OBAMA has indicated he is filing an amendment to sunset the merit system and eliminate even that.

The temporary worker program gives me great concern because I am afraid it will not work. I also note it allows spouses and parents to visit. A spouse can visit a worker even if that spouse indicates they do not intend to stay in the country they are living in—the foreign country. So I am worried about how that will work. Who is going to apprehend those who don't return?

People who came into our country in the last 5 months, who got past the National Guard that President Bush called out, who got into our country December 31 of last year, will be given permanent status in this country. Those who are members of MS–13, an international gang, if they say they are a member of that gang but that they renounce the principles of that gang, will be able to stay and be given citizenship in the United States.

They said the bill would have greater emphasis on assimilation, because we all agree we need to do a better job of assimilating those who come to our country. I believe it is only mentioned once in the bill, and that is at page 300-something of the bill—almost the last page of the bill.

They said we would emphasize English much more. But under the bill, those who would be given amnesty won't have to produce any proof of English skills for 12 years.

They said there would not be a benefit of welfare. But the earned income tax credit will be given to people immediately upon their being given lawful status in the country; not a Z visa, even, but the probationary status. An average recipient of the earned income tax credit gets about $1,800 a year, and that is not chickenfeed. It was designed to encourage work by working Americans, not to provide an incentive for people to come to our country illegally. The document that is required to enable you to prove you were here before January 1 of this year is simply an affidavit by someone. I submit that the Department of Homeland Security is not going to be able to check on those affidavits and we are going to have massive fraud. Indeed, most people, probably, who are working here today carry false documents of some kind or another. It certainly would not be difficult at all to obtain a false affidavit in that regard.

I have listed 20 loopholes or objections I have identified with the bill—actually, 25, and Senator BINGAMAN pointed out another one earlier today that we did not include in our list. There are many discrete, specific defects in the legislation. But the problem is that the defects and mindset behind the legislation indicate a lack of commitment to creating a lawfully enforceable system of immigration and indicate a lack of commitment to moving to a more skill-based system like Canada's—which system, I note to my colleagues, the Canadian system, was favorably reviewed in a USA Today editorial yesterday. That absolutely should be a part of this legislation.

I salute my colleagues for working to move to a more merit-based system and for taking some steps that would be better from the enforcement side, but I have to say I believe it is not sufficient. I wish it were. It is not. We need immigration in America. We are a nation of immigrants. I do not oppose immigration. I just think we ought to create a system that serves our national interest, that allows talented people from around the world to apply and come here, those persons most likely to flourish in our system. It should serve our national interests and should be effective. I am afraid this bill is not.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank my good friend from Alabama for expediting his remarks. I did not get to hear all the speeches this afternoon, including the speech of my good friend Senator SALAZAR from my neighboring State of Colorado or even all of the speech made today by my very good friend from another of my adjoining States, Arizona, Senator KYL. But I heard a little bit of both of their remarks.

I came to the floor after hearing some of the speech of Senator KYL to tell him how I analyzed his work on this bill.

Senator KYL, I have known you ever since you have been in the Senate. As luck would have it, I can call you my junior. That is only because New Mexicans sent me up here a few years before Arizonans sent you. In no other respect would the use of that word be appropriate because you are a terrific Senator. It would have been a shame if you would have lost this opportunity, with your talent and your ability to convince people, to get the United States of America a new immigration bill.

I say to my junior friend from the State of Colorado, the same goes for you as far as your work on this bill. The same goes for Senator KENNEDY and the other Senators who were in the group who worked together on this bill. But since the two of you are here, I will use you as an example of all of those who decided they had enough and they were going to work until they had a bill.

Let me say that we are not elected to the Senate to handle easy problems, nor are we elected to the Senate to let other people handle problems and then argue that they didn't do it right, so we can be on the defensive all the time and argue against anybody who is trying to do something for the country. We were not elected for that. It happens that we have parties, so most of the time we choose up sides on bills and amendments.

Let me suggest to the American people who do not understand it—and I don't say that in any pejorative sense—something good has transpired in the Senate with this bill. One of the worst problems we have is an immigration system that does not work. If there is anybody in the United States who believes the borders of this great, marvelous country are being policed so we can determine who comes in and who goes out—more significantly who comes in, of course—if they think we can do that, then they are living in another world. They are not talking about their home country because we have little border control yet. We know it in the State of Arizona, my State's neighbor, by just going out and looking. We know it in New Mexico because our Border Patrol agents tell us all the time that thousands of illegal immigrants have come across and thousands more are coming across and we can't stop them. That is because we do not have a comprehensive system, so we get them, they are sent home, and they come back. We arrest them inside the country, we tell them to come to court in 2 or 3 days, they never show up, and we never find them again.

The truth is, this great country has about reached a point where we have lost total control of our borders as to citizenry, occupancy, who raises their children here and what influence they have over our society. We have come very close to living under no border or immigration law.

For anybody who says to the Senate or to a Senator, either a media person or citizen, ''we do not want this bill because we don't like this or that piece of it,'' let me ask them the question, Do you like what we have? Is that not the right question to ask, Senator? Do you like what we have? If you don't like what we are trying to do after months of work, do you really know what you are advocating for when you tell us don't do it and fax our offices and call us long distance? What you are asking us to do is do nothing.

We don't have anything effective. If you want us to not pass a law, you want us to do nothing and you want to leave us with nothing. You want to leave the people of the country open as to who can come to the U.S., how many can come, what they can do when they get here and what kind of opportunity we give them. Right now we do not know who they are, where they come from, or why we are doing what we are doing. That is exactly where we are today.

I say to Senators who will come here in the next few days and say: I looked at this bill with my staff, and they told me I had to have an amendment—I urge you be very serious about amendments. I know, better than most, you can make an argument that a few Senators, no matter how well motivated or how good they are, when they get together for months upon months and write a bill, they have not given everybody a chance, in the institution called the Senate, to participate. But I suggest if those people—led by Senator