men's Health Network; National Alliance for Mental Illness; National Council of Community Behavioral Health Care; National Family Caregivers Association; the National Grange of the Order of Patrons of Husbandry; the National Health Council; the National Osteoporosis Foundation; the AIDS Institute; the Arc of the United States; United Cerebral Palsy; and the National Coalition for Women with Heart Disease.

That is a pretty broad spectrum of people who deal in health care, particularly with regard to seniors.

Now, somebody may say: Well, it is not paid for. Members of the Senate, it is paid for. The bill is estimated now to cost \$500 million over 5 years. And this cost is offset by using part of the stabilization fund which was set up in the Medicare drug law. That fund was to be used to subsidize and entice private companies into the Medicare Program. But the fund is sitting there, and it is not needed because private plans are abundant in the Medicare market. There is money available, and it is time not to penalize our seniors.

So, Mr. President, I ask unanimous consent that the Senate immediately take up and pass S. 2810.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Oklahoma, I object.

Objection is heard.

Mr. NELSON of Florida. Mr. President, given the fact that is the case, that we cannot proceed, and given the fact we have 1 week left in order to avoid this penalty, it is my hope there may be a vehicle that will come along, and that since Senator GRASSLEY and Senator BAUCUS have been trying so hard to get this legislation up, they may find an appropriate legislative vehicle on which to attach it to bring this needed relief to the senior citizens of this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Pennsylvania.

WRIT OF HABEAS CORPUS AND DETAINEES

Mr. SPECTER. Mr. President, I have sought recognition to discuss the issue of habeas corpus, which is the Latin term used to define the great writ from ancient England to produce the body, to determine if an individual is being lawfully held.

The writ of habeas corpus has an illustrious history in common law, in English law, and in American law. It is the focus of attention on issues now being considered relating to detainees in Guantanamo, and was the focus of attention in the Hamdan case, which is now being considered by the Congress of the United States in terms of complying with the order of the Supreme Court of the United States for the Congress to discharge its constitutional duty under Article I, section 8, to establish procedures for military commissions.

We have pending at the present time two bills: the Terrorist Tracking, Identification, and Prosecution Act, S. 3886, which has been proposed by the administration; and the Military Commissions Act, S. 3901, which has been reported out by the Armed Services Committee.

There have been extended discussions about these bills in terms of compliance with the Geneva Conventions, whether classified information may be used, whether hearsay is appropriate, whether coerced confessions can be

used. But there has been relatively little attention—almost none—on the fact that both of these bills eliminate the writ of habeas corpus review.

Had this prohibition been in effect earlier, the case of Hamdan v. Rumsfeld, decided in June of this year, might not have been decided. As a matter of law, it is my legal judgment that Congress cannot act to delete the remedy of habeas corpus because the Constitution provides, as follows: Article I, section 9, clause 2:

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Now, we do not have a rebellion and we do not have an invasion. Those are the two circumstances under which the writ of habeas corpus may be suspended. Since neither is present and the Constitution cannot be altered by statute, the pending legislation may be unconstitutional.

As a matter of public policy, the writ of habeas corpus is also established as a statutory base in Title 28, United States Code, section 2241. In the case of Rasul v. Bush, in 2004, the U.S. Supreme Court ruled that the detainees at Guantanamo Bay have a right to file petitions for habeas corpus so that a Federal court may review the evidence which justifies their continued detention.

Many of the detainees have filed petitions, but only a few have been heard. And most have not yet had a hearing on their habeas petition.

Senator LEAHY and I have asked for a sequential referral to the Judiciary Committee from the Armed Services Committee because our Judiciary Committee has jurisdiction over habeas corpus and other provisions of the legislation which I have cited.

If you take a look at the pending legislation, it is obvious that the enemy combatants who are detained have virtually no rights, very few procedures applicable to them compared to those who may be charged with serious war crimes. And it would, indeed, be anomalous to have greater procedural protection for someone charged with a war crime, where the evidence is present to justify that charge, contrasted with a detainee, where, as the practice has evolved, there is very little information, let alone the absence of evidence, very little data, to warrant detention.

The pending legislation endorses as the exclusive review mechanism that the hearings will be held under the so-called Combat Status Review Tribunals. And this is a comparison of what the Combat Status Review Tribunals, called CSRTs, will do in comparison to the military commissions.

In the CSRTs, no evidence is presented by the Government. The proceedings are governed by what is called a proffer in criminal courts. The charges are read to the detainees, and they are asked to respond. By contrast, in the military commissions that are parts of both bills, the Government

must introduce evidence which support the charges.

In the CSRTs, the detainees have no lawyers. Most speak no English and communicate through interpreters. In the military commissions, the accused detainees have the right to be represented by lawyers.

In the CSRTs, the detainees have no ability to cross-examine the witnesses against them or to see any physical evidence because none is introduced. In contrast, in the military commissions, the detainees' lawyers will be allowed to cross-examine the Government's witnesses and see the Government's physical evidence, although there may be some limitation as to classified information on a controversy yet to be worked out.

In the CSRTs, the detainees have no ability to call their own witnesses to produce evidence. In the military commissions, those rights will be fully protected through the commissions' subpoena power.

In the CSRTs, the tribunals are permitted to consider classified evidence, including, apparently, for all we know—although we are not really certain as to what happened in each individual case—there may be information obtained by torture or by means which produced flagrantly coerced confessions. That will not be the case in the military commissions.

The bills provide that the rulings of the past CSRTs are final and conclusive, with the only appeal allowed being to the District of Columbia Court of Appeals—and such an appeal would be limited as to whether the CSRTs followed their own procedures. In contrast, a full judicial-like appellate procedure is provided for appeals from military commissions.

So from this analysis, it is obvious that the worst of the detainees will be accorded far greater rights—those charged with war crimes—than all the other detainees, many of whom, according to summaries of proceedings, took no action against the United States or its allies.

This habeas corpus legislation, if enacted, will not end the court battle over detention at Guantanamo Bay. If either of these bills becomes law, there will be years of litigation as to whether the U.S. Constitution is violated. If the proposed changes to habeas corpus in these bills are rejected by the courts, we will be back for more legislative fixes and more judicial proceedings.

As I have noted, the request has been made for referral to the Judiciary Committee. There are some difficult procedural steps to get that sequential referral. I am, frankly, not optimistic it will occur. The scheduling of the floor action on these bills is uncertain at this time, depending on whether an agreement is worked out.

It is my hope we will reach an agreement on the issue of how the Geneva Conventions will apply and whether there ought to be any modifications of it. I believe the committee bill, endorsed by Senator WARNER, Senator

MCCAIN, and Senator LINDSEY GRAHAM, is correct, that we ought not to water down the provisions of Common Article 3 of the Geneva Conventions, that we ought not to modify that or have the appearance of modifying it. It is my legal judgment that what General Hayden is looking for can be accommodated within the existing recognition by the United States.

The Geneva Convention on torture was adopted in 1988 and has language which is very similar on indignities or mistreatment. And the Congress filed a reservation as to that 1988 Convention, saying that it would be defined in terms of the provisions of amendments V, VIII, and XIV to the U.S. Constitution.

My understanding is that is pretty much what General Hayden is looking for, so that it may be possible to establish the existing position of the U.S. Government on that reservation, which would be consistent with full recognition of Common Article 3, as a stand already taken by the United States, so that we would not be limiting Common Article 3 to something new or we would not be appearing to limit Common Article 3 to something new.

With respect to classified information, again, I agree with what Senators WARNER, MCCAIN, and GRAHAM have articulated, that it is not appropriate to deny classified evidence to an individual where the death penalty might follow or other serious penalties might be imposed. It is insufficient to give that information to a lawyer. And even if it were given to the lawyer, there is a problem as to whether it might be transmitted, and sources and methods might be revealed to those who could harm the United States.

As to coerced confessions, again, I agree with the Warner-McCain-Graham approach, that coerced confessions should not be admitted.

They are unfair and unreliable. When it comes to the issue of habeas corpus, I think both the administration's bill and the bill passed out of committee, with the endorsement of Senators WARNER, MCCAIN, and GRAHAM eliminating habeas corpus is inappropriate. Depending on when the bill comes to the floor, there may be an opportunity for the Judiciary Committee to hold a hearing and to have an analysis of the constitutional limitation on suspending habeas corpus and the public policy interests that are involved.

I, Senators LEAHY, LEVIN, and others will be circulating a "Dear Colleague" letter advising that we intend to offer an amendment if these bills come to the floor with the denial of habeas corpus in them.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. Yes.

Mr. DURBIN. First, I thank my colleague for coming to the floor. I heard him open his remarks while I was in my office, and I salute him. I don't think many colleagues are aware of the seriousness of the habeas corpus provi-

sion that is in the detainee bill coming out of the Armed Services Committee. I ask my colleague—and I only caught part of his remarks—are you going to ask that this bill be referred to our Senate Judiciary Committee for hearings on this question of habeas corpus?

Mr. SPECTER. Mr. President, in response to the question of the Senator from Illinois, Senator LEAHY and I have signed a letter to the majority leader, Senator FRIST, and the Democratic leader, Senator REID, asking for sequential referral.

Mr. DURBIN. One further question. I ask of the Senator from Pennsylvania, we understand the Armed Services Committee's jurisdiction on treatment of detainees, military commissions, and the like. If I am not mistaken, I ask the Senator from Pennsylvania, when we discuss a fundamental constitutional question, it seems to me that is an appropriate area for the Judiciary Committee to consider the merits of the question. I think I know the answer from what I have already heard in the Senator's previous statements. I hope I can join the Senators in making this request.

Mr. SPECTER. The Senator is correct. The Judiciary Committee has jurisdiction over the constitutional issue. In fact, as to the pending legislation, the Judiciary Committee has jurisdiction over Common Article 3, and the committee also has jurisdiction over changes to the war crimes.

We have submitted to the Armed Services Committee a sequence of war crimes which have been included in the bill. Regrettably, we didn't have enough time for committee action. Although, as the Senator from Illinois may recollect, I advised the committee of what we were doing and circulated early drafts so people could be in a position to comment. I think it is important that Congress move ahead to comply with Hamdan. Also, we ought to do it right. It requires some analysis. We can do it in a relatively short timeframe. Provided we focus on it and have hearings, it is going to require Senators to become acquainted with what is going on.

The fact is, Congress has been derelict in its duty in providing rules for military commissions, and it is our responsibility under article I, section 8. The Senator from Illinois and I filed legislation shortly after 9/11, 2001, to accomplish that, as did other Senators. The Congress did not act because this issue has been too hot to handle, too complicated, too dicey. It is not to the credit of the Congress, which sat back and did nothing.

Finally, in June of 2004, the Supreme Court came down with three opinions. We punted to the courts, as we do repeatedly. Thank God for the courts. Thank God for life tenure and the independence of the courts in this country, which come in to act when there has been inertia and inaction by the Congress, or inappropriate contact by the executive branch historically, and not just with this administration.

When the Hamdan case came down, the Court ordered the Congress to comply with our duty to legislate. All of this comes about because of habeas corpus. I don't believe the Congress has the authority to take away habeas corpus jurisdiction, especially in light of the specific provisions of habeas corpus, but also generally. When we considered, in a rush, the legislation last year that was passed, I was the sole voice on this side of the aisle objecting to it. It was passed with substantial support on the other side of the aisle because it was thought that at least it would not be applied to pending cases. Then there was a surprise when Justice Scalia said these colloquies were inserted by staff after the fact and there was no matter of congressional intent. He would have disregarded it. The majority opinion did not deal with the issue but just took the jurisdiction and moved ahead to decide the case.

This is not an issue which I came to recently. This is an issue that has concerned me for more than two decades. When Chief Justice Rehnquist was up for confirmation, I raised the issue in the confirmation proceedings with him as to whether the Congress had the authority to take away the jurisdiction of the Court on first amendment issues. Chief Justice Rehnquist refused to answer. Overnight we produced an article that he had written criticizing the Congress in the Whitacre proceedings for not asking about due process or equal protection, talking only about matters of lesser concern, such as Whitacre being from Kansas City and it was an honor to both Kansas and Missouri because he lived in one State and worked in the other.

Chief Justice Rehnquist, when confronted with the article, answered the question. He said Congress could not take away the jurisdiction of the Court on first amendment issues. Then I asked him about the fourth amendment, search and seizure. He declined to answer. I asked about the fifth amendment, privilege against self incrimination. He declined to answer. On the eighth amendment, crucial and unusual punishment, he declined to answer. It was a significant statement that Chief Justice Rehnquist made. As to the first amendment, the Congress could not take away the jurisdiction of the Supreme Court or the Federal courts.

There is a much stronger case that you could take jurisdiction on the first amendment rather than on habeas corpus because the Constitution says habeas corpus is suspended only when there is a case of invasion or rebellion. You don't have either. We better be careful what we do on constitutional rights. We better be careful. We were concerned in the PATRIOT Act to make sure we didn't go too far, that we could pass an act to give law enforcement protection and protect the constitutional rights, and we are struggling with the electronic surveillance issue, where we are trying to accommodate the interests of some Republicans

and many Democrats to give appropriate protection to civil rights. I think this Congress has sufficient wisdom and experience to protect America from terrorists and still respect constitutional rights.

That was a long answer to a short question, I might say to the Senator from Illinois. I appreciate his coming to lend some emphasis. There are more people who tune up their television sets, watching this lonely discussion, when there is a little colloquy and dialogue as opposed to the monotonous tones of the speaker alone.

Mr. DURBIN. I thank the Senator. If I might, I say to the Senator, I recently joined Senator ALLEN of Virginia on a trip to Guantanamo. We were met by the admiral in charge of the facility. He made it very clear in one of his opening remarks that Guantanamo is not there for punishment, but it is there for detention. He said punishment, of course, would be meted out to those found guilty of crime and wrongdoing. But the people being held there are being detained until we can determine their status. If they are, in fact, guilty of terrorism or war crimes, I think the Senator from Pennsylvania and I would quickly agree that they should be held responsible for those activities and punished to the full extent of the law. But, in most cases, for the hundreds of people in detention there, no charges have ever been leveled against them.

The writ of habeas, which basically is asking the Government to give cause why they are detaining a person, is the way to determine whether this person is being held justly and fairly. I think to eliminate that right, which is fundamental in our western civilization, raises a question as to the outcome for the lives of hundreds of people still in Guantanamo in this uncertain situation where they are not charged with any crime at all: not charged with terrorism, not charged with a war crime, but being held in indefinite status, many of them, for many years.

So I thank the Senator from Pennsylvania for raising this important issue. It is one that needs to be debated on this floor on a bipartisan basis.

Mr. SPECTER. Mr. President, one concluding statement. A group of attorneys who came to see me on this issue have been representing detainees. They produced summaries of proceedings before this body. It is shocking as to how little information there is in these proceedings under the CSRTs. I am trying to find out now if the information I have is not classified and present it in detail to Senators and to Members of the House so you can see how little information there is and how explanations are made and how people are detained without any basis, and on what appears to be a situation where there is no danger.

To the credit of the officials in Guantanamo, many have been released. But that is not sufficient. The detention of an individual under our laws is to be

made by a court. When challenged, that requires a habeas corpus proceeding.

Mr. President, I thank the Chair and my colleague from Illinois.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank my colleague again for coming to the floor and raising this issue. For most people, it is a very complicated constitutional issue. I think it can be reduced to very understandable principles and values that we share as Americans. When you think back to the earliest founding of the United States, we valued so much our personal freedom, our personal liberty, and our rights as individuals, and we created within our Constitution a means to ask a basic question. By the filing of a writ of habeas corpus, we ask this question, by what right does the Government hold this person? Habeas—holding; corpus—body. One of the few words that I remember from the Latin I took many years ago. By what right does the Government hold this body, this person?

That has been a writ, as they call it, a law that has been recognized and respected for generations. It is part of our American body of law. We don't want a circumstance where the Government is wholesale arresting individuals and detaining them without charging them. There was a time, of course, during our Civil War when President Abraham Lincoln suspended the writ of habeas corpus; arrested, detained, and jailed many people without charging them. It was then an extremely controversial decision. In fact, if you read the history of the time, there were even people in the President's own political party who thought he had gone too far. President Lincoln argued that he had to do it in the midst of a civil war.

We look back on it now and wonder if perhaps this was excessive conduct in the name of security. We ask the same questions today. Are we doing things in America today that are going too far, things that infringe on our basic values and how we define ourselves as Americans in this diverse world? Are we doing things which, on reflection, history will not judge in a positive way? I think, unfortunately, the answer is, yes.

The issue of torture is one such issue. We, for decades and generations, had held to the standards of the Geneva Conventions. We basically said that civilized countries in the world act differently than those that are not civilized. Civilized countries, even in time of war, will not engage in torture, cruel, inhumane, or degrading treatment of prisoners. That has been a standard which we have lived by for more than a century in the United States, a standard we have proudly proclaimed as our own, and a standard by which we have judged other nations which we believe have crossed that line.

After 9/11, there were serious questions raised by this administration as to whether we could continue to live under the principles, the standards of the Geneva Conventions. For a period of time, there were memos that circulated at the highest levels of our Government which tried to redefine torture and redefine treatment of prisoners. Those memos, sadly, were distributed. It appears that in some isolated cases, they were followed. It also appears that they were discredited and have been rejected after they had been used as a basis for American treatment of prisoners. We know that now. The facts have come out. Some of the people who were engaged in the preparation of those memos are at the highest levels of our Government today.

Those memos, so-called torture memos, suggested things such as one very noteworthy example: the use of guard dogs, turning dogs loose on prisoners to frighten them into submission or cooperation. That was a departure from what the United States had ever done in the past. That was part of a memo which was prepared at the highest levels of the White House and Department of Defense, a memo which has been acknowledged by the Administration, but which is now being repudiated by them. They are saying it is no longer being followed.

One of the architects of one of those memos is a man named William Haynes. Mr. Haynes recommended things we could do to prisoners to try to get more information. That was distributed, and not long thereafter, we had the Abu Ghraib prison scandal. One of the photographic images we can all recall is the picture of a guard holding a dog on a leash threatening a prisoner. That guard, an American soldier, was charged with violation of the law and has been imprisoned for that conduct.

The irony is that Mr. Haynes, one of the authors of this memo which suggested the use of these dogs, not only was never charged with a crime and was never imprisoned as this soldier was, who was working at the Abu Ghraib prison, but this individual is now being proposed for a Federal judgeship, a lifetime appointment to the second highest court in the land. So, at one level, we are sending soldiers, privates, corporals, and sergeants to prison, and at the highest levels where these memos were being written, we are rewarding the conduct of those who wrote them and suggesting they deserve a lifetime appointment to the Federal judiciary. I believe that is inconsistent and unfair, and if we are going to have a standard and a rule of law, it has to apply at the highest levels as well as to our soldiers. In this case, it did not.

Now we have before us the question raised by the Senator from Pennsylvania which we may face in the next few days. The question is this: Of the hundreds of people who are now being held in Guantanamo without any specific charges, what will happen to

them? Will we ever have to charge them with wrongdoing? At this point in time, few, if any, of them have been charged. Over 100 have been released, incidentally, after being incarcerated there for long periods of time. The writ of habeas corpus is the means by which that detainee in Guantanamo and in other settings raises the question: By what right do you hold me in this prison? What crime do you charge me with? What is my wrongdoing? That is the writ of habeas corpus. The bill that is proposed from the Armed Services Committee would eliminate the right of habeas corpus for those who are currently being detained.

I raise this because I have visited this Guantanamo facility, and was told that we are not punishing anyone there because we don't know that they have committed a crime, they haven't been convicted of a crime, and we are only detaining them. But, by eliminating the writ of habeas corpus, we are eliminating that prisoner's right to step up and explain what happened, to tell their side of the story. There is no guarantee we will believe their side of the story. There is no guarantee they will be released. But our basic constitutional principles, the principles we have followed, have given individuals that right to question the Government.

Earlier today, I was visited by three attorneys from the city of Chicago, which I am honored to represent. Thomas Sullivan is a former U.S. attorney, Jeffrey Colman is active in the practice of law in that town, and Gary Isaac is another lawyer. They came to me because they have been involved in representing the detainees at Guantanamo.

Mr. Sullivan, a former U.S. attorney, a former prosecutor, well respected not only in Chicago but around the United States, has raised questions about the treatment of these Guantanamo prisoners. He left with me a description of one of his clients in Guantanamo, a client he represented pro bono, for nothing. The client's name is Mr. Abdul Hadi Al-Siba'i, who was taken into custody in Pakistan in December of 2001. Mr. Sullivan became his lawyer in 2005. After speaking with him and his family through interpreters and visiting him at Guantanamo, he learned the story.

It turns out Mr. Al-Siba'i had been employed for 20 years as an officer in the police department in Riyadh, Saudi Arabia. He took a two months leave of absence in August 2001 to go to Afghanistan to build schools and a mosque. He was captured, first by forces in Afghanistan and then turned over to the United States. He presented his airline tickets to show the journey he had made from Saudi Arabia to Afghanistan. The passport showed where he had been. The tickets showed the dates he was required to return, and he requested that the people who were detaining him in the United States verify the information. If they had a question, call the Riyadh, Saudi Arabia, police department and they would explain

who he was, what his background was, and why he was given this two months leave of absence to go into Pakistan.

He was denied that request. The person presiding over his tribunal said:

I denied that request because an employer has no knowledge of what their employees do when they are on leave.

I can't quarrel with that statement, but any good lawyer would tell you that you try to sift through the evidence and testimony to come out with what you consider to be the truth, and that would mean at least taking the time to ask the question: Was this man a police officer in Saudi Arabia? Did he notify them he was taking a two months leave to work among the poor in Afghanistan? Those are simple questions which one would expect to be asked. They weren't.

Mr. Al-Siba'i explained what occurred when he arrived in Pakistan, was taken into custody by the Pakistani Army, and turned over to the U.S. forces. He said he joined the army in Saudi Arabia when he was 17, got married at 18, and has had a wife and stable job for almost 20 years. He talked about his trip to Sudan during a time of floods when he worked with poor people. He explained what he tried to do—charitable work for those he thought were in need. He went through the long description of the time he spent traveling. He was very open in the course of this tribunal, but at the end of the day, they said: The information is not good enough; you are going to be detained as a prisoner in Guantanamo. That was in 2001.

In 2006, 5 years later, without ever facing a formal charge of any wrongdoing, without any clear investigation into the circumstances he described, he was released from Guantanamo and returned to Saudi Arabia without any explanation whatsoever.

I suggest to those who are following the comments being made on the floor that if an American employee, an American citizen, or an American soldier was held under similar circumstances, we would have a right to be upset. It is one thing for us to acknowledge wrongdoing by an American—it can happen—but it is another thing to expect simple justice. And simple justice requires that someone be charged with a crime.

Just a few hours ago, I was in my office and met with a reporter for the Chicago Tribune named Paul Salopek. Just a few weeks ago, Paul Salopek was in Africa doing a story for National Geographic. He wandered across the border from Chad to Sudan and was arrested and charged with espionage. He was writing a story for the National Geographic about local African tribes. The charge, of course, was not well-founded. Many people came to his assistance, not the least of which was Gov. Bill Richardson of New Mexico, who traveled to Sudan and persuaded the President to release him. But here was an American citizen, and many of us were concerned about his safety and

future when we knew that the charges against him were preposterous and they didn't make sense.

Imagine an American citizen being held, as this Saudi was, for 5 years without a charge. The reason he was finally released was that a writ of habeas corpus was filed to ask whether a charge was going to be leveled.

So now we have this debate going on in the Armed Services Committee. I salute my colleagues, Senator WARNER, who was on the floor a few moments ago, as well as Senator MCCAIN, Senator GRAHAM, Senator COLLINS, and many others who have said they agree with the approach that has come out of the Armed Services Committee. It establishes a standard for military commissions so that the 14 or so individuals who are going to be tried will be tried under standards that are consistent with American values and American justice. That speaks well of our Nation. To do otherwise would raise the same questions raised by General Colin Powell just a week ago. It would raise a question about our moral standing in this world if we don't live by the same standards we preach day in and day out. I think it is a good thing and consistent to have those judicial standards and principles of justice in these military tribunals.

But the same bill coming out of the Armed Services Committee removes the writ of habeas corpus for all of these other detainees, the hundreds who are being held. So while this bill would hold people charged with crimes to a higher standard of treatment consistent with American law, the bill would completely eliminate the most fundamental principle of law—the writ of habeas corpus—when it comes to these other detainees who may never be charged. That is inconsistent, and it is wrong.

We should trust our system of government despite our fear of terror, despite our experience on 9/11. We shouldn't lose our way and abandon the most basic principles and values which guide our country. Those constitutional principles have weathered many storms, including a civil war which claimed more lives than any war in the history of the United States. Even now in this age of terror, even now living in a dangerous world, let's not abandon these most fundamental principles.

I thank the Senator from Pennsylvania for his earlier comments. I hope we have a chance to debate this issue at length on the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor this afternoon to speak about the issue which is before us at the moment; that is, H.R. 6061. We voted on a motion to proceed to debate today and invoked cloture on that motion by getting a substantial number of votes. Now we are in the next phase of the

rule process in which we would actually move to the bill, debate it, and possibly amend it.

I voted this morning to move this bill forward because I believe it is important for the American people to understand that we are very serious about border control. If this bill serves that purpose, then that is a step in the right direction.

It is not my intent to come here and say it is a bad bill. It is my intent to come to the Senate floor and talk about what we have done to date in the area of border security and that a piece of paper, a piece of legislation, does not a safe border make. It establishes the legal basis for which we build upon a foundation for safe border and border action, but it is the financing of it, it is the funding of the necessary construction, the supplying and the training of Border Patrol men and women, and creating the devices and vehicles necessary to effectively monitor and control our borders that build a safe border.

Step 1 is a very critical process this Senate, and the Congress itself, has been involved in for some time; that is, the recognition of a broken immigration system and an unsecured border structure in our country that has allowed, over two decades, possibly 8 to 10 million foreign nationals to come into this country illegally.

America didn't awaken to this issue until after 9/11. It awakened because it found that some who had come, legally and illegally, were intent on delivering the citizens of this country an evil act, and that happened. Not only did it kill nearly 3,000 of our fellow country men and women, but it launched this country into a new dimension of foreign policy that we had not been involved in or as intent on as we should have been a long while ago—a war against radical Islamic fundamentalism and the tools they use in that war known as terrorism.

That is where we are today. It has swept our country. It is the political debate of the day. It is the frustration of the American citizen to try to understand why we are where we are today and what we are doing and why young men and women bearing the uniform of the United States of America are dying in a foreign land or foreign lands. All of this issue is really one. It is a combination of understanding the world we live in, and that is a world that is not as safe as we would like it to be, and there are very real enemies out there. But it is also understanding a new world that we live in right here on the North American Continent and one that we have ignored for years; that is, creating secure borders and defining and designing a well-run immigration program that responds to our needs and our economy and, at the same time, is fair and responsible to those foreign nationals who would like to come to our country to work.

I began to work on this issue not just a year ago, not just 2 years ago, but in

1999. I first looked at it through the eyes of American agriculture when they came to me and said: Senator, we have a problem. We have a very big problem. The H-2A program that supplies foreign national workers to agriculture doesn't work. It is broken. It is bureaucratic. It is nonfunctional and doesn't meet our seasonal needs. As a result, that Federal H-2A guest worker program only supplies about 40,000 to 45,000 workers. But we need and have over 1 million in our workforce who are foreign nationals and, frankly, they are illegal, and we know they are. It ought to be fixed because we don't want to base our economy as American agricultural producers on an illegal process because someday it may do us damage.

So I began to work, along with several others, to try to build and propose changes within the immigration laws to create a legal guest worker program. We were doing that in 1999 and 2000. And in 2001, as we all know, America's roof literally fell in as we were attacked by the terrorist elements of radical Islamic fundamentalism.

America became angry and frustrated. We began to find out that our immigration process was broken. I knew about it. I was working on it at the time. What I kept saying to my colleagues in counseling them is, as we secure our borders, let's also redo our immigration laws to identify the illegals who are in our country—treat them justly and fairly but identify them—to see if some of them deserve to stay here and work, while at the same time making sure we have a system that in the future recognizes the need for immigrant labor in our economy and specific to agriculture.

We worked on that a long while.

This year the Senate passed a comprehensive immigration bill. Parts of it I agreed with and parts I disagreed with. I voted for it to move the process along because I thought it was critically necessary because I didn't want to get the cart in front of the horse. I wanted the horse in front of the cart, and the horse in front of the cart is border security as a first line of defense in monitoring and controlling illegals in our country. The second line is a legal process which makes sure that those who are here are legal, and those who want to come to work in our economy are legal. And if you don't do them both in tandem, I think you create phenomenal problems for our country and our economy.

While we have been doing all of this, some would say we have done nothing on the border. That is why we need to pass H.R. 6061. If they are saying that, they are not looking at the facts, and they don't recognize what has happened.

Let me read some of the facts of what we are doing. We have increased funding by \$7.97 billion—billion—for border, port, and maritime security. We spent \$34 billion on the border and port and maritime security to date. We have added 3,736 new Border Patrol agents,

out of a total of 14,000, whom we are training and supplying over the next 5 years. And it was the Craig-Byrd amendment of 2 years ago, at the time of appropriations on the floor, when real dollars went into the program—\$500 million a year—to train those border patrolmen that we are talking about right here at this moment.

So if you detain and arrest foreign nationals who are illegal in our country, what do you do with them? You have to hold them. We didn't have any place to keep them. We have now added 9,150 new detention beds out of a total of 27,000.

We are now building 370 miles of fences in the congested urban areas along our southwestern border with Mexico. We are doing it right now. The legislation before us simply talks about it. Concrete is being poured, wire is being strung, and double fencing is being created as we speak. Why? Because many of us thought it necessary 2 or 3 years ago to get started in this process that is critically important right now.

In the area of border tactical infrastructure and facility construction—and by that we are talking about surveillance equipment, electronics, sensing devices—\$682 million is being spent. The numbers go on and on and on.

Why I am here talking about this is because we are today building a border system to secure and control our borders.

Just before the Easter recess, I was one of those privileged to be at the White House to talk to our President about our chairmanships. I am chairman of the Veterans' Affairs Committee. And that afternoon the President said to me: Well, Senator CRAIG, how are things in Veterans?

I said: Mr. President, I don't want to talk about veterans today. I want to talk to you about something that I think is critical and necessary that we do now.

He said: What is that?

I said: I think you need to declare a state of emergency on our southwest border, nationalize the Guard, assemble our National Guard on the border and close it.

He looked at me with a bit of surprise. He said: How can you propose that? You are the advocate of AgJOBS, Senator CRAIG. You are the guy out there promoting reform in immigration right now.

I said very simply and very clearly: Mr. President, we have to build credibility with the American people that we have lost because our borders are not secure and we have not controlled them.

Now, all of us and all who may be listening know the rest of that story. There are now 6,000 Guard men and women deployed to our southwest border, and that allows us to more effectively utilize the Border Patrol along our border and to spread our Guard out into the broad expanses of a 2,000-mile border which are maybe less dangerous

than the congested areas where the greatest numbers come across. Our Guard men and women are not policemen. Our border patrolmen are. They are trained. They are officers of the law so they can detain and arrest. But at the same time, the combination of using our border patrolmen, our National Guard men and women, and our Border Patrol is the right combination.

The reason I talk about this and set this idea in front of my colleagues is to express what is really going on out there; that is, this country is investing heavily on the southwestern border as we speak. We are spending billions of dollars. Fences are being built, and there are literally thousands of our men and women on that border securing it.

Is it working? Yes, it is working. Is our border closed? No, it is not. It is a 2,000-mile border across arid, desolate, and oftentimes extremely rugged terrain, and we will have to continue to invest to do that.

Let me tell my colleagues and show my colleagues the proof of what I am saying. The border is closing. My colleagues will remember that cart-and-horse analogy I used a few moments ago, where if we didn't close the border and get a comprehensive legal process to bring migrant workers into our country for the sake of agriculture and other industries, we could do real damage to our economy. So the border is closing, but we haven't passed a comprehensive reform bill. In fact, the politics would suggest we can't get there right now. And most assuredly, the U.S. House of Representatives, in my opinion, did the wrong thing this summer. They went out and condemned the work product of the Senate when they should have been at a conference table trying to work out our differences. They should have been trying to solve the very real problem that is now embodied in all of these press releases which are pouring in from across the country that speak of the crisis in American agriculture. It is a crisis born out of the reality of what I have just talked about: that a border that should be closed and secured is, in fact, closing and being secured.

Let me start with Idaho: "Potato Growers Struggle Without Immigrant Labor." The potato harvest is now just starting in the State of Idaho. The packing sheds will soon be full as that marvelous Idaho baking potato begins to sell in the world market. There aren't enough people available this year to help harvest those potatoes, and many of those people who are not available are migrant workers. The reason they are not there is because they can't get there. The legal system can't function quickly enough to get them there, and those who were coming illegally aren't coming because the border is closing.

Another press release: "Potato Growers Face Labor Shortage." That is just in Idaho where tragically enough, and in a real sense, we probably have 30,000

or 40,000 illegal foreign nationals working in agriculture and other work areas every year, and our unemployment rate is 2.5 percent, which means we are at full employment. But we need that kind of labor, and it is not coming.

Now let me continue—but only for a moment because other colleagues are here on the Senate floor to talk about this issue—down through these press releases. My colleague from California is on the Senate floor. She represents the largest, wealthiest agricultural region in our Nation known as the great San Joaquin Valley. There is no other agriculture like it in the world. If you haven't been there and visited, it is simply worth your time. Every fresh fruit and vegetable known to any consumer in this country is grown in the great San Joaquin Valley. I have always marveled at that agriculture. It is also true the Senator from California and the San Joaquin Valley probably host more illegal workers than any other area in our country. What is happening there today is that crops are rotting in the fields. Fruit is not being picked. Vegetables are not being harvested. That kind of agriculture that is intensively hand labor agriculture is suffering. I am told by some we could literally lose the raisin industry of our country, and that would be a tragedy if the politics of the Congress will not allow us to get to a legal system to allow that type of workforce to exist in our country today.

I could walk my colleagues through hundreds of press releases and the stories now being told by American agriculture of nobody there to help them pick their crops, to supply the marvelous vegetable stands of the produce sections of America's retail food industry with the abundance that we have all known. We saw it start in February in Yuma, AZ, in the great Imperial Valley where billions of dollars' worth of vegetables are picked in February and March to supply us—lettuce and celery and all of those kinds of things that we are used to. A third of it didn't get picked this year. That is a crop that is worth \$3.2 billion at the farm gate, and a third of it rotted in the fields because we in Congress couldn't get our act together. That is a tragedy and it is a shame.

It is believed between now and the end of harvest, or between now and next year, American agriculture could literally lose billions of dollars' worth of fresh produce that would go to the supermarket shelves of our country for all of us to eat, all of us. And if it isn't there and there is a limited amount, you know what happens. The price starts heading up.

Those producers of those products tell me they have advertised in their communities, they have pled with people to come out and work. They said they would increase their salaries substantially. But nobody is there to do the work. Americans do not do stoop labor anymore. It is a reality that we ought to face. Yet we have not been willing to face it.

Yes, we need a fence and we are building it. Yes, we need border security and we are accomplishing it, and we have not finished. Clearly, for the safety and security of this country our borders are more important than nearly anything else. But if you cannot feed your country, if you are going to lose your agriculture, if you are going to cause bankruptcies that are no fault of the farmers themselves, then you are doing some very real damage—along with your unwillingness to recognize the reality of a law that no longer works and a work product we are trying to accomplish at this moment.

We will probably have to go through an election. We will probably have to get the politics of the election out of the way before the House and Senate will come to the reality of the problem that is clearly before us today because we are just a week and a half from adjournment or recess until after the election.

The kind of comprehensive work that we should have been doing in August and we should have been doing in September turned into politics and not constructive work. I hope the House bill in front of us is not an extension of those politics and politics alone. I hope it really is meant to fit into a total package of border control and comprehensive immigration reform that allows this country and our economy and our hard-working agricultural people a legal, transparent, and open guest worker immigrant labor force. We need it. We have always needed it. We should not be denying its reality today.

The Senate attempted to accomplish that. We argued mightily on immigration reform on the floor of the Senate for nearly a month, and we do not all agree because it is in itself a very contentious issue. It has all aspects of the American culture and the American emotion tied into it. But as we studied it I think a majority recognized the reality of doing the right thing. The horse and the cart have to be connected. Border control and border security is the first line of defense, and a legal structure behind it that gives employers a legal, identifiable workforce is necessary and appropriate, and they have to be connected.

Let me close with this thought: We do not reform immigration laws in this country, we let them go. Politically we will not handle them. But we will continue to tighten a fence until our 2,000-mile land border is complete and the border closes. There will be a new phenomenon emerge in the port of Los Angeles along the coast of California, and they will be called "boat people." Because those who want to come here to work, once we have created the fence across the land surface that they now trek, will find another way to get here. Somebody in a fast speedboat will charge \$1,000 a head and they will pick them up in Mexico and shoot them around the water and across the waters and into the coastline.

My point is simply this. You have to have two things that work here to

make it work. You have to have border security and you have to have a law, a law that works, so when that employer hires a foreign national, the ID card is real and they know they are hiring a legal person. I am not going to put American agriculture or any other law-abiding employer at risk when they need people to get the harvest out unless we do so in a way that says we will sanction you if you hire somebody who is illegal, but we are going to make sure that you have a workforce that is legal and has the kind of transparency of ID and uncounterfeitable documents that are critical and that are in the Senate bill.

Those are some of the issues we need to talk about and we are going to ignore now until after the election. Here are the press releases. Billions of dollars will be lost in American agriculture this year and American consumers will pay an increased price for the quality produce they buy on the fresh fruit shelves of our country. It is a reality. It is happening as we speak.

I thought it was important that I come to the floor to talk about it. Most want to simply ignore it because the politics of the issue is simply too difficult to deal with. It is not too difficult to deal with. We can do both as a great nation. We can secure our borders. We can improve our immigration laws. We can provide a legal and necessary guest worker/migrant worker program for the segments of our economy that speak to that type of workforce. It is our responsibility. I hope we do not shirk it or turn our back on it.

American agriculture, along with a lot of other segments of our economy, will suffer if, in fact, we do not have the political will to accomplish the right and responsible issue and things at hand.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to congratulate the distinguished Senator from Idaho on his comments. I subscribe to them 100 percent. I congratulate him and thank him for the leadership he has provided on the AgJOBS program. I don't think there is anyone in the U.S. Senate who knows more about what the needs in agriculture are across this great land than Senator LARRY CRAIG. He has been consistent and he has been devoted. I think his expressions here today are really the expressions of virtually everyone in the Senate who knows what is happening in their own State with respect to agriculture today.

I also rise joining you, Mr. President, as a member of the Judiciary Committee, and the one who moved the AgJOBS program on to the immigration bill that is part of the Senate bill. I come here with a plea and that plea is, if there is going to be a border security bill before the full U.S. Senate, add the AgJOBS bill to it, because it is a crisis and it is an emergency and there is a practical need to do so.

It just so happens that there are two amendments at the desk that would do this. There is a Republican amendment on AgJOBS sponsored by the Senator from Idaho, and there is a Democratic amendment on AgJOBS sponsored by the Senator from California. They are one and the same. They could be easily added by either one of us and either one of us is willing to cosponsor the amendment of the other. The reason is because it is in fact an emergency.

This is harvest season out in all the great States. I was once told—Senator CRAIG, you know him well—by Manuel Cunha, of the Nisei Farmers League, just for raisins alone in my State, it is 4 counties and it takes 40,000 workers to harvest those raisins.

The Senator mentioned that California is so large in agriculture. I want the President to know that it is a \$31.8 billion industry. That is in 2004. It is an enormous industry. We have 76,500 farms in California. I am asking every one of those farm owners to weigh in at this time. Let the Senate know that there is now an opportunity to see that you have a certain, stable workforce. Weigh in with the Senate and say: Put AgJOBS on the border security bill.

We have 1 million people who usually work in agriculture. I must tell you they are dominantly undocumented. Senator CRAIG pointed out the reason they are undocumented is because American workers will not do the jobs.

When I started this I did not believe it, so we called all the welfare departments of the major agriculture counties in California and asked, Can you provide agricultural workers? Not one worker came from the people who were on welfare who were willing to do this kind of work. That is because it is difficult work. The Sun is hot. The back has to be strong. You have to be stooped over. It is extraordinarily difficult work.

For a State as big as mine, there is an immigrant community which is professionally adept at this kind of work. They can pick, they can sort, they can prune, they can harvest—virtually better than anybody. This is what they do. This is what makes our agricultural community exist.

It is very hard for a farmer to hire a documented worker. It is very hard to find that documented worker. So if they are going to produce, they have to find the labor somewhere.

My State produces one-half of the Nation's fruits, vegetables and nuts. One-half comes from California. We produce 350 different crops. We have an opportunity now, with this bill, to get adequate labor for this harvest season on this border security bill.

We know the votes are here in the Senate. We know the votes are in the House of Representatives. We know the President would sign the bill. Why not do it? Why not do it? Both Senator CRAIG and I want to plead with the leadership of the Senate, allow us to put this amendment up before the Senate. We can limit our debate. We know

the votes are there. Let me ask the Senator, when this matter came before the full Senate; that is, before the immigration bill, how many votes did you have for the AgJOBS program?

Mr. CRAIG. I believe when there was a clear and clean vote on AgJOBS alone there were 53 who voted for it that day and there were 4 absent who would have voted for it. I believe there are between 58 and 60 votes for the AgJOBS provision and bill the Senator speaks to.

Mrs. FEINSTEIN. I actually believe, if I might respond, that there are 60 votes because of the amendments that we made in Judiciary—which certainly brought me along, and I wasn't there before.

Mr. CRAIG. That is correct.

Mrs. FEINSTEIN. And I think it brought others along as well.

Mr. CRAIG. If the Senator will yield, she makes a tremendously important point. The original AgJOBS bill that brought the vote I just spoke to is not the bill before us now. The amendments that the Senator has brought and the amendment that I brought—because the Judiciary Committee itself changed some of it at the Senator's guidance and direction, and on the floor we added additional amendments—added the safeguards and protections and fines and the requirement of paying back taxes, to cause that illegal, who might become legal through this process, certain responsibilities that were not in the original bill.

Mrs. FEINSTEIN. That is correct.

If I may, through the Chair, I would like to ask the Senator one question. He mentioned the H-2A Program which in my State has not been a widely used program. This is a reform, also, of the H-2A Program, to make it more broadly applicable across the line. Is that not correct?

Mr. CRAIG. The Senator is absolutely correct. It identifies and deals with those agricultural workers who have been here for 3 years or more, who are undocumented, who could become legal. That is step one. Then it deals with a reform, streamlining of and a more usable H-2A Program, to implement an effective guest worker program.

The point the Senator is making I think is very important for the Senate to understand. If we were to pass AgJOBS tomorrow, if it were to become law, many agricultural workers who were once in the field working but may have moved somewhere else in our economy with the opportunity to become legal would return to agriculture. It is not letting more across the border. It is causing those who have moved to construction and housing and other places to say, Gee, you mean I could become a legal worker if I went back to agriculture and stayed there for 150 workdays?

The answer is yes. There could be a near immediate relief brought by the passage of the AgJOBS provision.

Mrs. FEINSTEIN. The Senator is absolutely right. I think he has made an

excellent point. We know that many of the workers in agriculture who are undocumented have gone on to work, for example, in construction, in the service industry, in the restaurant industry, in the hotel industry, and so on and so forth. But they work in the shadows. They work with fear today.

The program that the Senator and I are speaking of is not just a pile of programs. This is a 5-year sunset program. But you would see how it would work. You would then have documentation of every individual that is legally working in that program.

In my State of California, growers are reporting that their harvesting crews are 10 to 20 percent of what they were previously due to two things: stepped up enforcement, a dwindling pool of workers, and the problem that ensues from both.

We have an opportunity to put AgJOBS on this bill, a modified AgJOBS, reforming the H-2A program, pilot AgJOBS for 5 years. I will explain very quickly how that works. I think it is important that people understand this.

The first step would require the undocumented agricultural workers apply for a "blue card," if they can demonstrate that they have worked in American agriculture for at least 150 workdays over the prior of 2 years. The second step requires that a blue cardholder must work in American agriculture for an additional 5 years and work 100 days a year, or 3 years at 150 workdays a year; again, a blue card, biometric, would be documented. For the first time you would know who the worker is. The farmer would have certainty that he can hire that worker. If the worker meets this expected work requirement, they will then be eligible for a green card. Employment would be verified through the employer-issued itemized statement, pay stub, W-2 forms, employer letters, contracts, or agreements, employer-sponsored health care, timecards, or payment of taxes. The program is capped at 1½ million blue cards over 5 years. It will not have an annual cap.

I have explained it. My State alone has a million agricultural workers. How many does Idaho have? I ask he Senator through the Chair.

Mr. CRAIG. We are not quite sure. We believe it could be between 35,000 and 40,000.

Mrs. FEINSTEIN. I thank the Senator very much. That may be a much smaller amount.

But virtually every State represented in this Chamber can come forward with a like amount of people. Virtually every Member in this Chamber can come forward with problems they are having with harvesting at this particular point in time.

I am told there are problems harvesting citrus in Florida, apples in New Hampshire, strawberries in Washington, and cherries in Oregon. In Wyoming, it has been reported that the labor shortage played a central role in

the eminent closure of the \$8 million Wind River Mushroom Farm.

Let me quickly run through a couple of other things.

Perhaps the most impacted are the organic farms, which are highly labor-intensive. Hand-picked crops such as at Lakeside Organic Gardens, which happens to be in my State, are suffering as fields go untended and acres have been torn up because there is no one to harvest them. The situation is so bad that this particular farmer, Dick Peixoto, has been forced to tear out nearly 30 acres of vegetables and has about 100 acres that are compromised because there is no one to weed them. He estimates his loss so far this season to be \$200,000. That is worse than anything he has seen in 31 years of farming.

Some fields in the Pajaro Valley in Santa Cruz County are being abandoned because farmers can't find enough workers. Farmers in that area say there are 10 to 20 percent fewer workers available to harvest strawberries, raspberries and vegetable crops. That is the great Pajaro Valley that produces artichokes and acres and acres of row crops. They say we have sustained strawberry and raspberry losses due to shortage of labor.

Strawberries lost are approximately 100,000 cartons for the fresh market, raspberries approximately 50,000 cartons. Due to the shortage of labor, we were unable to harvest 900,000 pounds of lemons and 128,000 pounds of grapefruit.

These are some examples of what is happening. You can pick up newspapers, the San Jose Mercury News, headline: "Worker Shortage Crippling Farmers." It goes on and depicts it.

Morgan Hill: Farmers are reporting a shortage of labor to harvest crops forcing them to take huge losses. The impact is mixed, varying with the amount and type of crops a farmer is growing. Those growing more fragile crops such as strawberries and peppers have been scrambling to find enough workers to pick the harvest.

This goes on to say they cannot harvest their yields. Labor pains increasing for the great San Joaquin Valley that Senator CRAIG spoke about. Manuel Cunha said symptoms of labor shortages are showing up with fewer pickers in the Valley's orchard.

Between the tree fruit guys, the crew sizes are varying from a crew of 20 to 22, down to 9 to 15. What is happening now is we are starting to see a trend going toward table grapes. The Valley is starting to get into the table grape harvest in the Arvin area. The word I am hearing is that the table grapes may take workers from tree fruits because the free fruit workers are only working so many hours in the day because of the demand. Union-produced labor shortages became more pronounced in the coming weeks with the start of the raisin grape harvest.

It goes on like this in article after article.

The Farm Bureau Federation of my State: Headline: "Labor Shortage Teeters on Critical Edge."

As the border with Mexico tightens, and Congress continues to drag its feet on passing comprehensive immigration reform, farmers and labor experts say

that the California farm labor pool is rapidly shrinking. A lag in reporting labor statistics makes it hard to pinpoint exactly how short the labor supply really is, but many growers put the gap again at about a 10 to 20 percent shortage Statewide.

This goes on and on, report after report.

There is rarely a time where issues come together and it is possible to move aggressively on something such as this. This is one of those times. AgJOBS has been debated on the floor of the Senate. It has been debated in the Judiciary Committee. It has been amended. It has come out of part of the immigration bill.

Senator CRAIG and I have worked to see that the amendment at the desk remedies all the problems that were brought up in the last floor discussion. It is ready to go. It can be added to this bill. It will pass in the House.

Why won't the leadership allow this amendment? It would be one thing if there was not a crisis out there. It is another thing if there is a crisis. And there is a crisis. Everyone in this body knows that. Everyone knows farmers are scrambling. Everyone knows farmers are losing their crops. Everyone knows there is produce on the ground that can't be harvested. Why don't we do something about it? And everyone knows that agricultural labor in the United States of America is virtually dependent on undocumented workers. This is a way to document them. This is a way to enhance security. This is the way to get the workforce for our farming communities that we need.

I went to ports, and I saw boxes and carton after carton of export products at the ports. We depend on exporting our fruit. You can't do it if you can't harvest it. What happens when the prices begin to rise in the markets? And they will. Lettuce that can't be harvested, tomatoes that can't be harvested, almonds, raisins, grapes. We had a chance to do something about it, and you have Senators standing here on the floor saying we could do something about it now, it will pass, it will be signed, it will go into law.

AgJOBS is the one part of the immigration bill about which there is uniform agreement. Everybody in both bodies knows that agriculture in America is supported by undocumented workers. As immigration tightens up, and they begin to pull people and deport them, as farmers have trouble finding them, as they hide in the shadows more, the result is our crops go unharvested.

We are faced today with a very practical dilemma and one that is so easy to solve. The legislation has been vetted and vetted and vetted. Senator CRAIG, I, and a multitude of other Senators have sat down with the growers, with the farm bureaus, with the chambers, with everybody who knows agriculture, and they have all signed off on the AgJOBS bill. Why don't we pass it? What kind of a plea will be heard? How

many farmers have to be ruined to prove a point that I don't understand, that I can't fathom, that I can't believe we turned down this opportunity to solve a real problem.

If you want a Republican amendment, it is at the desk. If you want a Democrat amendment, it is at the desk. They are both the same.

I am simply here to say, Mr. Leader, let this come to the floor. Mr. Leader, take the steps that can save American agriculture right now. Leader, pass this bill which has been vetted, which has been debated, which has been discussed in both Houses, several committees and on the floor of the U.S. Senate. Simply bring this amendment to the floor. Don't fill the tree and now allow this amendment.

I say once again, the 75,000 farmers in my State, if there ever was a time to weigh in, this is it. If there was ever a time for you to pick up that phone and call every Member of this body and anyone you can and say, Hey, I am a farmer, and I can't find labor to harvest my crop, this is a bill that can help me, and I want you to pass it now. In my State, 76,000 farms. If half would do it, if a quarter would do it, if a tenth would do it, we would get this bill passed. For farms in other States, this is your moment. Stand up, weigh in. We are, after all, a representative democracy. We represent people. We represent States. These people and these States have weighed in, in the press, and said: We are in trouble. We need help.

Now is the time. I say to the Republican leader of the Senate, do not turn your back on the farm community of America. This community needs undocumented labor to plant, to prune, to clear out weeds, and to harvest. That has been the case for years. Give it certitude. A pilot program; 5 years; 1.5 million blue cards over the 5 years; specific requirements; taxes paid; filing with the Government; fines paid. But people can work and harvest the crops. I say to the Members of this Senate, it would be a terrible tragedy if we turn our backs on the breadbaskets of America. We have an opportunity. It is so simple. Just enact this AgJOBS program now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I am pleased to follow the distinguished Senator from California and the distinguished chairman from Idaho. They make a compelling case. I represent an agricultural State in the great State of Georgia. I understand the difficulties they have outlined. They have also given me a couple of points to follow on to demonstrate how important it is that this Senate, in fact, embrace comprehensive reform but do it in a two-step process where we ensure our borders.

The distinguished Senator from California made the following statement: The reason we have so much illegal im-

migration today is because Americans don't do the jobs or won't do the jobs. I submit that is partially right.

The reason we have so much illegal immigration today is because it is easier to get into the United States illegally than it is legally. At a time of war on terror, that is a huge problem. We owe it to ourselves to fix our immigration system in a tandem, in-step process that guarantees security and then reforms immigration to meet the demands of American business, American agriculture, and American industry.

We do not find anyone trying to break out of the United States of America. They are all trying to break in, for a very good reason. This is the land of hope, opportunity, and promise. We have to return to the day where the way to come to this country is legally and not illegally. The best way to do that is to make illegal immigration into this country untenable. The way to do that is go from making promises to actually causing reality to take place on our border.

I support the motion to proceed on this House bill, H.R. 6061. I support Senator SESSION's amendment to the original bill in the Senate to put up a barrier. I support authorizing them. But I remind my colleagues in this body that we do two things that start with "a": we authorize and appropriate. An authorization is a promise, and an appropriation is a commitment. It is time in terms of securing our borders that this Senate and the body across the hall made a commitment and made border security a reality.

I commend Chairman JUDD GREGG on the tremendous work he has done. Chairman GREGG is precisely correct. We are making progress toward securing the border. However, we have not closed the deal. We have not finished the appropriation. We have not gone from the authorization commitment that it will take to do so. Until we do, we can never have a meaningful immigration reform program.

I suggested, Senator CORNYN has suggested, Senator SESSIONS has suggested, and Senator FEINSTEIN just made the statement that this is truly a national emergency. If it is, it is truly a time for an emergency supplemental from the President of the United States to fund those things we have all agreed it takes to secure our border.

For the sake of clarity, I will go through those for a second: 6,000 more Border Patrol agents, which, by the way, can be accomplished and trained in 24 months; barriers along the border in those geological and geographic areas that demand barriers, as in southern California years ago. We know how much that cost. That can be accomplished in 24 months. We need the "eyes in the sky" referenced in H. Res. 6061, the seamless "eyes in the sky" so our manpower can be multiplied tremendously because we have unmanned aerial vehicles patrolling our border, all 2,000 miles of it, night

and day. We need to fund the judicial and prosecuting authority along our border to the southwest to see to it that when we make a case, we prosecute. Lastly, we need to build the detention facilities that end the practice of catch and release.

The beauty of going ahead and making the commitment to do it is, immediately upon doing so, those who are here illegally will comply with whatever program we come up with because they will know they can no longer go home. When the border is secure, it works both ways. We can do that. I have not met an American citizen yet in this debate which has been raging for the better part of the last 5 months in the Congress of the United States who wouldn't consider granting legal status to someone who is here illegally if they have cleared the terrorist watch list, if they have demonstrated they have a job, but they don't want to do it until they are sure our border is secure.

History is a great teacher. Twenty years ago, Alan Simpson, from Wyoming, was the author of the American immigration reform bill. The American people were clamoring to do something about the 3 million undocumented and illegal workers who were in America in 1986. People along our borders were clamoring for border security. We passed the Simpson bill. It promised border security. It granted amnesty to those 3 million.

The reality was, we delivered on the amnesty. We looked the other way on border security. And today, we have a 12 million-illegal-alien problem. If we do a wink and a nod to border security now and reform immigration to attract more, all we will do 20 years from now is have an untenable number of 20, 25, or 30 million.

So H.R. 6061 sends a great message. I might add, the reason it got 96 votes with no dissenting votes on a motion to proceed today, most Members of the Senate have gone home. Most have talked the last 5 months to their constituents. Most know the American people want the border secure. It is a good political vote to authorize those barriers, those fences, and this appropriations. However, it is ultimately our responsibility to see to it that we authorize and appropriate border security and do it in tandem with a reformed immigration program.

By the way, I am always amused by how everyone said we have to get this new reform program in place and don't make the barrier be a trigger for it. That won't work. The truth is, it takes just as long to get the reform program workable as it does to perform those items I just delineated to secure the border. In fact, the verifiable, nonforgeable, biometric ID that we need, we know we can do it in 18 months and have implemented in 24 months. That happens to be exactly the same period of time it takes to get the job done on the border.

It is time we start parsing on the edges. It is time we stop making this a

chicken-or-egg proposition. It is not a chicken-or-egg proposition. Reform of immigration can only take place after we have secured the border. The work it takes to secure the border is exactly the time period it takes to prepare for the new situation of legal immigration.

We are close to a great opportunity to respond to the American people and do what is right. I commend my colleagues who come to the Senate and support 6061. It will send a great signal. But it is only a promise. We need to deliver a reality.

I ask unanimous consent that this letter to me from Richard A. Smith be printed in the RECORD.

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

SEPTEMBER 5, 2006.

Hon. JOHNNY ISAKSON,
U.S. Senator.

DEAR SENATOR ISAKSON: I write to inform you of the grave concern I have with respect to both Houses failure to pass immigration reform legislation. I cannot imagine what more you and your colleagues require to motivate Congress to take action on this pressing matter of national security. More than a full year has passed and still not a shred of evidence that the House or Senate fully appreciate the concern this country has over illegal immigration. The impression is that government has completely failed its citizens on this pressing issue.

My vote and support, will go to the party that can address this critically important national security issue. The United States of America is being invaded by a foreign country without firing a single shot and our country's elected officials are apparently incapable of coming to agreement on a solution. I could not be more disgusted with Congress over this issue. You and your colleagues are urged to act on this pressing issue.

Very truly yours,

RICHARD A. SMITH,
Bernardsville, NJ.

Mr. ISAKSON. I will not read all of it, but this is an American citizen who wrote this letter today which I think illustrates the critical need for securing our border and ensuring it is done before we open the gates.

More than a full year has passed and still not a shred of evidence that the House or the Senate fully appreciate the concern this country has over illegal immigration. The impression is that government has completely failed its citizens on this pressing issue.

The United States of America is being invaded by a foreign country without firing a single shot and our country's elected officials are apparently incapable of coming to an agreement or a solution. I could not be more disgusted with the Congress over this issue. You and your colleagues are urged to act on this pressing issue.

I don't know how many letters have been written that contain thoughts almost identical to those of Richard Smith, but there have been lots of them. They are by far the preponderance of the communications to this Congress and this Senate.

Let's get H.R. 6061 up for a vote. Let's pass it. Let's make another promise toward border security. But let's come back in a timely fashion. Let's

secure our borders and make the commitment and the investment that will take place. Let's reform our immigration process so the way to come to America in the future is the right way, not the easy way because we looked the other way.

Anders Bengsten was the father of my grandfather, whose name was also Anders Bengsten. He was a potato farmer in Sweden. When the famine hit in 1903, he emigrated to the United States of America. In Scandinavia, you don't keep the last name you had there; you take your father's first name, Isak, and add to it "son." That is why most Scandinavians are Isakson, Ericson, Johnson, and Olson. He came to America and became Anders Isakson. He fled because of the potato famine. He landed on Ellis Island. He came legally. I have gone to Sweden and gotten the embarkation and legal papers. I have them at home.

My father was born in 1916, while Anders was still here legally but as an immigrant. My father is an American citizen today because of birthright citizenship. I am a citizen today because Anders Isakson bore that son in 1916. The proudest thing I have on my wall in my den at home is the May 3, 1926, documents that made Anders Isakson a U.S. citizen when he completed his process, 23 years after coming here legally as an immigrant, to become a citizen of the United States of America. There is not a person in this room who respects immigration and the right to come to America and the promise of Ellis Island more than I do. I am a living testimony to its promise.

It is time we return to a pathway to citizenship that is legal. It is time we stop looking the other way and letting people come to America the easy way and the soft way, and say to those who are learning our language, studying our history, those who are pledging allegiance to our country and disavowing their previous allegiance, those who are coming the right way ought to be the stars in the crown of American immigration. It is time we secure our border. It is time we reformed our immigration so the numbers coming reflect the demands of our economy. It is time we stop making promises. It is time we start delivering. America is too important. This issue is too critical to the American people.

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

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

COMAIR FLIGHT 5191

Mr. McCONNELL. Mr. President, the people of Kentucky are still reeling from a terrible tragedy that struck less than a month ago. On August 27, ComAir flight 5191 crashed shortly

after takeoff at Blue Grass Airport in Lexington. Forty-nine people perished.

Grief has descended on scores of families and into countless lives because of this devastating event. I know I am joined by all Kentuckians in extending sympathies and prayers to the families and loved ones of the victims.

As we continue to grieve, people throughout the Commonwealth are looking for answers. The National Transportation Safety Board has begun an investigation into the cause of this crash and what recommendations can be made to improve future aviation safety. I think we have an obligation to make sure their investigation proceeds smoothly and thoroughly and concludes in a timely manner so that all the questions can be answered as completely as possible. I have been personally briefed by the NTSB on the status of the investigation and intend to follow it very closely.

I spoke to the President about the crash, and he offered the entire State his prayers and is devoting the resources of the Federal Government toward the investigation.

I also expressed concerns to the Transportation Secretary nominee, Mary Peters. She is aware of our concerns and the need for a thorough investigation conducted in a timely manner. Today, she will have the opportunity to update the committee as well. We also need to hear what changes need to be made to our aviation system to prevent catastrophes in the future.

Mr. President, it is impossible to overstate the sorrow that has draped over so many lives in the Commonwealth of Kentucky. Most of the passengers on flight 5191 were from my State. In a variety of different places across the State, it is rare not to know someone who knew one of the victims.

As Kentucky continues to heal, we will take a deep breath, refrain from jumping to conclusions, and finish a thorough and complete investigation.

Kentuckians have drawn together during this crisis to lend each other strength. I am proud of the outpouring of aid and voluntarism that the residents of the Bluegrass State have shown their neighbors. Grief will be there for a long time to come, but sympathy and support will be there too.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to 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.

SOLIDARITY WITH ISRAEL

Mrs. CLINTON. Mr. President, today, supporters of Israel are gathering in New York to show solidarity with our friend and ally, the State of Israel, and I am proud to join my voice with theirs