

the majority side also. So I hope with Senator SPECTER and Senator LEAHY leading the charge that we can move forward very quickly.

Mr. FRIST. Mr. President, I am going to make a few comments on a separate issue. Then we will come straight back to the immigration bill and how we can best handle the debate over the course of today.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

NATIONAL PEACE OFFICERS MEMORIAL SERVICE

Mr. FRIST. Mr. President, as I speak, on the west front of the Capitol Building we are observing the 25th National Peace Officers Memorial Service. Tribute is being paid to the 155 peace officers who lost their lives in the line of duty last year. The President spoke there moments ago, and is still there expressing his sympathy to the families who have lost loved ones.

It is always, each year, a solemn occasion. It is a sacred occasion. It reminds us of the huge sacrifices our law enforcement makes day in and day out on our behalf in our communities all across the country. Every day around the clock America's peace officers are on the front lines, protecting our lives, our homes, and our freedoms. On the front line, when we need someone to investigate a dark alley or quell a domestic dispute or subdue a criminal, it is these dedicated professionals who answer that call, who answer that need. Each time they take a risk, and they never know if that risk will be the last call they will make.

On August 8, 2005, when Tennessee Correctional Officer Wayne Thomas Morgan got ready for work, he couldn't know that it would be his last morning to say goodbye. At 10 a.m., during a routine prisoner transfer at the Roane County Courthouse, he was shot and killed. Prison nurse Jennifer Hyatte ambushed him as he and another guard escorted her husband, George Hyatte, from the courthouse to a prison van. From behind the wheel of her SUV, Jennifer drove into the parking lot, shot Officer Morgan three times, and fled the scene, escaping with her husband in the car.

The couple were arrested 36 hours later in Ohio. They now face trial on murder charges scheduled for later this year. It was an outrageous crime that shocked the Nation and shocked the close-knit Kingston community.

A deacon and choir member of the Meadowview Baptist Church, Officer Morgan was well known and much loved throughout his community. His funeral was attended by over 1,000 people, including law enforcement officers from seven States and Canada.

Bradley County Chief Deputy Bill Griffith said Officer Morgan's death "reminds those of us in law enforcement that we put our lives on the line every day."

Today, we echo those words as we pay tribute to our fallen heroes.

I would like to take just a moment to recognize Tennessee's own who gave the ultimate sacrifice in the line of duty last year: Officer Michael Keith Buckner, who served the Decherd Police Department and was killed in an automobile accident while returning from an investigation in a severe snowstorm. He is survived by his wife and daughter.

Trooper Todd Michael Larkins, who served with the Tennessee Highway Patrol for 5 years, was struck and killed by a tractor trailer while conducting a vehicle stop. He is survived by his wife and daughter.

Correctional Officer Wayne Thomas Morgan, who served with the Tennessee Department of Correction for 28 years, is survived by his wife, son, and daughter.

And Officer Kay Frances Rogers, a 15-year veteran who served with the Murfreesboro Police Department for 4 of those years, died of injuries sustained in a motorcycle accident. She is survived by her mother, three brothers, and three sisters.

Our hearts go out to these families, to friends and colleagues. And we bow our heads in recognition of their dedication, their sacrifice, and their courage.

As a Senator and an American citizen, I pledge to keep working on behalf of our Nation's peace officers.

In 2004, I cosponsored the Law Enforcement Safety Act, which the President signed into law. This legislation was the No. 1 priority for our Nation's law enforcement community. It is now law of the land. It allows current retired police officers to carry a concealed weapon in any of the 50 States. America now has the added security of tens of thousands of trained and certified law enforcement officers serving and protecting us across the country even into retirement.

There are more than 800,000 law enforcement officers serving communities all across America, the highest number ever.

Each of these officers is a hero. And each of these officers has a family who deserves our appreciation and gratitude for their service.

May God bless the brave women and men who swear to protect and serve us.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 2611, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 2611) to provide for comprehensive immigration reform and for other purposes.

Mr. REID. Mr. President, this is summertime. It is the time that we see the rolling out of American blockbuster movies. They also try to save their best for the summer. This summer's blockbuster is "The Da Vinci Code," starring Tom Hanks. It starts this Friday all across America. But the third week in May on the Senate floor we have our own Senate blockbuster. It is the sequel though, not the original, part 2 of immigration. The first installment didn't go well for a number of reasons. One of the reasons I felt it didn't go well was the fact that the President wasn't involved personally in it. He wasn't involved in the debate.

For the first installment, I think the Judiciary Committee did very well. They were working on a very tight timeframe. There probably should have been more hearings. That is one reason there were probably more amendments than we would normally have on a bill. But I think Senators Leahy and Specter did an outstanding job to work out the bipartisan compromise—what we call the McCain-Kennedy legislation. It is a bill we tried to deal with on the floor. It didn't move forward for a number of reasons, one of which is the fact we couldn't work out a procedural mechanism to go forward. We tried. We had two cloture votes. All the Democrats voted to go forward with this; all the Republicans voted not to go forward with the legislation.

What did that legislation have in it? Both the McCain-Kennedy and the so-called Hagel-Martinez substitute. They have in them provisions that I think are so important to this country.

First, our border security.

I was in the Congress 20 years ago and served in the House of Representatives when we passed an immigration bill. Obviously, we didn't do a very good job. Twenty years later, we have at least 12 million people who are here that are undocumented.

With this legislation, which is so important, we do good, sound, long-term border security.

We also have to have a temporary worker program. There could be a number of amendments offered on this legislation. But we have to have a temporary worker program. I have said on a number of occasions that Las Vegas is a perfect example of why we need a temporary worker program. In the next 4 or 5 years, they will have 50,000 new hotel rooms. Management and the union say they cannot find the workers to man those hotels. So we need a temporary guest worker program.

I have mentioned we have 12 million people who are now living in the shadows. We have to have a way of bringing them out of the shadows. The McCain-Kennedy legislation sets the framework for doing that. How? By putting them on path of legalization—a path that would require their having jobs, paying taxes, staying out of trouble, no

crimes, learning English, paying some penalty. Then they move to the back of the line. It will take a long time for them to get to the front of the line, but at least they can come out of the shadows and not be worried about being picked up for a violation of some kind, with their American husbands and wives and their children. We need to do that.

Finally, we have to have in a good immigration bill something to make meaningful employer sanctions. That is why I support the legislation now before the Senate.

Of course, I am going to vote for some amendments. I think some improvements can be made.

We are now on the sequel of what took place before the Easter vacation. Yes, the sequel.

I hope the President will take a leading role in this sequel, a role on this rerun. But his role is up to him. It is up to him. His role starts tonight in a speech that he is going to give to the Nation. We have had preliminary statements as to what this speech is going to be. We understand that one of the things he is going to talk about is bringing out the National Guard.

I believe in strong border security. If there is a way we can work out the National Guard situation, fine. I am willing to go along with that. But my colleague, Senator HAGEL, has said he believes that the National Guard is stretched too thin. My colleague, Senator BIDEN, said the same thing. He said it both yesterday and on Sunday talk shows. Some National Guardsmen have had four tours of duty in Iraq.

I hope we can come up with something that is meaningful.

Governor Napolitano and Governor Richardson of Arizona and New Mexico have stated on a number of occasions over the last many months they believe the National Guard should be called out. The problem is they need some way of financing this. This is a Federal obligation. The States shouldn't have to bear it.

I hope the President will address that.

The President must be specific. We must have permanent solutions—not stopgap measures for our border security.

The President's role in this sequel, "Immigration No. 2," is up to him. I would be the first to give him a leading role. We need him. We didn't have him involved in the first immigration debate. He came in and started saying things after the votes had already taken place.

I hope the President is willing to stand up and be counted on this issue.

I have some questions for the President. The first question is very basic. We need to know what kind of immigration reform he supports.

Does he believe, as his Republicans in the House do, that we should build a 700-mile fence on our border? He must take a stand in that regard.

Does he believe, as his Republican colleagues in the House do, that we

should make all undocumented immigrants felons?

Does the President believe, as his Republicans in the House believe, that we should make all those who feed, clothe, and otherwise assist undocumented immigrants felons—also, people such as priests, ministers, missionaries, social workers, and welfare personnel?

He must speak out on these very unfavorable provisions in the House bill.

Two weeks ago, I had the opportunity to spend some time in my office with Cardinal McCarrick and Cardinal Mahony, two wonderful, caring, spiritual men.

Under the House legislation, Cardinal Mahony would be a felon.

Here is what Cardinal Mahony said about the bill:

The whole concept of punishing people who serve immigrants is un-American. If you take this to its logical, ludicrous extreme, every single person who comes up to receive Holy Communion, you have to ask them to show papers. It becomes absurd and the church is not about to get into that. The church is here to serve people. We're not about to become immigration agents. It just throws more gasoline on the discussion and inflames people.

I believe the Senate will move forward with good, strong immigration reform. But I also believe our work could be hijacked by House Republicans who want to turn immigrants into felons.

I have fought to prevent this from happening by guaranteeing fair representation in the conference committee. The President can do even more tonight.

Chairman SENSENBRENNER, the chairman of the House Judiciary Committee, the man who among others pushed this felony provision, stated publicly that the measure was included at the "administration's request." If that is the case, President Bush needs to tell Chairman SENSENBRENNER to remove the provision and that it is dead.

The President needs to make it clear once and for all that he will only support immigration reform that is tough and smart. He must publicly denounce the House bill.

The second question for President Bush concerns security. It is fine to hear him say that he wants to send the National Guard, but what else will he do to address 4½ years of neglect?

We all remember. We were celebrating the fact that one of the first things he did after becoming President was going to Mexico and saying he was going to work out the immigration problems with President Fox. It hasn't worked. This issue has been ignored for 5½ years.

Tonight, it is not enough for the President to tell us he wants to increase security at our borders. After all, I repeat, he has had 5½ years to do this. If he wants to be credible on border security, he must acknowledge the mistakes in the past and commit to fixing them.

The lack of security at our borders is frightening. Apprehensions of undocumented immigrants have dropped

under President Bush by 30 percent. We have gone from apprehending 1.7 million individuals illegally crossing between 1996 and 2000 to just over 1 million now.

It is not that less people are coming. It is that we don't have the resources we need to catch them.

A month ago, I was on the border. I saw some of the problems which the overworked Border Patrol agents face. At San Ysidro, it is hard to comprehend, but there are 24 lanes of traffic coming into the United States 24 hours a day, 7 days a week—24 lanes of traffic one way.

They are understaffed and underresourced. They simply can't handle it. It can be handled, but they need the resources to do it.

But it is more than people whom we can't catch coming across our borders. We can't forget that a few weeks ago the Government Accountability Office reported that in March they detailed how two Federal investigators were able to smuggle into our country nuclear material. This shocking report is an indictment of what has happened on our borders. For too long this administration has neglected its responsibility for protecting our homeland, including our border.

The 9/11 Commission told the President that he should work with other countries to develop a terrorist watch list which Border Patrol agents could use to check people crossing the border. Did he do it? No.

The 9/11 Commission gave him a failing grade when they issued their report card last year—a "D."

In the 9/11 legislation which we passed to help secure our country, Congress authorized 2,000 new Border Patrol agents.

What did the President of the United States do to put these 2,000 agents in place? Well, he did 75 percent of it. We are still 500 agents short. The President watched as the Republicans in Congress have refused to fund these positions even though we have tried.

The same legislation, the September 11 act, authorized facilities to hold up to 8,000 individuals detained while illegally crossing our border. Currently, we do not have the capacity to hold all those we detain, so they are most often released with a court date. They then disappear into our country. Over the weekend, there were news stories about tens of thousands coming into our country illegally. They are detained. Then we say: See you later, check in for court. Of course, they never come to court. Rarely do they come to court. Why do the authorities let them go? They have no place to put them. Did the President make sure the new 8,000 detention bed facilities became a reality? No. He has allowed the Congress to fund only 1,800 of these new detention beds. No wonder the border agents have no alternative but to let them go.

All this adds up to a credibility gap. It is no wonder the President got a failing grade, a D. He is coming late to

this sequel. He did not appear at all in immigration I. Let's hope he appears in immigration II and answers some of these questions.

It is not enough for him to unveil a proposal to use our National Guard. We need more. He must commit to fixing the problems that have been neglected and tell us when he will add additional agents. Congress calls for 2,000 agents; we are 500 short. It is not right that Congress passes laws saying we need 8,000 additional beds for the people coming to our country illegally and we get 1,800. He must commit to fixing the problem. These problems have been neglected. He needs to tell us when we will be getting the necessary authorized agents.

The States have had to bear the expense of holding these people. That should be defrayed by the Federal Government. This is not the State's border, it is the U.S. border. We must implement the recommendations of the 9/11 Commission.

Question No. 3: If President Bush is going to get tough on border security, will he finally get tough on border sanctions as well?

This is a question of credibility. For years, this administration has been willing to look the other way as immigration laws have gone unenforced. In 2004, the Government issued just three notices of intent to fine employers. There are tens of thousands of employers, and most of us believe that lots of them have violated the law with improper papers. There were just three notices of intent in 2004. No one was fined. In 2005, the administration targeted only one employer for an enforcement action. That was Wal-Mart. Overall audits of employers suspected of using illegal immigrants have dropped from 8,000 under President Clinton to less than 2,000 in 2003. President Bush must account for this record. He must do it in tonight's speech.

Question No. 4: If, as rumored, the President will announce he is going to send the National Guard to our border, will he tell the American people how this proposal will work without jeopardizing the critical role the National Guard plays in keeping our communities and Nation safe?

Our National Guard is a vital force on which all of us—Presidents, Governors, mayors, and Members of Congress—depend. Unfortunately, President Bush has overtaxed, overused, and underfunded this critical national security resource. The men and women of our Guard have given us their best in Iraq, Afghanistan, and around the world. They have given their best on the gulf coast. They have given their best in Nevada and other States across America, whether it is fires, floods, hurricanes, or civil unrest.

Now, if it is true that the President is going to order them on another mission, he must tell us how he will help them succeed and ensure they are ready and prepared should they be called to another mission—our border.

It is remarkable that in January, this White House submitted a budget to Congress calling to cut 17,000 guardsmen. Yet now he is asking them to do more with less. Tonight, in clear and consistent terms, we need to hear how they will be used, how they will be supported, how they will prepare and be ready for the unexpected missions.

Remember, all the preliminaries coming out from the White House say that it is going to be a temporary fix. I am for doing anything we can to protect our borders, within reason, but we must do it on a permanent basis, not a temporary basis. We have been told this Guard thing is a stop-gap measure.

These are just four questions. There are a lot of other questions we could ask, but these are questions on which I will judge the President tonight, as I believe the American people will. His answers will tell if he is committed to comprehensive reform and if he is finally serious about securing our borders. As I said, today marks the beginning of immigration part II. Scene I closes tonight with the President's speech, leaving many more scenes to play in the Senate, but the President must be a player, an actor, not a spectator, in all the processes of this debate, not just the first act.

The bill before the Senate is not perfect. I like McCain-Kennedy better than I like the substitute, the Hagel-Martinez bill. There will be amendments to consider and to work their way through the Senate.

For example, it is important we pass a bill and go on record supporting the concept of immigration reform, our enforcement-plus-reform approach, and opposing the House punitive enforcement-only bill. I have made it clear that I will support the Hagel-Martinez compromise but with some amendments. We will be well advised to take a look at some of the provisions in that bill to see if they should be amended. There are Members from both sides with good intentions who want to offer amendments, and they should do that. I voted to move forward on Hagel-Martinez before the Easter recess, with germane amendments being available postcloture. That did not work.

However, we are here now. The compromise we have is not perfect. Among other problems with the bill, I particularly wish to highlight my concern with the division of the population of 11 to 12 million undocumented immigrants that is in this legislation.

Under the Hagel-Martinez bill, we have three groups. The middle group of immigrants who have been here between 2 and 5 years will be required to do what I have heard some refer to as the "touch back" or "touch base" return. They have to cross the border at a port of entry then they can come right back. I personally think that is a big waste of time, effort, and energy, but that is what is in that legislation. There will be amendments offered on that, and unless there is something I don't understand, I would support the

amendment to change that provision. It does not make sense to me. I fear that it may deter participation in the program because some immigrants fear they will not be allowed to return or will be fined, or it is too much of a hardship with regard to their financial or childcare responsibilities to be able to make that trip. There is a waiver in it, but it is very difficult to obtain.

I repeat, this provision is a waste of time, energy, and effort. I know there will be an amendment offered to take that out.

More importantly, this bill includes some mean-spirited provisions for this group that strike me as unwise as a matter of public policy. They have to waive their right to administrative or judicial review, which means they have no right to contest the decision of some bureaucrat who for whatever reason decides they do not meet the requirement to participate in this legalization program. This sounds like a big problem to me.

In addition, many tens of thousands of people in this group will be ineligible for the program because they had a prior deportation order and failed to leave the country under a voluntary departure agreement or—this is particularly disturbing—they failed to comply with any request for information by the Department of Homeland Security.

The whole point of what we are doing is to deal with this population which is here under the table, for lack of a better description. They are here. They came here illegally, and there has been a decision made—and some people disagree with this, but we cannot simply deport all of these people. So we want to put them on a path to legalization. I repeat, jobs, taxes, no crimes, learn English, pay penalties. Most people believe that is the right thing to do. And in the future, have a better hold on our border and make sure we do not have problems in the future. This is what we need to do.

I don't see why we should make a distinction between those who have been unlucky enough to get caught and put through deportation proceedings and those who have not.

As far as those who have been here less than 2 years, we have to draw a cutoff line somewhere, but I am concerned, as the bill stands, this will simply lead to a situation where a couple million people will not leave the country and will simply remain here undocumented. That is unfortunate. I hope we can make improvements in the bill to address this group of people as well.

We have so much to do. I hope we can make some fixes to these sections so we can get as many people as possible out of the shadows, registered with the Government, paying taxes, learning English, staying out of trouble, and complying with the law generally.

I look forward to this bipartisan debate. I hope it is that. There are strong feelings, but this is when the Senate is

at its best. This is a debate which needs to take place. People have the ability to offer their amendments, debate those amendments, and move this legislation along. Democrats and Republicans are working together to construct legislation to protect our borders. It is so important we do this. I look forward to this debate. As I have indicated, we can do this. We must have this bipartisan measure move forward. The American people recognize the importance of it. It is important for our country.

In the Senate now, we have the distinguished chairman of the Judiciary Committee. He and I have not always agreed on matters. More often we have agreed than disagreed, but I want the record spread with my view on the remarkably good job under a very difficult situation that this experienced legislator has done during his tenure as chairman of the Judiciary Committee. We have been able to work our way through the most difficult issues.

I don't serve on the Judiciary Committee. Never have. I did in the State legislature. All difficult measures that are around come through the Judiciary Committee. They are funneled through the Judiciary Committee. That is the way it was in the State legislature, and we find the same here. Contentious issues find their way into the Judiciary Committee. Senator SPECTER has done a tremendously good job.

As I indicated in my opening remarks, what he and Senator LEAHY were able to do to get this bill to this point was a miracle. It was nothing short of a miracle to get the bill out of the committee in the first place and then to get it in the Senate. I hope, in the not-too-distant future, we can all look back and say this is one of the times the Senate has shown what the Senate is known for, and that is working its way through very difficult issues and having debates the country will long remember.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the distinguished Democratic leader for his comments, and I thank him for his statements today suggesting a bipartisan approach to this very important piece of legislation.

The leader of the Democrats is accurate when he has characterized the work which Senator LEAHY, the ranking member of the full committee, and I have done on this bill. It has been 16 months of cooperation on some of the tough issues, including moving ahead with bankruptcy reform, class action reform. Through very strenuous efforts, we were able to steer this Senate away from a confrontation and a filibuster in the so-called constitutional option. We moved through the confirmation of two Supreme Court Justices, Chief Justice Roberts and Justice Alito, which could have been very problematic.

We were able to work through the PATRIOT Act. We were able to work

through the asbestos reform bill where there are still issues of controversy that I hope we will be able to address in the not too distant future. And then, as the distinguished leader of the Democrats commented, moving this immigration bill out of committee was a very strenuous effort on the final Monday, with a marathon session.

Now the bill is back in the Senate, and with the spirit of cooperation which the distinguished majority leader, Senator FRIST, and the distinguished minority leader, Senator REID, have articulated, we are in a position to go forward. But we have a great deal of hard work to do.

As manager of the bill, along with Senator LEAHY, it appears we will have some 30 amendments. That is a lot of amendments but a manageable number if we address them with time limits so the arguments can be made on both sides and we can proceed to votes.

There will be other business which will have to be considered at the same time this bill is on the floor. We have pending the nomination of Brett M. Kavanaugh for the Court of Appeals for the District of Columbia Circuit. The prospects are there will be debate and an up-or-down vote, and that will have to be worked into our schedule.

The nomination of General Hayden is pending for Director of CIA. What the timetable will be there remains to be seen. But that is an important position, and it may be that action will be possible on that nomination up or down before we adjourn for the Memorial Day recess.

But the core work which we have to do will be the amendments on this immigration bill. I have discussed the timing of votes with the majority leader, who is prepared to back the managers of this bill on time limits on the votes. We have a 15-minute time limit on votes and a 5-minute grace period. It is our expectation we will be enforcing those limits rigorously. When we have stacked votes, as is our custom, we have 10-minute votes and 5-minute extensions. We will be enforcing those limits rigorously.

There have been some occasions when the votes have languished for very protracted periods of time. In the past, when we have rigorously enforced the time limits, it is something which I think meets with virtually unanimous approval among the Members. Even those who occasionally miss a vote appreciate the fact that they do not have to wait for 10, 15, or even more minutes after the vote is supposed to have ended until the next vote starts and the next debate starts. So everyone should be on notice that we intend to proceed in that manner.

We return to the debate on the immigration bill, after a period where we could not come to terms on the structuring of debate before the last recess. But now we are in a position to go forward.

This bill is an outgrowth of the core provisions of the McCain-Kennedy leg-

islation, then reported out by the Judiciary Committee with substantial modifications, putting the so-called 11 million undocumented immigrants at the end of the line, making provisions for border enforcement, making provisions for employer enforcement, and making provisions for judicial reform.

Then we have had additional modifications made by the amendments offered by Senator HAGEL and Senator MARTINEZ, so that we now have an amalgam of legislation, trying to work through the ideas of many Senators on very hotly contested items, and items which are very emotional.

There have been questions raised about what will happen beyond a Senate-passed bill, which will be a comprehensive bill, which will include a guest worker provision, which has been advocated by President Bush, also advocated by the Speaker of the House of Representatives, DENNIS HASTERT.

With that guest worker provision, and with other provisions, the Senate bill will be significantly different from the House bill.

We have worked cooperatively with Chairman SENSENBRENNER in the past on complex legislation. With the good faith which I know will be present by both bodies, I believe we can craft, under our bicameral system, a legislative package in conference which will be acceptable to both the House and the Senate.

There have been those who have said they will reject any major changes in the Senate bill. I believe the core provisions in the Senate bill—finding an answer to the 11 million undocumented immigrants, an answer to their status, is indispensable on immigration reform.

We cannot create a fugitive class in America. We do need immigrants, guest workers to handle very important jobs in our economy. I believe within a broad ambit we can reach agreement with the House of Representatives.

We are looking at this large group of undocumented immigrants, estimated by the Pew Hispanic Center to be between 11 and 12 million individuals. We know these undocumented immigrants constitute almost 5 percent of our labor workforce. We know, according to the Center for American Progress, the total cost to, so-called, round up every illegal immigrant within the United States would be \$200 billion to \$230 billion over 5 years, without the capacity to house people once they are arrested and under very difficult circumstances.

The legislation we are considering today is not amnesty. That is a pejorative term, really a smear term used to denigrate the efforts at comprehensive immigration reform. This is not amnesty because amnesty means a pardon of those who have broken the law. That is not the case here. These undocumented immigrants will have to pay a fine. They will have to undergo a rigorous criminal background investigation to be sure we do not have a

criminal element subject to staying in the United States and being on the citizenship track. They will have to learn English so they can integrate into our society. They will have to have a job for 6 years. They will then be at the end of the line.

When the comments are made about enforcing our borders, the first amendment which will be offered by the proponents of the bill will be a border security certification, which provides that:

The Secretary may not implement any program authorized by this Act or by any amendments made under this Act which grants legal status to any individual or adjusts the current status of any individual who enters or entered the United States in violation of Federal law unless the Secretary has submitted a written certification to the President and Congress that the border security measures authorized under title I and the increases in Federal detention space authorized under section 233 have been fully completed and are operational.

Now, this certification really is directed to those who have said we ought to have border security in place and employment sanctions in place before we consider what we do with the 11 million undocumented aliens, immigrants, or what we do on a guest worker program. Well, that is the cart-before-the-horse argument. This border security certification puts the horse in place before we move ahead to the cart and I think, when implemented, as implemented, will answer that point.

This bill, which we are laying down today, provides very material items on border enforcement. For example, it increases Border Patrol by 400 per year for 5 years; authorizes technologies to create a so-called virtual fence along the southern border; authorizes physical barriers for highly trafficked parts of Arizona's border and California's border, and highly trafficked parts on other borders; provides for a study of a possible new fence along the southern border; and creates crimes for eluding immigration inspectors; and it ends the catch-and-release practice for other-than Mexicans.

We also have very substantial provisions on interior enforcement. It eliminates gang members from admissibility for citizenship and deports those gang members. It clarifies and strengthens alien smuggling laws with increased penalties. It provides criminal penalties for various immigration-related document fraud. It provides for 20 more alien detention facilities, with the capacity for 10,000.

In title III we have employment enforcement. One of the major failings of the 1986 legislation was the failure to have employment enforcement.

We have provisions for a guest worker program. We have provisions for family-based and employment-based green cards.

We have title VI: work authorization and legalization of undocumented individuals.

Mr. President, I ask unanimous consent that, at the conclusion of my oral

remarks, the full outline of S. 2611 be printed in the RECORD.

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

(See exhibit 1.)

Mr. SPECTER. We have created, under the work authorization and legalization of undocumented individuals, three separate categories: a category for those who have been in the United States for more than 5 years before April 5, 2006; a second category, category 2, for those who have been in the United States for less than 5 years before January 7, 2004, which does have a "leave country and touch base" requirement.

The Senator from Nevada, the leader of the Democrats, raised his concerns about this provision as to whether it ought to stay in the bill and said there will be amendments to remove it. It is a controversial provision. There is a real issue as to whether it accomplishes something which is worthwhile. But in cobbling together and crafting a bill, it has been necessary to put in provisions which are not universally accepted. And that is the nature of legislation, that there are accommodations, and everyone does not get everything they like. But we will subject this particular provision to very careful analysis and debate, and the will of the Senate will be worked on it.

There is a third category of those who entered the United States after January 7 of the year 2004.

Mr. President, I ask unanimous consent that the full text of my statement be printed in the RECORD.

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

IMMIGRATION FLOOR STATEMENT

Mr. SPECTER. Mr. President, today the Senate resumes the debate on immigration reform with S. 2611, featuring the compromise that was crafted by a group of Senators shortly before our last recess. This legislation will affect millions of individuals and will alter America's social and economic landscape. According to the Pew Hispanic Center, between 11 and 12 million individuals reside in the U.S. unlawfully, and illegal immigrants account for about 4.9 percent of the U.S. labor force. According to the Center for American Progress, the total cost to "round up" every illegal immigrant within the United States would be \$206 to \$230 billion over 5 years, a plan that neither is fiscally sound nor accomplishes the goal of bringing the country's undocumented workers out of the underground economy.

In 1986, President Ronald Reagan signed into law a bill that instantly conferred legal resident status to millions of illegal immigrants. However, the 1986 bill had several flaws. Most importantly, the legislation did not include comprehensive immigration reform that dealt with all facets of the immigration problem. Thus, it failed to meet American business's demand for increased legal immigration. We cannot afford to repeat the mistake of 20 years ago. Nor can we simply confer legal status to presently undocumented workers without asking for something in return. Amnesty, by definition, is a pardon or a free pass granted to a large group of individuals without any consideration in return for the amnesty granted. Re-

quiring earned adjustments, as our bill does, is not amnesty; it is a system that enables undocumented immigrants, who are neither criminals nor terrorists, to earn legal status and to remain productive members of our society.

The 1986 immigration bill's failure to create a guest worker program to meet the needs of our employers meant the market would step in to accommodate those needs. Market forces created, de facto, an "illegal guest worker" program, whereby undocumented workers would enter the country illegally in order to obtain work. Employers benefited under this system because they obtained workers. Undocumented workers benefited because they secured jobs. But an "illegal guest worker program" is unacceptable. As the economic motivation to come to the U.S. remains strong, we should provide the avenues and incentives for U.S. employers and foreign workers to only use legal channels. The bill before the U.S. Senate makes it attractive for immigrants to use existing legal channels rather than so-called coyotes who illegally traffic foreign workers into the United States.

The compromise creates an earned adjustment program for longer-termed undocumented individuals who have deep roots within their communities. It allows for individuals who have been in the United States 5 years before April 5, 2001, to come out of the shadows and legalize their status. However, unlike the 1986 amnesty, which only had minimum requirements, our compromise has strict, objective requirements that must be met in order for the individual to legalize and adjust his status. The individual must undergo security and criminal background checks; must not be determined to be a criminal or a national security threat and deemed inadmissible; must have worked a minimum of 3 of the 5 years prior to April 5, 2001; and must continue to work for a minimum of 6 years after the date of enactment to adjust their status to lawful permanent resident. Most importantly, these individuals are required to "get in the back of the line" and cannot adjust their status to lawful permanent resident and get a green card until those waiting in the queue have their opportunity to receive their green card. The individual must also pay a fine of \$2,000, pay all applicable back taxes as well as remain current liability, and must demonstrate knowledge of the English language and an understanding of American history and Government.

The compromise also creates a new status called "Mandatory Departure and Reentry" for individuals who have been in the U.S. and employed less than 5 years but before January 7, 2004. These individuals must come out of the shadows during the 3-year period after the date of enactment and must leave the U.S. and return to the country in a legal status. The crux of these provisions is that it encourages undocumented individuals to leave the United States and surrender their status as soon as possible, without separating families and without disrupting businesses. If departure occurs within the first year, the individual is not subject to any fines. If departure occurs within the second year, there is a \$2,000 penalty, and if departure occurs within the last year of the program, the alien must pay a fine of \$3,000. Individuals who entered after January 7, 2004, must immediately depart the U.S. and apply through the new visa category created in my bill, the new H-2C program for temporary workers. The total number of H-2C visas available will be 325,000 visas and will adjust, either up or down, according to the market demands. These individuals have lived in the shadows and outside the protection of law for too long. As such, out of fear and desperation, many are abused and discriminated

against at the workplace and are afraid to come forward. The compromise achieves the goal by allowing these individuals to come forward.

Another flaw of the 1986 amnesty was that it did not provide for realistic enforcement. S. 2611 strengthens enforcement of immigration laws and provides the necessary resources for effective border and interior enforcement. S. 2611 provides employers with the tools they need to ensure their workforce is authorized, coupled with a commitment to provide the resources necessary to abate the flow of illegal immigrants into this country in the future.

The 1986 bill failed because it did not address our Nation's economic need for future guest workers. Immigration reform cannot only deal with the current illegal population or just provide tough border enforcement measures, but must also provide avenues for future immigrants to come to this country to labor and to enjoy the fruits of U.S. citizenship. We must require illegal aliens already in the U.S. to come forward, register, and undergo the necessary background checks to ensure our national security, and we must provide a legal avenue for future immigration to meet the future needs of our economy. As we return to the immigration debate, let us not repeat the mistakes of the past but build upon the growing consensus in America to allow immigration to help shape our future.

Mr. SPECTER. Mr. President, I have talked long enough to have noted the arrival of the distinguished ranking member, who I know will shortly be seeking recognition. Before he does, let me repeat for him the comments made by the distinguished leader of the Democrats, complimenting the work Senator LEAHY has done, complimenting the work which we have done jointly generally in the Judiciary Committee, and complimenting the work especially of the Judiciary Committee on this immigration bill.

Senator LEAHY and I appeared together earlier today in a tribute to fallen police officers and commenting about the need for bulletproof jackets. He and I have worked together on a great many matters, with our collaboration having originated before either of us got to the Senate at the National District Attorneys convention in Philadelphia in 1969, when he was DA of Burlington and I was DA of Philadelphia. Our efforts on bipartisanship, I think, have been followed by other Senators, and I think it has been in the interest of the Senate and the country to have that kind of cooperation.

We will be handling the amendments one at a time. But we invite Senators who have amendments to be offered tomorrow to come to the floor this afternoon to debate those amendments. The chief of staff, the staff director, and general counsel, Michael O'Neill, has already been in touch with a number of those Senators, urging them to come down, following the comments of the distinguished ranking member, to start to talk about amendments so we can have abbreviated debate when we conclude the first amendment.

EXHIBIT 1

S. 2611, THE COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

TITLE I—BORDER ENFORCEMENT

Increases border patrol by 400 per year for 5 years (Feinstein-Sessions)

Authorizes technologies to create a "virtual fence" along the Southern border

Authorizes physical barriers for highly trafficked parts of Arizona's border (Kyl)

Provides for a study of a possible new fence along the Southern border.

Creates crimes for eluding immigration inspectors (Sessions) and constructing border tunnels (Kyl, Feinstein)

Ends the "catch and release" practice for other-than-Mexicans (Sessions)

TITLE II—INTERIOR ENFORCEMENT

Makes suspected gang members inadmissible to, and deportable from, the U.S.

Clarifies and strengthens alien smuggling laws and increases penalties

Adds criminal penalties for various immigration-related document fraud

Provides 20 more alien detention facilities with a capacity of 10,000 (Sessions)

TITLE III—EMPLOYMENT ENFORCEMENT (subject to a Grassley substitute amendment to Title III on the Floor)

Establishes a nationwide, mandatory verification program for hiring workers

Limits the number of acceptable hiring documents along with REAL ID standards

Makes the standard for hiring illegal workers "knowingly" or "with reckless disregard"

Authorizes 2,000 worksite enforcement agents and 1,000 anti-fraud agents

TITLE IV—GUEST WORKER PROGRAM

Creates a new guest worker program (called H-2C) for future workers

Provides the following in the guest worker program:

6-year duration with an annual cap of 325,000

Travel privileges in and out of the U.S., and portability between jobs

Allows workers to obtain green cards by self-petitioning

Allows students with advanced degrees in science/math to stay in the U.S.

Exempts workers with advanced degrees in science/math from green card caps

Increases the H-1B professional worker visa annual cap from 65,000 to 115,000 (with a fluctuating cap)

TITLE V—FAMILY-BASED AND EMPLOYMENT-BASED GREEN CARDS

FAMILY-BASED VISAS/GREEN CARDS:

Exempts Immediate Relatives (spouses, minor children, parents) of U.S. Citizens from the 480,000 numerical cap

Recaptures unused green cards from past years to reduce the processing backlog

Increases the per country limits on visas to add fairness in the overall allocation

EMPLOYMENT-BASED VISAS/GREEN CARDS:

Increases the numerical cap from 140,000 to 450,000. This increase sunset after 10 years reverting to 290,000

Exempts spouses and children from counting against the numerical cap

Recaptures unused green cards to help reduce the processing backlog

Eliminates the 5,000 visa limit on unskilled workers who seek a green card

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Access to Earned Adjustment and Mandatory Departure and Reentry

Category I—Access to Earned Adjustment—In the U.S. more than 5 years before April 5, 2001

Security and criminal background checks

Employed for at least 3 out of the 5 years ending on April 5, 2006 and must work at least 6 years after the date of enactment

Pay all applicable back taxes

Demonstrate knowledge of English language and U.S. history and government

Pay \$2,000 fine (and all applicable fees)

Must wait until the current green card backlog is cleared (approximately 6 years)

Exempt from current green card numerical limitations

Category II—Mandatory Departure and Reentry—In the U.S. less than 5 years but before January 7, 2004

Security and criminal background checks
Must apply within 3 years of date of enactment

Must be employed before January 7, 2004 and must be continuously employed for at least 60 days

If departure within 1st year, no fine; if departure within the 2nd year, \$2,000 fine; and departure within the last years; \$3,000 fine

Application fee of \$1,000

Grounds of Ineligibility

Ordered excluded, deported, removed, or agreed to depart voluntarily from the U.S.

Failed to comply with any request for information by the Sec of DHS

"Leave Country and Touch-Base" Requirement—Must exit the country and reentry through any U.S. land port or through U.S. Visit.

Category III—U.S. after January 7, 2004

Required to immediately depart the United States and return in applicable legal channels.

Waives the current bar denying illegal immigrants admission and allows them an opportunity to return to the United States.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

Creates a "blue card" program for legalization and adjustment of status for agricultural workers (Feinstein)

Reforms the current H-2A (temporary guest worker program for agricultural worker)

Subtitle C—DREAM ACT

Provides for students here undocumented in the U.S. to obtain a green card (Durbin)

TITLE VII—MISCELLANEOUS

Subtitle A—Immigration Litigation Reduction

Increase immigration judges and personnel

Increases the number of judges on the Board of Immigration Appeals

Provides for a GAO study on consolidation of immigration appeals

Subtitle B—Mikulski (citizenship assistance for the armed services)

Subtitle C—Kohl (State Court Interpreter Grant Program)

Subtitle D—Domenici (Border Infrastructure/Technology Modernization)

Subtitle E—Lautenberg (Family Humanitarian Relief)

Subtitle F—(Other Matters):

Frist (Non-citizen membership in the armed forces)

Collins (P visa for minor league athletes)

Mikulski (H-2B extension)

Nelson (Surveillance Technologies Programs)

Isakson (Comprehensive Immigration Efficiency Review)

Cantwell (Northern Border Prosecution Initiative)

Hutchison (Southern Border Prosecution Initiative)

Harkin (Grant Program to Assist Eligible Applicants)

Allard (Terrorist Activities)

Levin (Screening of Municipal Solid Waste)

Stevens (Access to Immigration Services in Areas)

Thomas (Border Security on Certain Federal Land)

Kennedy (Family Unity)

Mr. SPECTER. Mr. President, to start the debate, if I may, as I have referred to earlier, I send an amendment to the desk and will ask for its consideration when we debate the amendment further tomorrow and proceed to a vote. It is an amendment that has been summarized briefly which would require border security arrangements to be in place before we move ahead to the handling of the 11 million undocumented immigrants and the guest worker program.

I yield the floor for my distinguished ranking member.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, today the Senate turns its attention again to comprehensive immigration reform. I hope we can finish the job the Judiciary Committee started in March and the Senate began considering in April. We need to fix the broken immigration system with tough reforms that secure our borders and with reforms that will bring millions of undocumented immigrants out of the shadows.

I commend the majority and minority leaders for continuing to search for a procedural agreement, even though Republicans blocked action on a comprehensive solution by filibustering before the April recess. Democrats supported the bill that was reported by the Judiciary Committee, and we were willing to support the Hagel-Martinez compromise. In fact, Democrats voted twice in two days for comprehensive reform, but the Republican leadership refused to follow the commitments it made when the cameras were on, and folded its tent by declining to support cloture even on the motion of the Republican leader.

I hope that when the President speaks to the Nation this evening, he will strongly encourage his party to support a comprehensive bill in the Senate. The President offered some helpful comments in April, but these words came too late, as the far right wing of his party had already undermined the potential compromise. Democrats were prepared to pass a bill in April and are prepared to pass a fair and comprehensive bill now.

The Bush-Cheney administration has gone to great lengths to create the impression that it is now committed to strengthening our border security. The reality is that very little progress has been made. A recent report concluded that the number of people apprehended at our borders for illegal entry fell 31 percent under President Bush's watch, from a yearly average of 1.52 million between 1996 and 2000 to 1.05 million between 2001 and 2004. The number of illegal immigrants apprehended while in the interior of the country declined 36 percent, from a yearly average of roughly 40,000 between 1996 and 2000 to 25,901 between 2001 and 2004. Audits and

finances against employers of illegal immigrants have also fallen significantly since President Bush took office. Given the vast increases in the number of Border Patrol Agents, the decline in enforcement can only be explained by a failure of leadership.

The recent aggressive and well-publicized enforcement efforts to detain illegal immigrants are little more than political posturing that do little to improve the situation. We need comprehensive reform, backed up by leadership committed to using the tools Congress provides, not piecemeal political stunts.

Tonight we expect to hear that the National Guard will be deployed to the Mexican border. Once again the administration turns to the fine men and women of the National Guard in a crisis. After our intervention turned sour in Iraq, the Pentagon turned to the Guard. After the governmental-wide failure in responding to Katrina, we turned to the Guard. Now, the administration's continual unwillingness to focus on our porous border and develop a comprehensive immigration policy, the administration turns once again to the Guard. Yet I am continually puzzled that this administration, which seems so ready to take advantage of the Guard, fights so vigorously against providing this essential force with adequate, equipment, a seat at the table in policy debates—even adequate health insurance for the men and women of the Guard.

As long as these Guard units operate under the authority of State Governors, I believe this action is appropriate. In addition, the Federal Government should pick up the full costs of such a deployment and be clear about the length of this service. Those costs should not be foisted onto the States and their already taxed Guard units. Their families have been called upon to sacrifice more than any other group of Americans. My heart goes out to the members of the Guard and their families.

Controlling our borders is a national responsibility, and it is regrettable that so much of this duty has been punted to the States and now to the Guard. The Guard is pitching in above and beyond, balancing its already demanding responsibilities to the States, while sending troops who have been deployed to Iraq. The Guard served admirably in response to Hurricane Katrina when the Federal Government utterly failed to respond in a timely or sufficient manner. The Vermont Guard and others have been contributing to our national security since the immediate aftermath of 9/11. Later tonight, we expect the President will announce that after more than 5 years of failing to use the authority and funding Congress has provided to strengthen the Border Patrol and our border security, it has come to this, militarizing our southern border.

Instead of proposing a budget with robust and complete funding for our

Border Patrol, the President has focused on providing tax cuts for the wealthiest among us. Congress has had to step in time and again to create new Border Agent positions and direct that they be filled. Instead of urging his party to take early and decisive action to pass comprehensive immigration reform as he signaled he would in February 2001, the President began his second term campaigning to undercut the protections of our Social Security system that Americans oppose. While the President talks about the importance of our first responders, he has proposed 67 percent cuts in the grant program that supplies bulletproof vests to police officers, a program that has special resonance today when we meet to recognize the 157 officers we lost last year.

Five years of the Bush-Cheney administration's inaction and misplaced priorities have done nothing to improve our immigration situation. Its time for action, not more talk. The Senate just passed an emergency supplemental appropriations bill that includes nearly \$2 billion for border security. These are important programs and we all support them, although a number of us believe the Democratic leader was right to offer them without taking the funds from our troops' needs in Iraq.

Border security alone is not enough to solve our immigration problems. We must pass a bill—and enact a law—that will not only strengthen the security along our borders, but which will also encourage millions of people to come out of the shadows. When this is accomplished we will be more secure because we will know who is living and working in the United States. We must encourage the undocumented to come forward, undergo background checks, and pay taxes to earn a place on the path to citizenship.

Just a few weeks ago I went to the White House with a bipartisan delegation of Senators to speak with the President. The need for a fair and comprehensive immigration bill was the consensus at that meeting and I believe the President was sincere when he told us that we had his support. I hope he will include that commitment in his statement to the nation tonight. If not, I trust that he will not wait to urge comprehensive immigration reform on those Republican Senators and the Republican House leadership who have yet to endorse our bipartisan comprehensive approach. Without Republican support and the intervention of the President with the recalcitrant factions within his party, this effort is unlikely to be successful and the hopes of millions will be destroyed. Those who have peacefully demonstrated their dedication to justice and comprehensive immigration reform should not be relegated back into the shadows.

The bill that won the bipartisan support of a majority of the Judiciary Committee was a compromise that contained the essential components that are required for comprehensive

immigration reform. Before the last recess, I was willing to support a further compromise that incorporated the principles of the Hagel-Martinez bill because it was proposed by the majority leader as a "breakthrough" that would allow us to pass immigration reform.

Immigration reform must be comprehensive if it is to lead to real security and real reform. Enforcement-only measures may sound tough, but they are insufficient. In these next 2 weeks, the Senate has an opportunity, and a responsibility, to pass a bill that addresses our broken system with comprehensive reform and puts the pieces in place to secure the Nation.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3961

Mr. CORNYN. Mr. President, on behalf of Senator ISAKSON, I call up amendment No. 3961, which was earlier sent to the desk by Senator SPECTER.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. CORNYN], for Mr. ISAKSON, proposes an amendment numbered 3961.

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

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

The amendment is as follows:

(Purpose: To prohibit the granting of legal status, or adjustment of current status, to any individual who enters or entered the United States in violation of Federal law unless the border security measures authorized under Title I and section 233 are fully completed and fully operational)

On page 53, between lines 14 and 15, insert the following:

SEC. 133. BORDER SECURITY CERTIFICATION.

The Secretary may not implement any program authorized by this Act, or by amendments made under this Act, which grants legal status to any individual, or adjusts the current status of any individual, who enters or entered the United States in violation of Federal law unless the Secretary has submitted a written certification to the President and Congress that the border security measures authorized under Title I and the increases in Federal detention space authorized under section 233 have been fully completed and are fully operational.

Mr. CORNYN. Mr. President, I ask unanimous consent to set aside the pending amendment and send another amendment to the desk on behalf of Senator KYL.

Mr. LEAHY. Reserving the right to object, what was the request?

The PRESIDING OFFICER. Will the Senator restate his request?

Mr. CORNYN. I ask unanimous consent to set aside the pending amendment and send another amendment to the desk on behalf of Senator KYL and myself, and I ask for its immediate consideration.

Mr. LEAHY. Mr. President, I don't think this is in keeping with what I understand the distinguished Republican leader and the distinguished Demo-

cratic leader had discussed as a procedure, nor discussed by the chairman of the Senate Judiciary Committee. So I will, for the moment, object until such time as we can figure out what is it they want. I came in late on the earlier agreement, but I want to make sure the Senator from Texas is following what the two leaders had proposed. So I will object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, about a month ago when we were debating immigration reform and, unfortunately, because of the inability to get amendments heard and debated and voted on, that process was derailed, and here we are again. I was under the distinct impression that we were actually going to have a chance to offer amendments and then have debates and votes. We will work out whatever the misunderstanding is between the sides. But my hope is that we will have that opportunity because I think the American people are yearning for an honest and complete and comprehensive debate about this issue. It affects all of us. It affects all of the States that each of us as Senators represent, and it represents a clash of our values. We are proudly a nation of immigrants, but we are also a nation of laws. Unfortunately, it is hard to reconcile the second ideal as a nation of laws with the current situation we see in this country with our porous border which last year allowed 1.1 million people to come across the border, and because we only had about 2,000 detention beds, most of those individuals were simply subject to what has now become known as the notorious catch-and-release program. And those who were sent back to Mexico came back again in short order, and we saw roughly 250,000 of those individuals who were detained at the border came from countries other than Mexico, including countries such as Syria, Iran, and other countries of special interest, which cause a lot of people, including me, an awful lot of concern because it is indicative of the fact that our southern border has become a magnet and has become a sieve for illegal immigration, not just from Mexico and Central and South America but literally from countries all around the world.

I support comprehensive immigration reform, as a Senator from Texas. With about a 1,600-mile border, we understand what the border is about. A number of Senators have had the opportunity since this debate began to go to the border. I think that has been very instructive for all of them. But I can tell you that my constituents live and work along the border and have come to know both the tremendous benefits of that region of our country and the culture that transcends international boundaries, the fact that families have relatives on both sides of the border, the fact that for the last 11 years, since NAFTA, the North American Free Trade Agreement, was signed

by the United States, Canada, and Mexico, we have seen a tremendous growth in legal commerce and traffic across the border that has been enormously beneficial to all of those countries and created an awful lot of new jobs in my State.

None of us want to jeopardize all of the benefits that attend to the fact that we do have a neighbor to our immediate south, Mexico, and the benefits that come from the cultural heritage and interaction, but the fact is that illegal immigration across the southern border of the United States has changed dramatically over the last few years because Mexico has been unable to control its southern border and, in fact, has become a sort of a land bridge into the United States and created a tremendous amount of concern, as it should, in a post-9/11 world. We simply have to know who is coming into our country and why they are here. We can no longer assume their motives are simply benign.

I have no doubt that in most instances—perhaps nearly all instances—people come to this country for the same reason people have always come to America, and that is for a better life. We all understand that on a fundamentally human level. But we also understand that if we don't control our immigration system, if we don't control our borders, not only are we less secure, but literally our way of life may be subjected to a huge tsunami of humanity, people from all over the world who want to come to the United States, but if they don't do so in a controlled way, in a way that complies with our laws and allows us to regulate the flow in the pursuit of our national interest, that we will have lost something very important, and part of that will be the opportunity to provide the sort of prosperity we enjoy today to our children and our grandchildren.

My hope is we will create a legal system of immigration that we will be able to regard with pride and that people who, as they always have, come here from all around the world through a legal system of immigration will become Americans. After all, becoming an American is an idea and an ideal. In other words, it doesn't matter where your country of origin is, where you were born. It doesn't matter how you pronounce your last name. It doesn't matter what race you are or what ethnicity you are. When people come to America and become Americans, they become part of this vast melting pot which we thank God for every day and which has become the envy of the world.

We have benefited enormously from the fact that we are a nation of immigrants, but we are in danger because we are no longer a nation of laws when it comes to our immigration system.

During the course of this debate, I will be offering several amendments. I want to talk about one of them in a moment. Because of the objection, we won't be offering any additional

amendments today until we can work out the differences between the majority and minority side.

As the chairman of the Immigration and Border Security and Citizenship Subcommittee of the Senate Judiciary Committee, it has been my great honor to preside over a number of hearings on our broken immigration system. That has both caused me a great deal of concern but also a sense that there is a lot we can do if we focus on answering the practical questions that need to be answered before we can actually fix our broken immigration system.

The Judiciary Committee voted out a bill that I think is fair to say bears the authorship of Senator MCCAIN and Senator KENNEDY. That then came to the floor and now has been amended by Senator HAGEL and Senator MARTINEZ and is supported by a bipartisan group of Senators.

I am sorry to say at this point that I am not able to support that bill, as amended, but it is my hope that after this debate and during the course of the amendment process that we have votes, and hopefully I will be able to win a few of those votes on amendments that will improve the bill to the point where I feel comfortable supporting the Senate bill. That is my hope.

Regardless, I look forward to working with my Senate colleagues and our colleagues from the House once the Senate passes a bill, assuming we are successful in doing so, in trying to reconcile the differences in the approach the Senate intends to take in comprehensive reform and the House approach, which is primarily a border security bill.

I am proud to say that this bill, when I talk about comprehensive reform, has a number of components. I mentioned the first is border security. I am proud to say that the bill Senator KYL of Arizona and I filed about a year ago now has been largely incorporated into the bill before us. When it comes to the work we need to perform for security along our border, we need to vastly increase the number of Border Patrol agents.

I understand the President tonight may make some announcement with regard to the use of National Guard on a temporary basis to fill in the gaps and provide additional boots on the ground so we can get to that level of security faster, and I believe we should use all of our national assets to provide border security. But I also had the honor this morning of going out to Fort Belvoir, where the Army Materiel Command provided a demonstration to me with some of the unmanned aerial vehicles and ground sensors, the radars, the thermal imagery, and so forth, that the military has developed for force protection. It has obvious applications in providing the Department of Homeland Security additional technology which will allow us to secure our border. Here again, the problem is not a shortage of ideas; the problem is

the shortage of assets, including human assets and technological assets that will actually allow the Department of Homeland Security to accomplish the goal of border security. We have a long way to go between ideas and concepts and actually building the infrastructure, actually purchasing the technology and training people to operate it.

That is one reason I look forward to further debate on Senator ISAKSON's amendment currently pending that provides a trigger. In essence it is saying the rest of the provisions of the bill will not be implemented until such time as the Secretary of the Department of Homeland Security certifies that the border security provisions have, in fact, been implemented. I think that is a significant proposal.

I commend to my colleagues an article that I read this morning called "Can Immigration Reform Work?" This is an article written by Lawrence B. Lindsey, who was the former chief economic adviser for President Bush. Mr. Lindsey writes as an advocate of comprehensive immigration reform, as am I, but he asks some very practical questions which I think have to be answered during the course of this debate.

First of all, advocates of the current bill pending on the floor acknowledge that beneficiaries of the provisions of the bill, the 12 million or so who will benefit from the earned legalization—or some might call it amnesty based on its similarity with the amnesty of 1986—but the argument is that the beneficiaries of this provision of the bill will have to go to the back of the line. Again, I commend the Lindsey article to my colleagues.

The question is: The back of which line? Basically what this bill does is it allows people who are currently here in an unauthorized status; that is, they have come either in violation of the immigration laws or they have come here legally and have overstayed in violation of the immigration laws, it allows them 6 years before they can then receive a green card. A green card confers legal permanent residency. After 5 more years, in other words, a total of 11 years, they can then apply for and receive American citizenship.

The problem with the current bill on the floor is that it essentially guarantees the 12 million a green card and all they have to do is stay where they are. In other words, the line does not start in America; the line starts at the consulate in Hong Kong or in Mexico City or in Bogota, Colombia, or in some other place around the world where people would apply for a green card, not here in the United States. What they are essentially saying is people under this current bill can break in line in front of those who have been waiting patiently outside the country, but break in line for those awaiting citizenship who otherwise would have to wait outside the country. There is something, it seems to me, fundamen-

tally unfair about line-jumping, about breaking in line, and many have expressed concerns, and I am one of those who have the concerns, about rewarding people for line-jumping.

Another aspect of Mr. Lindsey's article, which I again commend to my colleagues because, again, these are practical questions: How are you going to solve this problem? And I stand here as someone who is interested in solving the problem and as a supporter of comprehensive immigration reform. But we have to do better than the bill that is currently on the floor. That is why I strongly urge my colleagues to study it and also to listen to the amendments, and hopefully we can improve it.

The other question that Mr. Lindsey raises is the sheer immensity of the program proposed in the Hagel-Martinez compromise. In 2004, the Immigration and Naturalization Service issued almost 1 million green cards and naturalized 537,000 people. Contrast that with what this bill would do. It would give green cards to about 12 million people in one fell swoop and make them eligible for citizenship 6 years later, which is roughly a twelvefold increase in the workload of the agencies and the people who are actually supposed to make this work.

I hope all of us will pay close attention to whether this thing that we are creating, this comprehensive immigration reform, can actually work. Part of making it work is going to be making sure there are the people and the processes, the databases, the computers, the cards, all of the things that are going to be necessary to actually make it function as intended. If not, we are going to be swamped by a tsunami of newly legalized people seeking documentation without any real ability to actually respond to that.

The third issue he raises is the need for what he calls a certificate of legal residency. We are going to have to—and the bill does provide, and there will be some additional debate about this—a work site verification program, which is absolutely critical to the functioning of comprehensive immigration reform. I think it needs to be beefed up and improved because what we need to provide employers is a way to swipe a card through a card reader and then almost immediately the light turns green and that means that person can work here legally. If it is red, they can't. Right now, employers can be presented some combination of up to 19 different documents to prove eligibility to work in the United States, and what happens is the human smugglers and those who benefit from this phenomenon provide a whole host of counterfeit documents.

In other words, there are millions who generate fake documents such as driver's licenses, Social Security cards, and birth certificates. So we need a secure identification card that can help us as part of this enforcement regime because if we don't, then we will find ourselves 5 years or 10 years from now

in the same fix we are in today, except probably worse.

I say that because in 1986 the Congress thought it was fixing this problem once and for all when it granted what everyone acknowledges was an amnesty. It bears a lot of resemblance to the proposal that is on the floor today. Yet some say: Well, it is not really amnesty, it is earned legalization. Well, whatever it is, it looks very similar, if not its identical twin. But everyone I think will agree that the amnesty in 1986 was a complete and total failure, probably for one of two reasons.

Some say: Well, it is because we didn't really have any provision for a legal work force, a temporary worker program as part of that. But I think most people would agree that it was mainly a failure of work site verification and employer sanctions. There have been virtually no employer sanctions prosecuted by the Federal officials responsible for that, and part of the reason has been because it is very hard for employers to know whether the person they are in fact hiring is legally eligible to work in the United States.

We can figure this one out. It is not rocket science. If we can go into a convenience store and buy a bag of chips and a Coca Cola and hand the clerk our card and they swipe it and in a matter of seconds it is authorized, we can figure this one out. We have a variety of identification cards and biometric identifiers to help verify that the person who holds the card is in fact the same person whose name is on the card. So we can figure that out. I will talk more about that later.

I think the proponents of this bill as written need to convince the American people that this time we are serious, that we are not going to pull the rug out from under the American people if they put their confidence in the solution proffered by this bill. I remember what my dad always said: Fool me once, shame on you; fool me twice, shame on me. The American people can be enormously forgiving and tolerant. But if they feel as if the Federal Government is simply not serious about this and is going to pan this bill off as strict on enforcement and not fund it and not implement it, and not be serious about it, I think there is going to be a terrible price to be paid. Unfortunately, it will be deserved if we are not serious about doing what we say we are going to do when it comes to enforcement, including work site verification.

I want to talk briefly about an amendment I tried to offer, but there was an objection. Hopefully, we will work this out. This was actually the amendment that was pending by Senator KYL and myself back about a month ago when this whole debate got derailed because we couldn't get any votes on the amendments and basically we ended up going nowhere. After a month now, we are back here again. Hopefully, we are locked and loaded

and ready to proceed in the regular order, which means that in the world's greatest deliberative body we will actually have debates and we will actually have votes and majorities will prevail and people who don't get the majority vote will lose. While none of us likes to lose, that is the process, and that should be the process.

Unfortunately, we are here a month later, but now I hope we have an opportunity to have those debates and to have those votes and to proceed to passage of a good bill.

The amendment I am referring to specifically would exclude from the benefits of the bill on the floor—and what I mean by that is the 12 million people who are here in an unauthorized status, who either came illegally or who overstayed their legal authorization; they are here in violation of our immigration laws. It would exclude from amnesty or earned legalization or whatever you want to call it the benefits for convicted felons. In other words, convicted felons would not get amnesty under this bill if this amendment passes. People who have committed at least three misdemeanors would not get amnesty under this bill if this amendment is agreed to and passes. Finally, it would exclude the benefits of the bill to those it applies to, those who have actually had their day in court and lost and simply melted into this huge American landscape.

What I mean by that is they are absconders. In other words, they are people who have been caught in violation of the law, people who have had their day in court, who have exhausted their remedies, and then refused to show up when it came time to go back home. These are known as absconders.

What this amendment would do is say, if you are an absconder, then you don't get the benefit of the amnesty because you have already had your one bite at the apple, and we are not going to give you two bites at the apple. I don't think any Americans really believe that it is just OK to ignore a lawful court order. How many Americans, for example, after receiving a subpoena to show up in court or maybe a jury summons, simply ignore it and skip the date?

Today in the United States, there are 544,000—544,000—aliens who have been ordered deported but then have gone underground. That is more than a half million people who simply chose to ignore a lawful court order. Under current law, it is a felony offense punishable by up to 4 years in jail to not comply with a deportation order. So let's be clear. We are not talking about civil violations. We are talking about criminals, people who not only have overstayed their legal authorization or who have come in illegally and been caught; we are talking about people who have had their day in court and simply ignored the judgment of the court and gone underground.

I believe this amendment is indicative of whether we will continue to

tolerate and reward those who violate our immigration laws.

The current bill increases penalties and would impose a mandatory minimum criminal sentence of 6 months on any alien who fails to leave the country after being ordered deported.

The current bill requires the Department of Homeland Security to list absconders in the NCIC, the national database, criminal database, so that State and local police officers can arrest them when they are encountered during regular traffic stops.

These are both steps in the right direction, I believe. But then, oddly in the same bill, the same proposal on the floor, it would allow those same individuals to apply for legalization and would prohibit the Department of Homeland Security from apprehending or detaining these same aliens. In other words, this bill simultaneously increases criminal penalties for failing to follow a court order but then rewards the same criminal act with an easier path to a green card. I do not think there is a better example of Congress sending mixed signals on immigration reform. If we are going to avoid the mistakes of 1986 and avoid the massive buildup of people who are in our country out of status, we have to create a system that encourages self-compliance by illegal aliens.

Each year, there are 300,000 deportation hearings. What is the point of conducting those hearings if those who are ultimately ordered deported after they have had their day in court simply go underground and ignore a lawful court order? If the absconder rate is about 85 percent today, what will it be in the future if we reward those who fail to comply with amnesty? The aliens who comply and who leave the country would not be eligible for amnesty. So the message, at least so far as the bill on the floor is concerned, is you are better off violating the law, hunkering down, melting into the landscape, and then you are going to get amnesty. But if you actually comply with a lawful court order and leave, then you are not entitled to the benefits under the bill—exactly the opposite of the message we ought to be sending. We need to decide whether we are more interested in granting amnesty than we are in reforming the immigration laws and restoring confidence in the immigration system.

Without this amendment, the current bill would grant amnesty to aliens who committed felony offenses, thereby encouraging further violations of immigration and undermining the integrity of our immigration court system.

Some may argue that the majority of aliens deported never receive notice that they are in proceedings. That is simply not true. Deportation proceedings are initiated when written notice is provided to the alien, which is almost always done when that individual is apprehended. The notice, informally called a notice to appear, advises the recipient of three things: No.

1, the conduct alleged to be in violation of the law; No. 2, the alien's obligation to provide the Government with a written record of an address; and No. 3, the consequences of failure to provide or update the address on record with the Government.

The Government is also required by statute to provide notice to the alien of any change or postponement of the proceedings. Just as in any other civil or criminal proceeding, the alien has an obligation to provide a current address. If that were not the case, how would the immigration courts administer the 300,000-plus cases they hear each year?

So what happens if the alien fails to appear at the hearing? The court may order the alien removed in absentia only if the Government establishes by clear, unequivocal, and convincing evidence that the written notice was provided to the alien and that the alien is, in fact, deportable. The court may rescind the order if, within 6 months of the order, the alien establishes that he did not receive notice of the hearing or if exceptional circumstances prevented the alien from appearing. This amendment we are offering—will offer when permitted—includes the same waiver standard, so any alien who establishes that he or she did not receive notice as required or was unable to appear at a hearing because of a medical emergency or other exceptional circumstance remains eligible to apply.

The text of the amendment is unambiguous. It would not apply to any alien who entered without inspection, overstayed a visa, or violated their visa status unless the alien has had his or her day in court and been ordered deported. To avoid any confusion, this amendment uses the exact language as in the current Immigration and Nationality Act.

In conclusion, let me say that national security demands that we know who is living within our borders, especially since 9/11. We must reform our immigration laws in order to bring millions of those who are living outside of the law out of the shadows and in compliance with that law. But success of immigration reform cannot be measured solely on how many aliens obtain legal status. The 1986 amnesty bill brought millions of illegal aliens out of shadows. Yet Congress never lived up to its commitment to enforce the law at the border and at the worksite. Today, 20 years since the 1986 amnesty, the continued failure to enforce the law has resulted in a new class of illegal aliens that is estimated to be approximately 12 million. That is four times larger than 20 years ago.

I share the goal of comprehensive reform and of bringing those 12 million illegal aliens out of the shadows and into compliance with the law. In fact, I believe we ought to give them a second chance to reenter the country in a legal status. But I also believe that we should not repeat the failures of 1986 and restore credibility and law and

order to the immigration system. The current bill, without any amendment, rewards criminal behavior and will undermine the Government's ability to enforce the immigration laws. My amendment, which only excludes criminals from obtaining legal status, will reveal whether we are really serious about reforming our immigration laws or if we are strictly interested in granting legal status to as many illegal aliens as possible, irrespective of whether they are criminals or whether rewarding them would repeat the failures of 1986.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I welcome the start of this week and the prospect of a good and fair debate on the whole issue of our borders and how we are going to deal with immigration reform. There are some exceedingly important public policy issues and questions that have to be decided. But it certainly appears that the Senate itself is prepared to take votes on these measures. I believe that is certainly the way we ought to proceed.

I hope as we start the debate we understand there are a lot of misstatements about the different positions which have been outlined in the course of this debate. It is going to be important for the American people to listen to those of us who are putting forward proposals—I will outline briefly the proposal of Senator MCCAIN and myself—and then to listen to those who are supportive of those proposals. In this debate, not unlike other debates, we will find those who misrepresent our proposal, distort our proposal, and then differ with it. That is a rather tried, true, tested process around here. Why should I believe this debate might be different? Maybe that is hoping for too much.

These are tough enough choices and decisions for this body to make. Hopefully we will have the opportunity to have a fair debate on the substance of these matters. That is certainly what I look forward to. I know Senator MCCAIN looks forward to that. That is certainly in the tradition of this great legislative body.

I will take just a few minutes this afternoon to outline in broad terms the proposal Senator MCCAIN and I supported. We go back, Senator MCCAIN and I.

Mr. REID. Will the Senator from Massachusetts yield briefly?

Mr. KENNEDY. I am glad to yield for a question.

Mr. REID. Mr. President, through the Chair—the Senator, because of airplane connections today, wasn't here. I made a statement on this legislation. One of the things I want to make sure the Senator from Massachusetts understands is that I completed my statement this morning saying that I hope we can have bipartisan, good debate on this legislation; this legislation is so badly needed.

I also want the Senator from Massachusetts to understand that as far as I am concerned, the key to our having been able to move forward on this legislation is the work done by the Democratic Senator from the State of Massachusetts, the senior Senator from Massachusetts, and the Republican Senator from Arizona, the senior Senator from Arizona. The Kennedy-McCain legislation is the framework for doing something to solve a problem that needs to be solved. I hope we can move forward on this matter in a bipartisan, constructive way.

I said this morning there are strong feelings on all sides of this issue, as there should be. But I hope the Senator from Massachusetts agrees with me that it is imperative that this legislation be completed and that—the Senator, being the modest person he is, would not agree with me about the importance of the Kennedy-McCain bill—but I want the Senator to know that I believe the key to our moving forward was the work done on this matter in many private meetings, some public meetings, with you and the Senator from Arizona. I want to compliment and applaud you for the work done, making it possible to be at the point we are in this legislation.

Mr. KENNEDY. Mr. President, I thank our leader, Senator REID, for both his support and encouragement, working with Senator FRIST to bring us to this point. That was a real challenge.

I thank him for his comments. If he will remain on the floor for just a moment? I am very hopeful that, as he outlined in his statement, we will have a bipartisan approach to an issue of enormous importance—the security of our borders. How are we going to treat the 12 million individuals who are here now, the overwhelming majority of whom want to play by the rules, work hard, be part of the American process and dream, like the tradition of so many other immigrant groups? We have tough enforcement issues. We have issues of fairness. And I thank the Senator for his comments.

The Senator knows the history of this institution. To find the type of bipartisanship which we have had on this issue, we would have to go back, frankly, to almost the time of the civil rights laws. Maybe the action to end the war in Vietnam. We have not had that kind of bipartisanship in a major policy issue that I know of in any recent time.

As the Senator from Nevada has pointed out, we are facing an issue of enormous importance with regard to our national security. This is a defining issue of who will eventually have that great opportunity of participating as an American citizen, really the greatest achievement, in personal terms, for so many people who earn that citizenship. We are back for a few moments to a time when the Senate of the United States, Republicans and Democrats, came together to take action on a controversial and difficult

issue but one that was clearly in the national interest.

I think the comments of the Senator remind us of that tradition. That is what this institution has done when it has been at its best. We did it with Medicare. We did it with civil rights. We did it on the issues of ending the war. We did it with the progress we have made on disability issues, knocking down the walls of disability and gender. On all of these issues, we came together. We had strong bipartisan majorities on them. That is not something we have seen very much of, I would say, in very recent times. We have that opportunity now.

As I hear the Senator, he is calling on us to really try to make sure that this institution is going to act in its great traditions and make something worthy of remembering. I think that is what I hear from the Senator, and I thank him for that expression.

As I was saying, I thank our leaders for bringing us to where we are. I am grateful for the opportunity of working with Senator MCCAIN to bring forward this reform bill and for the work Senator HAGEL, Senator MARTINEZ, and so many others have brought us to this point. As we have talked about at other times, 2½ years ago I had legislation, and Senator MCCAIN had legislation maybe 2½ years ago. We began to come together. About that time, Senator HAGEL had legislation, somewhat different from that of Senator MCCAIN and me. They are all working to try to come together in a common spirit to address this issue.

What we now have is something that has come out of our Judiciary Committee with a 12-to-6 bipartisan vote. We have now before the Senate strong legislation that will deal with our national security concerns and also deal with the issue of earned—and we mean earned—legalization and tough enforcement at the workplace.

I think we have a good combination. I am very grateful to all those who have been a part of this process. So many have added so much to help get us where we are today.

We recall that throughout our history courageous immigrants have provided the hard work, the strong family, and the love of country which defines the American spirit. They dug our canals, built our railroads, they advanced our science, fostered our innovation, and they fought in our wars. And 60,000 have served our colors with pride in Iraq and Afghanistan.

Those are the permanent resident aliens that are in the service in Iraq and Afghanistan—and other places around the world. They became part of the American dream.

Immigrants have been the heart and muscle that has moved this country forward for 400 years and helped make America the envy of the world.

Last month, we were reminded, in a personal way, of the contributions of immigrants by the moving stories related by Senator DOMENICI and Senator

MARTINEZ. Senator DOMENICI told how his parents came here from Italy with nothing. His father earned his citizenship through his service in the Army in the first World War. His mother was here for many years before gaining her legal status and once faced deportation but later became an American citizen. The Domenici's worked hard, learned English, built a successful grocery business and one of their children went on to become a distinguished and respected Senator.

Senator MARTINEZ of Florida told us about his family's flight from Cuba to begin a new life in America. A young Martinez was 15 years old when his family escaped from Cuba to seek a new life of freedom. And similar to millions before him, his family worked hard, learned English, and earned their success in Florida. Today, MEL MARTINEZ was not only a Cabinet Secretary but was elected by the people of Florida to serve as their Senator.

This is the immigrant story.

We are a great people because that story has been repeated millions of times over many generations.

As in the past, today's immigrants are tomorrow's Americans, regardless of where they came from or how they got here. They and their children and grandchildren will contribute anew to our national life.

I have mentioned that from my office in the JFK Building in Boston, I can look out the window and see the pier where my great-grandparents landed from Ireland in 1848—and the stairs they walked up too. The immigrants called them the "golden stairs" because it offered the golden hope of opportunity for them. I can look out the window and see those same eight stairs where all of them walked up and entered Boston to begin their lives and begin earning their American citizenship.

It is something that is not in our remote past. Every American knows how our immigration system is currently broken. It falls short of meeting our security needs and strengthening our economy, upholding our values—and what we have tried in the past no longer works today.

We have heard already the issue—Well, we already had amnesty in 1986, and it didn't help us because we didn't have enforcement. But this bill is not amnesty. Amnesty was in 1986, when we said we forgive you—and we were also supposed to have effective enforcement by employers. They were to take those not provided with amnesty and to enforce the law. That was never done under Republican or Democratic administrations. But we are not talking about that now.

We are talking about an entirely different situation.

There was a time when oceans and borders protected us and enabled us to better control immigration. That is no longer the case today. In the past decade, we have spent more than \$20 billion to triple our border patrols and

build fences. But we have learned that border enforcement alone will not work. Building fences and putting more agents on the border is doomed to fail. It is a strategy that will make us weaker, not stronger, in dealing with immigration.

Ten years ago we had 40,000 individuals coming across the border illegally. We have spent \$20 billion, and we have tripled the number of border agents. We added \$10 billion more in terms of border security, and now we have more than 400,000 individuals crossing illegally. You can estimate. Some will say it is 600,000 or 700,000. Border security enforcement in and of itself will not work.

We need an immigration program for the 21st century that is worthy of our heritage as a nation of immigrants—one that is tough, smart and fair; one that sees to our security and reflects our humanity.

I believe the compromise legislation before us meets that test.

It is four parts.

First, it mandates very tough enforcement. It doubles our Border Patrol; builds fences and barriers along the border, and requires state-of-the-art technology in fighting illegal immigration. It increases enforcement against employers who hire undocumented workers, and requires tamper-proof immigration documents so that employers can determine who can and cannot work in America.

It fully implements a system for keeping track who comes to our country and when they leave. It establishes new penalties against digging tunnels under the border and for evading immigration officials. It sets up a massive new effort to shut down criminal syndicates that smuggle immigrants into the country. It expands the capacity of our immigration detention facilities and grants new authority to detain dangerous immigrants. It provides vast new authorities to identify and remove terrorists and criminals.

In the area of border enforcement, those needs are self-evident. We are talking specifically about the border with 12,000 new Border Patrol agents, 2,000 more than were actually requested in the 9/11 Commission. It creates the high-technology "virtual fence." This is key. Using newer kinds of technology for a "virtual fence."

I think it is vastly more effective than putting a chain fence along 1,800 miles of border.

It expands the exit-entry security system at land borders and airports so we can know people coming in and when they leave. We can do that more effectively.

It deals with records and vehicle barriers. It authorizes permanent highway check points near the border. It authorizes the additional ports of entry along the land borders and new criminal penalties for tunnels.

This is a problem in southern California as Senator FEINSTEIN pointed out.

They have a new land and water surveillance plan at present time. It can be expanded and has been effective to secure Mexico's southern borders.

Ours is the only plan that recognizes that, if you are going to be effective, you have to also deal with the countries in Central America and deal with the challenges that we are facing from individuals in South America coming across.

We have to work with Mexico in an effective way to limit the number of people coming into Mexico, and also more effective in terms of the people coming into Central America—and to do that in ways that work, with the cooperation of those countries. We can do that.

It also deals with the alien smuggling and requires the additional time for detention.

That is one aspect of what we have at the border.

Another one is interior, and we have worksites.

Those are the three elements of enforcement.

We deal with money laundering.

We provide for fraud-proof immigration documents with biometrics.

Unless you effectively deal with documents, you are never going to get a handle on the constant fraudulent production of documents. We are doing that with biometrics. That is going to be enormously effective. It is the technology.

We have the new border fences and the other elements in terms of interior.

This is the result of a good many hours we spent in the Judiciary Committee.

The third aspect of enforcement is in the workforce. We have added 10,000 worksite inspectors.

The fact is we have not had inspection of worksites, as I mentioned, under either Republican or Democratic administrations. They have been a joke. Therefore, employers have hired undocumented, and illegal workers, with all kinds of implications—driving wages down, work conditions down, exploitation of these individuals, all of that.

That will be ultimately changed because we have effective enforcement.

We have a process by which we are going to insist on valid documentation.

These are the various kinds of provisions. They are all outlined in the legislation. I think they are enormously compelling.

These are some of the new enforcement tools that our bill provides. These steps alone are not enough.

Therefore, the second step in our bill acknowledges that the 11 million undocumented immigrants who are already here are not going away. But they also have something to offer to our communities and to our country. Common sense says we cannot and should not embark on a massive deportation program. That would disrupt communities and businesses and it would uproot families.

What are you going to do when there are children who are citizens? Are we going to deport their parents because they are undocumented? There is a whole host of families like that. That would disrupt families. And cost money. Of course, the best estimate is some \$240 billion, requiring a caravan of buses stretching from Alaska all the way through California. Instead, we should recognize the desire of these immigrants to contribute to America.

Our bill provides a means for them to earn the privilege of American citizenship. It is not amnesty. Amnesty means forgiveness. Amnesty means going ahead of the line. No one goes to the head of the line. They go to the back of the line. They do not only go to the back of line for current applicants, but they go to the back of the line for everyone who is in line today. They go to the back of the line in terms of their ability to adjust their status. They have to pay the penalty. They have to learn English. They have to demonstrate that they have no criminal activities. And they have to demonstrate that they are working.

The fastest they can be able to earn their citizenship is 11 years. They have to demonstrate that they are learning English. They are playing by the rules; they are in no trouble with the law; they pay the penalty at the beginning and another penalty at the end.

They have that opportunity of going to the back of the line, and at the end of 11 years, they have the opportunity of becoming citizens.

That is not what we will hear during the debate. It is so easy for those who are opposed to our program who will say that is amnesty; that is just amnesty. But it isn't. They pay a penalty and go to the back of the line. And they have to earn citizenship over a long period of time.

They have to demonstrate that they are contributing something to America over 11 years. That is called earning the right to become a citizen.

The alternative, with all due respect to all of those who are out here talking about deportation. They ought to get it straight.

Which are they for? There is no in between.

Members can say: We don't like the McCain-Kennedy approach, which is basically supported by the Hagel. We don't like that. That is the alternative. There isn't another one that I know of.

We should recognize the desire that many of these immigrants want to contribute to America. And our bill provides the means for them to earn the privilege of American citizenship.

They must pay taxes. There is a penalty for coming illegally. They have to learn English and obey our laws over several years.

Third, our bill recognizes that we must provide legal challenges for future immigrants so that employers are not tempted to hire illegal immigrants in the future.

That is all part of bringing the people out of the shadows. The reality is, im-

migrants will come and employers will hire them even if we erect miles and miles of new fences. It is far better for future immigrants to be here legally so they are out of the shadows and protected by our laws rather than used illegally to undermine American wages and American jobs. For that reason, our bill establishes a program to allow workers to come here legally, to work here temporarily with the prospect of earning their way to permanent status in the future. They have to demonstrate the prevailing wage that will be available to them, and they will then have the document that will give them the assurance of employment. They will be able to avoid that kind of exploitation. That is an important part of this proposal.

That is our program. It has been embraced by employers, workers, Republicans, Democrats, civil rights groups, immigration experts, immigrant groups, and more. We are all waiting to hear what the President has to say about it in his national immigration address this evening.

President Bush is to be commended for his courage and leadership in advancing the immigration debate in our Nation. As a former Governor of a border State, he understands the issue and appreciates what is at stake. He knows the many contributions of immigrants to our Nation. Tonight, we need President Bush to speak in a clear, strong voice in favor of this comprehensive, bipartisan, commonsense immigration plan. Each of its three elements is necessary to fix our broken system. None will work in isolation from the others. That is the key aspect. All three steps must be implemented at the same time if we are to restore the integrity of American immigration. All of them are based upon conforming with the law, both in terms of the border and those who might be guests.

The President must state unequivocally that enforcement-only approaches are a failed strategy and "enforcement-first" may make a tidy bumper sticker slogan, but it is not a strategy for success. However, I urge the President not to distract the Nation from the urgent work of immigration reform. I know we will hear tonight from the President about the possibilities of deployment of the National Guard along the border. All are very much aware that our National Guard is stretched, and stretched thin; that our National Guard has important responsibilities in Western States to manage fires. Even up in my State, as of today, we have dramatic floods in the northeast communities in my State of Massachusetts. We are facing the hurricane season where the National Guard has played an absolutely key and indispensable role.

We understand the way the administration is considering using the National Guard; not putting them on the front line of deployment but having them more in a support role. That would certainly make sense because

our border guards have some 15 weeks of training in how to deal with these challenges. To be effective, that is necessary training.

We will hear more about this issue this evening. It is important we have the full story from the administration about the utilization of the National Guard. There are important issues and questions that we will all have and we will look forward to the responses by the administration.

I believe our national attention and our valuable tax dollars should be spent on the hiring and training of Border Patrol agents and immigration officers needed along the border. That is what we have in this proposal when we are talking about the expanded number of border agents as recommended not only by our Judiciary Committee but also by the 9/11 Commission. We believe this is the way to move.

In a way, the reform debate is much larger and far reaching than the issue of immigration alone. It is about the kind of America we have been and the even stronger America we hope to become. It is about a land whose greatest strength is the way we treat our neighbors and care for our fellow citizens. It is about opening doors of opportunity to unleash the talents and strengths of everyone in the land, regardless of color or creed, so that we face the future with hope and determination. That is what this debate is all about.

We see it in the faces of hundreds of thousands who have marched for opportunity in cities across our land. We see it with our employers who know that a skilled, diverse workforce is essential to our competitiveness in the global economy. We see it with our military leaders who are recruiting a diverse fighting force to think in new ways as we deal with our dangerous world.

Just as in the past, this debate comes with controversy. This has always been the case throughout our immigrant history. Just as it was with the struggle for civil rights in the 1960s, who today would argue that Italian or Irish or Catholic or Jewish immigrants should be excluded? And just the same, who would argue that African Americans should be excluded from our schools, or that discrimination against the hiring of Latinos is acceptable in America today?

Similarly, over the next several days, as the Senate debates immigration, there will be strongly felt discussion and hotly contested amendments. Many of these amendments, if adopted, would end the prospects for comprehensive reform. The outcome of these amendments will determine what vision of America we will pursue—one mired in fear that seeks to preserve the status quo, or one anchored in hope that looks with optimism to America's future. That is the issue behind this whole debate.

I look forward to participating in the debate. Hopefully, we will have a positive outcome.

I see my friend and colleague from West Virginia in the Senate. I know he

is eager to speak. I had one other item that I will address very quickly if I could. It is timely. Then I will yield the floor.

MEDICARE

Mr. President, for seniors in Medicare today, it is judgment day, the day when the misjudgments, the failures, the basic errors of the competence in implementing the Republican Medicare law will bite into the savings of 8 million seniors across America. Today, the situation will get worse as seniors are hit with financial penalties if they are unable to wade through the complicated tangle of private insurance plans and the Part D Program.

In Massachusetts, citizens have over 45 stand-alone drug coverage plans and a number of HMO plans to choose from, each with different drugs offered at different prices. Seniors have to work out which plan covers which drug at which price, with what copayment, what deductible, for dozens of separate plans. They struggle with long waits on the Medicare help line and inaccurate and frequently changing information about the program as even the administration struggles to understand and explain it.

Today, my State, Massachusetts, is currently under a state of emergency due to major flooding in the State. I have requested for all of Massachusetts an extension of the Part D deadline in our State. Many seniors have been evacuated from their homes, others have no electricity, and many have no ability to get to the Post Office or to counselors to discuss enrollment due to the flooded roads.

I urge the administration to extend the deadline for these seniors. The administration has said that their computer programs will enable seniors to decide which plans to choose, but not every senior is computer literate, and many do not have access to the Internet. The program is so confusing that even HHS Secretary Leavitt could not work out which drug program was right for his parents. Imagine how difficult the choice is for seniors who do not have the HHS Secretary to help them? If seniors have not worked through all of that confusion by today's arbitrary and punitive deadline, the Republican Medicare law hits them with a fine that grows month after month for as long as they do not sign up for the program.

Every Member of the Senate and our staffs and the employees of every Federal agency can obtain health insurance through the Federal Employees Health Benefits Plan. It is voluntary. Most people sign up for coverage, but some may decide not to because they are included in a spouse's policy or have some other coverage.

Are Members of Congress who decide not to sign up for the Federal coverage hit with extra payments when they enroll at a later date? Of course not. But the GOP law says seniors who do not sign up by today's deadline in the Medicare Program will have to pay a

penalty when they sign up later. Those payments will go up and up and up the longer the seniors decide not to enroll.

The Republican majority is not rushing to impose fines on Members of Congress who do not sign up for health care by some arbitrary date, but that does not stop them from enacting a law that penalizes seniors who miss the Medicare deadline.

Senator BILL NELSON has introduced important legislation to let seniors make their selection of a drug program without being coerced into a premature choice by today's deadline. The administration says enrolling in the drug benefit is entirely voluntary, but it is hardly voluntary if you have to pay a fine when you did not join by an arbitrary deadline. The proposal Senator NELSON has offered will waive the penalties that seniors would otherwise have to pay for not signing up for a drug plan in time.

The fiasco of today's punitive deadline is all the more serious because enactment of a good Medicare drug program could and should have been a chance to make real progress in meeting the health care needs of American seniors.

I was here when we passed the Medicare Program. We failed to pass it in 1964; we passed it in 1965. The Medicaid Program was passed 8 or 10 months later and both of them were implemented within 11 months—when we did not have computers, and it was done without a hitch. Now the administration has said 2 to 2½ years to implement this program, with all the computers in the world, and the seniors in my State are confused, troubled, and scared.

The proposal Senator NELSON has offered is to try and relieve that anxiety, that fear, the sense of loss that so many of our seniors have.

If I can get the attention of the Presiding Officer, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H 1841; that the Senate proceed to its immediate consideration, the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements related to the bill be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. The distinguished Senator from Massachusetts does have the attention of the Chair, and on behalf of the Republican leadership, I object.

Mr. KENNEDY. Mr. President, this was an attempt to try, on this last day, to give one last opportunity for the Senate to address this issue in the form of the Nelson amendment. I regret very much we have an objection to it.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The distinguished Senator from West Virginia is recognized.

THE NECESSITY OF THE SENATE IN THE FEDERAL GOVERNMENT

Mr. BYRD. Mr. President, I thank the Chair.

In my continuing series of statements on the idea of a Senate, I refer today to the necessity of the Senate in the Federal Government by James Madison in the *Federalist* 62, 1787.

Was the Senate really necessary? Was a Senate really necessary? Since the American Revolution, the United States had operated under a single body legislature, but the Framers of the Constitution created both a Senate and a House of Representatives.

Writing in the *Federalist* Papers, a collection of 85 letters, written to newspapers in support of the Constitution's ratification, James Madison explained the unique nature of the Senate and the cautious deliberative role that it would play in the American Government.

Federalist 62:

The qualifications proposed for senators, as distinguished from those of representatives, consists in a more advanced age and a longer period of citizenship. . . . The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time, that the senator should have reached a period of life most likely to supply these advantages. . . .

It is equally unnecessary to dilate on the appointment of senators by the State legislatures. . . . It is recommended by the double advantage of favoring a select appointment, and of giving to the State governments such an agency in the formation of the federal government. . . .

The equality of representation in the Senate is another point, which, being evidently the result of compromise between the opposite pretensions of the large and the small States, does not call for much discussion.

In this spirit it may be remarked, that the equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for preserving that residuary sovereignty. . . .

Another advantage accruing from this ingredient in the constitution of the Senate is, the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence, first, of a majority of the people, and then, of a majority of the States. It must be acknowledged that this complicated check on legislation may in some instances be injurious as well as beneficial; and that the peculiar defence which it involves in favour of the smaller States would be more rational, if any interests common to them, and distinct from those of the other States, would otherwise be exposed to peculiar danger. But as the larger States will always be able, by their power over the supplies, to defeat unreasonable exertions of this prerogative of the lesser States; and as the facility and excess of law-making seem to be the diseases to which our governments are most liable, it is not impossible that this part of the Constitution may be more convenient in practice, than it appears to many in contemplation. . . .

. . . The necessity of a senate is not less indicated by the propensity of all single and numerous assemblies, to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions. . . . All that need be remarked is, that a body which is to correct this infirmity, ought itself to be free from it, and consequently ought to be less

numerous. It ought moreover to possess great firmness, and consequently ought to hold its authority by a tenure of considerable duration. . . .

. . . The mutability in the public councils, arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government.

On September 17, 1787, the 39 delegates to the Constitutional Convention, meeting in Philadelphia, signed the new Federal Constitution. They agreed that the new Constitution, intended to replace the Articles of Confederation, would take effect when it gained ratification by 9 of the 13 States.

To overcome suspicion and outright opposition, supporters of the Constitution needed to convince Americans of the wisdom of the new plan. In the weeks and months that followed, newspapers throughout the States printed opinion pieces that both praised and condemned the proposed Federal structure. Most prominent among these propaganda pieces was a series of letters written by Alexander Hamilton, James Madison, and John Jay. Signed "Publius," and published in 1788 as "The *Federalist*," these essays explained how the new Constitution—dividing the Government into three equal branches—would preserve the Union, reconcile differences among States and political factions, and promote a common welfare, while carefully controlling power through a system of checks and balances.

Of the 85 essays the trio authored, seven dealt specifically with the Senate—Nos. 62, 63, 64, 65, 66, 75, and 76—while others, such as essay No. 51, discussed the Senate as part of the broader definition of a Federal Government that included a bicameral legislature.

In essay No. 62, James Madison eloquently stated the need for a smaller, more deliberative body in the legislative branch to cool the passions and control the urges of democratic masses. By requiring Senators to be at least 30 years old, 5 years greater than the minimum age for their House counterparts, and to be elected by State legislatures rather than through direct popular election, the Framers created an institution designed to provide experience and stability.

Such qualifications would be vital in a body to which the Constitution assigned such constitutional duties as providing advice and consent to treaties and to Presidential appointments. Senators also would serve 6-year, overlapping terms, creating continuity by allowing two-thirds of its Members to remain from Congress to Congress. Longer terms, combined with a system of indirect election, would allow Senators to resist the whims of public opinion.

The Framers also established equality of States in the Senate, assigning each State two Senators. The "Great Compromise of 1787," reached on July 16, 1787, reconciled the demands of the

large States with those of the small States by establishing proportional representation of States in the House of Representatives based on population, and equal representation in the Senate. This compromise guaranteed that the Senate would remain a smaller body than the House, where Members could enjoy more freedom in debate and create the necessary compromises to bring about successful legislation.

Of all the qualities established by the Framers, only the system of indirect election has changed significantly over time. Election by State legislatures ultimately proved vulnerable to corruption. Following the Civil War, newspaper reporters accused State legislatures of accepting bribes to elect Senators favorable to special interests or remaining willfully "deadlocked," depriving some States of their Senate representation for months—yes, for months—even years.

Reformers reacted to these allegations by advocating a constitutional amendment that would allow the people to vote directly for Senators. This correction to the Framers' handiwork for the Senate went into effect in 1913 as the 17th amendment.

The Senate has remained a smaller body where States have an equal voice. It has served continuously now—continuously, may I say to the distinguished occupant of the Chair, the very able senior Senator from the Old Dominion, the State of Virginia—since 1789, never requiring the biennial reorganization necessary in the House.

Senators have tended to be somewhat older and more experienced than Representatives, and the Senate has remained—yes, remained—a deliberative institution that has brought caution and stability to the legislative process.

As James Madison commented at the Constitutional Convention, the "use of the Senate is to consist in its proceeding with more coolness, with more system, and with more wisdom, than the popular branch" of the Congress.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my understanding is we are on the immigration bill as of this afternoon, and there is an amendment now pending. I wish to say a few words about the general issue of immigration and also talk about a couple of items the Democratic leader, Senator REID, spoke about earlier today.

First of all, I think this needs to be, and I hope will be, a very sensitive debate. The fact is, this is a great country in which we live. It is a country

that in many ways over many decades of its two-plus centuries has been built by immigrants, has been nourished by immigrants. Virtually every one of us in this Chamber would have come from immigrant parents, grandparents, or great-grandparents. So it is important we understand that and we understand what immigrants have brought to and have given this country.

It is also important that we understand why as a country we have decided to have immigration laws and to have quotas for immigration. The reason we have had quotas for immigration is the world has progressed in different parts of this globe at a very different rate. In some countries, the economies have lagged far behind. In other countries, the economies have become very advanced, and the circumstances of the countries are very different.

This Earth of ours has somewhere around 6.3 billion people living on it, this little planet. We circle around the Sun. Of the 6.3 billion people, somewhere now nearing 300 million people live in this little place called the United States of America.

We are pleased to live on this planet. One-half of the people who live on this planet make less than \$2 a day, one-half of the people who live on this Earth have never made a telephone call, and 1.5 billion people living on this Earth don't have daily access to clean, potable water. There are people living on this Earth with great challenges.

We, however, are a country that has been blessed with resources, wonderful people, and ingenuity, and we have built something very special. Building it was not easy. Building the kind of economy and the standard of living we have had in this country has required sacrifice. We have had people die on the streets for the right of workers to organize. We have had very substantial debates about rights—about civil rights, workers' rights, about women's rights. We have done a lot of things that are very tough and challenging, and we have built quite a remarkable country.

Because of that, this is a country to which many around the world aspire to come, to live here, to work here, to be here. If tomorrow, for example, we in the United States said, on Tuesday, tomorrow, May 16, there is a new policy, and that new policy is this: Anyone living on this planet is able to come to this country unrestricted, come here, stay here, live here, work here, you are welcome, the welcome mat is out, if we did that, what do we think might happen? I know what would happen. Tens of millions of people—tens and tens and tens of millions of people—would aspire to find their way to the United States of America because it is, in fact, a beacon of hope and opportunity all around the world. There are jobs in this country, jobs available, rates of pay that are far in excess of those of Third World countries. The difference be-

tween, for example, the jobs in Mexico and the rate of pay for those jobs versus the jobs in the United States is very substantial.

We have on our southern border people who aspire to come to this country from Guatemala, Honduras, El Salvador, on up through Mexico to try to cross our borders. The result is we have, in order to protect our way of life and our standard of living and to protect jobs that need to go to American workers, quotas that limit the amount of immigration, and those quotas year by year are quotas we work with to try to understand how many we can have come into this country from various parts of the world.

Let me give some statistics about last year to the extent we know it. Last year, 1.1 million people tried to come into this country illegally from the border of Mexico, up through that southern border; 1.1 million people tried to enter this country illegally and were apprehended, stopped, and not allowed to enter the United States illegally. Mr. President, 750,000, it is estimated, did come to that border and got across the border illegally and were not detected and were not stopped. So 1.1 million were detected, stopped, and prevented from entering. Probably three-quarters of a million entered illegally. Another 175,000, it is estimated, came to that border and entered legally; that is, children, relatives, and others. Under the quota system, they entered legally. This is a circumstance just on our southern border.

The result is we have immigration laws, and those laws are laws that determine how many we can allow into this country. We do that for the protection and for the economic interests of the American people.

The American people include immigrants who have been here, came here legally; some have been here a long time. We want to make sure that jobs are available for them, that the middle class in this country has jobs that pay well with benefits.

We also have another influence in this country, and the other influence is that larger corporations are now made much larger because of mergers and are wanting to export good American jobs to China and import cheap, substandard labor, particularly from the South, and pay even less than minimum wage, and because they are hiring someone illegal, they are highly unlikely to be critical of them if they don't pay the minimum wage. They feel they don't have the right to criticize.

We have a circumstance where at least some enterprises in this country want to export good American jobs and import cheap labor on the bottom. That is, in my judgment, the circumstance that will pull apart the middle class in our country. That is why we have to be concerned about all that is happening.

The situation which exists in this country is that we put together, recog-

nizing there was an immigration problem, a bill 20 years ago in the Congress—I wasn't serving in the Senate at the time, I was in the House. It was a bill called Simpson-Mazzoli. It was named after Senator Simpson and Congressman Mazzoli. It was said at the time that the way to deal with illegal immigration is to shut off the jobs because people aspire to come here illegally to take a job. They see this job as hope and promise for the future.

I have pointed out many times about a helicopter I was on that ran out of gas at one point. We were touring down near Honduras and Nicaragua in the jungle and mountainous area. I was on a helicopter, and we ran out of fuel. We landed under power, but the red lights were on and alarms were ringing, and the pilots brought us down right then and there in this jungle, mountainous area. We were there a good many hours until the U.S. Army found out where we were and hauled us out of there.

The campasinos in the area came walking through the underbrush to see who landed in these two helicopters. Three of us had an interpreter with us. I was talking to the campasinos through the interpreter. They had never seen anyone from the United States. They lived up in the hills, a life of significant difficulty and poverty.

I was talking with them about their lives. I asked one young woman: How many children do you have?

She said: Only four, kind of disappointed. She was a very young woman. The interpreter told me later: The reason that woman said "only four" is you should understand there is no social security program down here. The only social security you have is to have as many children as you can possibly have and hope that enough of them survive that perhaps if you are lucky enough to reach old age, you will have children alive to support you in your old age. That is social security.

A number of women with a number of children came looking to see who landed. I was talking with, as I said, this young woman: What is your wish, your desire for your future and your children's future? What are you hoping for?

She said: That is easy. I want to come to the United States of America.

I said: Why do you want to come to the United States of America?

Oh, she said, that is an area where there is hope and opportunity for my children, and jobs.

You find that all over. So it is not surprising there are people trying to cross our border, trying to find jobs and opportunities in this country.

We passed legislation 20 years ago called Simpson-Mazzoli. The basic premise of that legislation was very simple. The premise was this: The attraction for people to come to this country illegally is to find a job and to earn money. If you shut off that attraction, shut off that job, you at least substantially diminish illegal immigration coming into this country. And so the legislation was passed.

I went back recently and read all the debate about Simpson-Mazzoli. The legislation was passed, and it was going to shut off the jobs. In fact, how was that going to happen? It was going to happen because there were going to be employer sanctions, saying to America's employers: If you hire illegal aliens, if you hire illegal immigrants to come into this country to take a job, you are going to be in some trouble. You can't hire people who are here illegally to work in your plants, to work in your businesses.

Those then were the approaches that were going to be used to shut down this illegal immigration. What happened? Let me give an example. I am told that last year, there was only one action taken against an American business—one—in all of America for hiring illegal workers.

I will give an example of hiring illegal workers. A couple of weeks ago—there is an energy plant being built in North Dakota—the highway patrol picked up I believe it was seven people. I believe six were from Guatemala, one was from Mexico. They detained them. They were not here legally. They had come here illegally to take a job in constructing the energy plant.

The law enforcement people took them to Minot, ND, to the immigration office. As a result of that, they took them back down to a motel nearly an hour south of Minot and dropped them off at the motel where they were staying with the admonition that they are now required, because they were here illegally, to show up in Minneapolis some weeks hence for a hearing. Of course, they will never show up in Minneapolis. They are gone. That is the way the system works: Come here, find a job; if you get caught, they say show up later; you never show up later. And that is the way the system works. That is the way the system works.

Now, what about the employer who hired these seven people? In 2004, in the entire United States of America, the administration took action against three companies that hired illegal immigrants. Let me say that again. In the entire country, they took action against only three companies that hired illegal immigrants. That is the same as saying to companies: You know what, don't worry, be happy. Hire illegal workers if you wish. Pay them substandard wages if you wish because they won't complain because they are illegal. Don't worry about it. It is a great way of cutting your costs. Be our guests because we are not going to enforce the law.

That is unbelievable to me.

So the whole promise of the law that was changed 20 years ago to shut off these jobs for people who are not in our country legally was a complete failure because there was an abject lack of enforcement. Now we have a piece of legislation on the floor of the Senate dealing with immigration, and we are going to go through this process again. We are told there are 11 million to 12 mil-

lion people who have come into our country illegally. Some have come in recent years, some have been here a long while, and some have been here long enough to have children and grandchildren. So the question is: What do you do about that?

Then we have people come to the floor of the Senate and they say: Well, let's do a new immigration bill. Yet doing a new immigration bill without effectively finding ways to shut the border to illegal immigration will have us back in the same Chamber in 10 years or 20 years saying: Now what do we do about the next 10 million or 20 million people who are here illegally?

Let me tell you why I think this is so important. No. 1, I said when I started that I think it is important that this be dealt with in a very sensitive way. I don't want people to in any way suggest that this debate diminishes or demeans immigrants. We have some wonderful people who have come to this country. That is how I got to this country. I wasn't alive when my ancestors came here, but they came over from Norway, and most Members of this Senate are here in this country because someone had the courage to get on a boat and probably land at Ellis Island. So let's understand that, first of all, about immigration.

But let's also understand that the issue of legal and illegal immigration is different. There are legal ways to come to this country and there are ways to get into this country illegally. What we have built in this country is very unusual on the face of the Earth.

I have spoken before about a man named Jim Fyler. Jim Fyler died. He was shot 54 times—54 times he was shot. Do you know why he was shot? Because he felt that coal miners ought to have a right to organize for better pay and better work hours, so he gave his life. Well, Mr. Fyler is one example of dozens of examples of what we have done in this country: The courage of men and women to stand up for the interests of workers for good jobs that pay well, with benefits, including retirement, health care, and more. So we have built something very special.

Now we have a whole series of influences which include, yes, illegal immigration to diminished salaries, diminished wages, diminished benefits, and diminished opportunities for American workers. It is not right.

So what I feel we should do is work on this immigration system in a serious and thoughtful way and try to evaluate what do we do about several issues. First, what do we do to control our border? I know some of the discussions today and perhaps this week and next week will be about terrorists. Yes, we have to try to keep terrorists from coming across the border. That is something that is very important. Terrorists wish to do harm to the American people. We need to keep terrorists from coming across this border and trying to kill American citizens. But in addition to the issue of detecting ter-

rorists and preventing them from coming in, we also need to have some control of our border to prevent an uncontrolled inflow of illegal immigrants who will take American jobs at substandard wages and then beginning to put downward pressure on American workers and American wages.

It is not an accident what is happening in this country today. You can read all the newspapers and evaluate what you find. You find companies that want to ship good jobs overseas to China. Why? Because they pay less money to get their products produced, and they want to ship their product back to this country to sell it and then they want to run their income through the Grand Cayman Islands and not pay taxes. So the same companies that want to export good American jobs are the same companies that would like to import cheap wages for the jobs we lost here.

Alan Blinder, a very respected economist, used to be vice chairman of the Federal Reserve Board. He wrote a piece that is interesting. I know some, when they talk about exporting American jobs, are viewed as xenophobes and isolationists and protectionist.

Allen Blinder wrote a piece; he is a former vice chair of the Fed, a very respected economist. He said there are somewhere between 42 million and 54 million American jobs that are potential jobs to be outsourced—outsourced—because there is a billion to a billion and a half workers in the rest of the world who will do those jobs for 30 cents an hour, 50 cents an hour, and you can put them in unsafe work plants, put the chemicals in the air and water. You don't have to worry about all that. They are much less expensive than hiring an American worker. He also said that it is likely that 42 million to 54 million American jobs would not be exported, but even those that are not exported, if they remain here, they are competing with lower wages and with those workers overseas who are willing to accept much lower wages.

So we face some very significant economic pressures for the American worker and the middle class in this country. Nobody seems to think much about it, care much about it or talk much about it. But it is implicit in this discussion as well, and it applies not to a certain class of American workers; it applies to all American workers. Yes, those are Hispanic workers and African-American workers; all American workers are affected by this. Those who are in the minority suffer most. They are the first to lose their jobs and the last to get a job back, and when they do get a job back, it is lower pay because they are told: This is a new global economy, and you have to compete with others in other parts of the world willing to work for much less money.

So that is the subtext as well for this kind of discussion, but I want to finally say this: If this debate moves forward

without an understanding that you have to find a way to deal with this issue of employer sanctions or shut off the lure, shut down the lure of a job; if we don't decide to get serious about saying to employers: You can't hire illegal immigrants, you can't do that without significant sanctions; if we don't do that, then we should make reservations to come back every 10 years and have another debate about how we deal with the next 5 million or 10 million people who want to come into this country.

So I think that this issue in the coming couple of days is going to be a difficult issue with perhaps a lot of amendments. I will be offering an amendment. My amendment will be one that will eliminate the guest worker provision which is the extra "above" provision saying that there are another—with this new proposal before us, there is another, I think it is 3.8 million workers who don't yet live in this country, but above H-2A and H-2B and the other programs, above all of that, there is another 3.8 million workers living outside the country now that will be allowed in as a part of this compromise. It doesn't make any sense to me. That is not, in my judgment, the right thing to do.

So there will be, as I said, a lot of amendments and a difficult debate, I am sure. I think this is a very important issue, but I think it is very important that we do it right and get it right. One of the questions we ought to consider for all Americans as we proceed is what are the consequences on American workers, on American jobs, wages, retirement, the future? That is a very important issue as we consider these immigration issues in the next 2 weeks.

Mr. President, I yield the floor and make a point of order that the quorum is not present.

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. SESSIONS. Mr. President, I would like to thank my colleague from North Dakota, Senator DORGAN, for his comments. I happened to be in South America a few weeks ago, and I noticed in the State Department news clips that there was a poll taken in Nicaragua, and it said that 60 percent of the people of Nicaragua would move to the United States if they could. Then I asked the Ambassador of Peru about it, and he said: Well, that is interesting. We did a poll down here just a couple of months ago and it was 70 percent. So I think Senator DORGAN has raised an important point, and that point is this: The United States must decide how many people and what skill sets we need in our country to strengthen our country. We simply cannot allow ev-

erybody in the world to individually decide they would like to come here and then to grant that request. It simply is not possible. I think what we would see in the months to come and the years to come is that more and more people would choose to come here, and as word got out if this bill were to pass in its present form, that they would decide to come here. The numbers could grow to exceed a level that most people think not possible today.

I had a press conference this morning, and we dealt with the question of the numbers of people that would be allowed into our country if this legislation were to pass. The numbers are staggering. Also at that press conference was Mr. Robert Rector, senior research fellow at the Heritage Foundation, the man who did the basic research on the welfare reform bill, one of the more respected individuals in Washington in terms of numbers and public policy. He stated at that press conference that this legislation is some of the most important legislation ever to come before Congress, and he compared it as rivaling in significance to Social Security and Medicare. That is what he said this morning. So we have to think seriously about the legislation that is before us.

Yes, we want to treat fairly and justly those people already in the country—even those who are here illegally—and figure out a way to do that right, and that is very significant. We also want to work hard on the border and to make sure we have a legal system that works in this country, and we have been doing some work on that. I don't think we are there yet. This bill does not get us there, but we can talk about it and perhaps make some progress.

I would say there is a deeper issue that is part of S. 2611 that has not been discussed publicly until this morning, and that is how many people might be admitted under this bill. My staff, Cindy Hayden and her Judiciary team, have been working for a week to try to figure out just how many people could be admitted. Right now, under current law, this country would admit 19 million new residents over 20 years. Under the legislation that is proposed today, over a 20 year period, we would admit a minimum of 78 million people—four times the number admitted under current law. In fact, as this chart shows, the number of people we admit could be as high as 217 people. If the base numbers in this bill grew at the maximum acceleration factors automatically built into the bill, acceleration factors that kick in not with regard to Congress or with regard to the Department of Labor making any certification of need but simply because people show up and apply to come into our country, they could actually hit 217 million people. That is a stunning number. That is two-thirds of the present population of the United States of America. I don't think it is going to hit 217 million, but

I do think it is going to exceed 78 million.

Mr. Rector ran his numbers, and they came out very similar to ours. His top number for people admitted over 20 years was 200 million instead of 217 million. Based on his judgment about what might actually happen, he thinks that the number will be 103 million people over 20 years, five times the current rate of immigration into our country today. Based on this finding, that would mean that 20 years from today, 25 percent of the people in this country will not be native born citizens. That is a huge thing. What does that mean to jobs and employment and wages? We haven't thought that through. What have we done to make sure that the people who come here are welcomed and can be met, affirmed and raised in the traditions of America which have created the land of opportunity that attracts people here?

What about those people who came into our country legally or those who may be given amnesty under this bill? They are out working at a little above minimum wage and then, boom, every year, larger and larger numbers of people come in, keeping them down at the minimum wage level, not allowing them to build up their salaries. Those are all problems that we have not thought through in a significant way, but they are big problems. These are huge problems. But there is momentum to pass something. What we hear in the Senate is we need to pass something, to send some sort of signal, I guess, politically or otherwise, that we care. We have to do this.

We need to think. This Senate is supposed to carefully and thoughtfully consider legislation before we pass it. I am going to talk a good bit about it as time goes on throughout this debate. There are so many important things contained in the legislation, so much experiment, unthought-out policies that could be detrimental to our future, that we must discuss them in an effective way.

I guess it was about 3 weeks ago when the bill was previously on the floor and they tried to ram this thing through here. The Democratic leader would not even allow an amendment and they almost passed it. Some of us had to battle and push back. Senator FRIST, the majority leader, finally said we can't operate under this procedure. We are not going to deny our Members the right to have an amendment in the Senate on a piece of legislation that may be as important as Medicare and Social Security. For heaven's sake, that was the scheme of things.

Now we are supposed to move a 600 page piece of legislation through here, with an agreement that only 20 amendments are guaranteed to get a vote, and then we will pass the bill at the end of the week. I don't think we can really fix it by the end of this week, frankly. I don't think there is enough knowledge in the Senate about what is in the legislation to make it possible

for us to reach an agreement on how to fix this.

When we had this issue blowup recently—I guess that is the word you would call it—and they tried to move this through and Senator REID said we would not have any amendments and it was pulled down, I raised the point at that time that we did not fully comprehend the importance of what is in it. We need to study the bill. We need to study the policy behind the bill. Around the country, I called for hearings in the Judiciary Committee, a national discussion on what would be the appropriate way to handle the people who are here illegally.

We are going to handle them in a nice and fair and generous way. What about the people who want to come in the future? What are we going to do about them? We can discuss that. Trust me, that is much larger in this piece of legislation. The people who are allowed under this bill to come here in the future dwarf the 11 million who are here now. We need to have a national dialog, but we have not had it.

We ended up having one hearing, about 2 hours long, maybe a little more. I think three or four Senators came in and out during the hearing. I was there. We had five economists. They made some important points, although not in depth because of the shortage of time. They noted that the bill as written emphasizes low-skilled workers, and all of them agreed that a low-skilled worker—over half of those now coming in do not have a high school education—cost the economy more than they bring in. All the economists agreed on that. A low-skill worker is not a net benefit for America at this point.

They questioned chain migration. They suggested we should question more about the skill sets of people who want to come here. They discussed the fact that there is strong evidence that workers' wages, middle-class and low-end-skill wages today are depressed by larger numbers of immigrants who come in who are willing to work for less.

Why would we think the law of supply and demand worked for every other component of our American economy but doesn't work for labor? How silly is that? Those are some of the things we discussed in the one hearing we had in the Judiciary Committee.

Friday, I came down to the Senate floor. I made a speech just this past Friday, detailing 15 loopholes in the base bill. Each of those loopholes is very significant and raises important questions we need to address. I will point out briefly what some of those are.

Under the bill on the floor today, illegal aliens with felonies or three misdemeanors can get amnesty. That is not what the American people want or what we should want.

Illegal aliens who have previously filed fraudulent asylum applications, prohibited by law from getting am-

nesty or citizenship today, can get amnesty and are put on a path to citizenship.

There is no continuous work requirement. They say the people are here to work, but the bill doesn't require continuous work in any significant way.

They allow evidence that can be produced to prove you have been in the country or been working that is very dubious and will clearly lead to fraud. The bill says you must accept just and reasonable inferences as evidence and that you can have documents from day labor centers and that an alien can file his or her "sworn declaration," and they must be accepted as evidence that the alien satisfies the work requirement.

I pointed out that the bill is fundamentally unfair because it benefits only those who broke the law and not those who followed it and got their work visas to come to the United States or those who left the country when their visa expired as they were supposed to.

Another loophole was that the annual numerical cap is not a cap at all. If it is met each year, it automatically goes up 20 percent without any thought going into that, or discussion.

Furthermore, in-state tuition will be made available to illegal aliens, reversing carefully considered and fully debated law that we passed a number of years ago in the Congress.

These are mostly enforcement loopholes. They deal with amnesty provisions and the enforcement provisions of the bill. They are part of this 614-page bill. But until today, no one has discussed publicly what S. 2611 would do about future immigration or how significant that could be. So we will be discussing that during the course of this debate. I am going to talk about it. I will not be able to complete those remarks tonight, but we will be talking about it the rest of the week, and I think we will see a national discussion begin as a result of the efforts of my staff, and that of the Heritage Foundation, independently, to conclude what the numbers will be.

Who and how many people will be admitted on the path to citizenship under this bill? I think we in the Senate, unfortunately, are blissfully ignorant of the scope and impact of the legislation.

I think most Members of the Senate still believe that the bill language that says "guest workers" is language that means temporary workers when the truth is that virtually all those who will qualify in the future under this bill are not temporary in any way but will be able to stay permanently in this country and will be placed on a direct path to citizenship. That is a fact.

On April 19, when we were trying to decide how to handle all these monumental issues, I wrote to the Judiciary Committee and asked to have hearings on the full impact of this bill which is now before the Senate. I asked a number of questions—see if you don't think these are fair questions to ask about a piece of legislation of this significance.

I asked: What is the estimated numerical impact of each of the proposed immigration programs? Wouldn't you like to know that? What is the numerical impact? How many will come in?

No. 2, how does the future chain migration of family members impact the total immigration numbers on the proposal? We don't know that number. As a matter of fact, in all the numbers we have worked on, we have not tried to calculate it.

Next, what will be the legislation's estimated fiscal impact on the Federal budget, as well as State and local governments' budgets? How much will it impact the Treasury of the United States, the taxpayers? Does anybody know that? The answer is no.

Next, how will entitlement programs such as Medicaid, TANF—welfare—and food stamps be affected? Do we need to know that? Sure.

What level of immigration in the future is in our best national, economic, social, and cultural interests? What is the interest of the United States? What do we need as a country? What would be good for us?

We believe in immigration, we want immigration to continue. I think we might even probably agree that we should increase the number of people who come legally into our country. But what level is correct? Have we discussed that? Have you heard any debate about that?

I next asked what categories of immigrants should compose the overall level of annual immigration. What categories? So I said we need to have a national discussion.

We had one hearing. We had a group of professors for about 2 hours to discuss the general economic principles relating to immigration. It just was not satisfactory. We did not examine in any way the specific provisions of this 600-page piece of legislation.

I sent another letter on April 28 asking our Judiciary Committee to hold five hearings and focus comprehensively on the effects of the proposed legislation. That did not occur. There have never been any hearings on the specifics of this bill. Therefore, as we have gone through it, my staff and I, trying to figure out the numerical impacts of the bill, we came up with some significant numbers. I will not go into the full detail of that tonight. I will talk more about it tomorrow.

I will point out again that these are the charts which show the 20-year impact of 2611. These numbers can be calculated based on the provisions of the bill, but it takes a lot of time and effort. We have charts that go down each provision to calculate what the minimum numbers admitted would be and what the maximum numbers admitted would be.

Under this piece of legislation today, if the caps, the upper limits on the immigration numbers that automatically go upward if they are ever met, don't go up at all and people bring in their families, their spouses and children

who then become citizens, at a minimum 78.7 million people would be admitted over 20 years. That is four times the 18.9 million that the current law allows for today. Who has discussed the impact of that? And absolutely it is going to be more, in my view, than 78.7 million, for any number of reasons I will discuss.

In fact, if all the top quotas were hit, that number would hit 217 million, according to our calculations. The Heritage Foundation calculated the number to be about 200 million, I believe. Though that is the top number, Mr. Rector says a careful, conservative analysis of the legislation would lead him to believe that over 100 million people would actually come into America on a path to citizenship in 20 years. That is his best judgment. If somebody doesn't agree, I would like hear about it. One hundred million is five times the number that now can come into our country. It has not been discussed until today. Nobody has really discussed it but us today, that I know of. It is time to talk about that, wouldn't you think? Did anybody even know this was in the legislation? They would have passed this bill without an amendment just a few weeks ago. That was the plan around here, to move it on to conference. They say: Let's just get it out of here. Don't worry about what is in it, SESSIONS. Don't bother to read it, it is 614 pages. You know you will find something you don't like. That is kind of the talk going on around here.

We decided to read it. My staff actually came away stunned by the breadth and the size and scope of this legislation.

We need to talk about it more. I will have a few amendments. I am not going to try to file too many amendments. But we will talk about it as time goes.

I urge my colleagues to not say to yourself: Well, we need to pass something or I think I will vote for this bill, and maybe they will fix it in conference.

This is a piece of legislation that is extremely important to the people of this country of the United States. It is extremely important for our future as a Nation.

Mr. Rector said it is a matter of huge importance to our Nation.

We need to think about it.

If it is not the piece of legislation you thought it was, if it provides amnesty when they said it didn't, if you thought the workers were temporary and guest workers when they are permanent and on the route to citizenship, and you had no idea the number was going to be 100 million new people in the country permanently on the path to citizenship, five times the current number, then I ask you to vote no.

Let us back up here. Let us fix this bill or let us not pass this bill.

I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be period of morning business with Senators permitted to speak for up to 10 minutes each.

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

EDUCATION

Mr. REID. Mr. President, as we honor and celebrate America's teachers on National Teacher Appreciation Day, I thought it would be appropriate to say a few words about the state of education in my home State of Nevada.

I had an eye-opening meeting recently with the school superintendents from all corners of Nevada, and they shared the challenges that teachers and students face each day and ideas on what we can do to improve education. With only 17 school districts in the State, we have a unique situation where our education leaders can come together—in one room and around one table—for a discussion of the issues that concern them.

Even more remarkable is the unique diversity of Nevada's school districts. Our 17 school districts range from one of the Nation's largest and most diverse, Clark County, to vast, rural Esmeralda County, which has less than 100 students in the entire district. Such diversity makes Nevada a microcosm of the Nation and provides a snapshot of the varied needs of teachers and students across the country.

I met with many of the same superintendents during the early years of No Child Left Behind implementation to discuss the difficulties that their school districts were having in meeting the requirements of the new law.

When NCLB was passed, there were many who lauded President Bush's commitment to education. After all, who among us would allow any child to slip through the cracks in our education system if we could prevent it? None of us would do that. And at the time, many thought that this sweeping legislation would fill those gaps. Unfortunately, this hasn't been the case.

My own State of Nevada has suffered under the burden of unfunded mandates and punitive measures this law has imposed. But I want to give our educators in Nevada credit: from our teachers to our superintendents, they have all tried hard to comply with this law.

They have robbed Peter to pay Paul with their budgets. They have compromised on teaching art and history classes. They have shortened the time allotted for recess. And they have even tacked on extra reading or math classes.

Instead of resisting these requirements, they have tried to work within it, and I commend them for their unified efforts. But there is only so much they can do with a flawed law.

To be sure, Nevada isn't the only State that has struggled under this law. It is a national problem. School districts across the country are already trying to juggle school construction costs, increasing graduation rates, finding money for textbooks, reducing class sizes, and figuring out what to do about overcrowded high schools.

But, now, in its fourth year of implementation, most of us have heard similar stories about the many problems with No Child Left Behind.

So with an eye toward authorization of NCLB, I asked to meet with the State's school superintendents once again, not so much to discuss problems with the law, but, rather, ways to improve it and make it more responsive to the needs of our students and teachers. One after the other, these educators gave examples of how changes, some minor and others much larger, to the No Child Left Behind Act could help them to reach its stated goal.

No Child Left Behind is based on the premise that we can track the progress of every school by using a one-size-fits-all approach, including standardized tests. And what I heard from these superintendents was that their problems aren't standardized—so a one-size-fits-all approach doesn't always work.

In Clark County, Carla Steinforth talked about accommodating the more than 12,000 students that move into the county each year by building a school nearly every month.

Another of the more pervasive challenges that Nevada as a whole, and Clark County in particular, face: the influx of students who are not native English-speakers. There are so many children entering our public schools who don't speak English that—under the NCLB—most of our public schools will eventually be on the "watch-list" or considered a "failing school."

One idea to deal with the district's growing and constantly changing student population was to implement a "growth model" or accountability. Under such a model, student progress would be measured from year to year, rather than by measuring 1 year of student performance to another, as is currently being done. Keith Rheault, the State superintendent of education, said Nevada is pursuing this idea, under a pilot program that opens up this possibility to just a few States. Everyone, it seems, with the exception of the Federal Government, has recognized the need for greater flexibility under CLB.

A neighboring school system, Nye County, is growing but at a much slower rate than Clark County. Nye County is the largest school district in the continental United States. The superintendent, Rob Roberts, talked about the morale of many of the students, teachers, and parents, when their school has been labeled as a "failing school."

In rural Mineral County, Superintendent Steven Cook discussed the difficulty the district has had in retaining and attracting special education teachers. He talked about the