

Facing the expiration of these payments this year, rural counties have been forced to begin laying off teachers, librarians, and county employees that provide critical services.

And these communities cannot absorb the loss of these workers. Nor should they have to deal with further erosion of the sense of community that many of their towns were founded on.

But today we are reversing this trend and helping counties retain county employees and teachers, keep roads safe and maintained, stemming cuts in vital government services, while also providing funding for resource conservation projects, forest service land rescue services, and programs to support economic development.

This bill not only provides new opportunities for American businesses to take advantage of the growing green energy economy, but it provides real opportunities for Americans to save real dollars.

So today I ask my colleagues to join me in voting for a strong, bipartisan tax package that helps move this country forward toward greater energy independence and provides needed tax relief to our families and businesses.

I would also like to take a moment to recognize the mental illness parity provisions in this bill. What they mean is that when Americans need mental health treatment that they will not be faced with higher costs for that treatment than they currently have for medical surgical treatments. This bill would require private insurance plans that offer mental health benefits as part of the coverage to offer such benefits on par with the medical surgical benefits. Any cost-sharing or benefit limits imposed on mental health services must not be any more restrictive than those imposed on medical surgical services.

Your support on all of these provisions cannot wait any longer. We have run out of time, and the time to act is now.

I thank the Presiding Officer and 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.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### ORDER OF BUSINESS

Mr. REID. Mr. President, for the information of Senators, we are trying to work things out here. It has been very difficult. At this stage, it appears that the vote on cloture on the Coburn package will be vitiated. We will not have that vote tonight or in the morning.

We are now waiting to see if we can work out an agreement on the extenders. This has been something that the

chairman of the committee has worked on all day, and it has been very difficult. We thought we had it worked out on a couple different occasions, and we did not. We now are told that one Senator who had a problem with it is reading the new language. We hope that can be done fairly quickly. That being the case, we will be back and report to the Senate again, hopefully in the next half hour or so.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### TAX EXTENDERS AND DISASTER RELIEF

Mr. CORNYN. Mr. President, earlier the majority leader came to the floor and propounded a unanimous consent request on the tax extenders package, and I told him that while I supported the legislation, there are a lot of good things in the bill, I still had some concerns about the disparate treatment of the State of Texas, especially related to Hurricane Ike.

I am pleased to report that as a result of discussions with the Finance Committee—Senator GRASSLEY, Senator BAUCUS, and their staff—I believe we have achieved our goal of getting fair treatment for the State and the victims of Hurricane Ike. I wanted to come to the floor and express my gratitude to Senator BAUCUS and Senator GRASSLEY. We are reviewing the final language, but subject to that, I think, as far as I am concerned, there is no objection to proceeding to the bill.

As I toured the hurricane-damaged area last weekend—

Mr. BAUCUS. Mr. President, if the Senator would briefly pause, I wish to thank the Senator from Texas. The Senator has been great to work with as we worked out some provisions to help that State, especially the Galveston area, and the coastal States in getting additional disaster assistance. I thank the Senator as well as his colleague from Texas. We will come back to do more at a later date, but we are doing what we can on this bill, and I say thanks to my colleague for working so well with us.

Mr. CORNYN. Mr. President, I appreciate the generous comments of the distinguished chairman of the Finance Committee. I especially enjoyed the part where he said we may come back later for more once we have been able to do further assessments. That is an important part of the rationale for agreement on this bill. We understand we can't do everything that needs to be done in this bill because the hurricane only hit this last weekend. There are a lot of people who have yet to be able to get back to their homes, a lot of folks

without power, a lot of damage that is ongoing that cannot be fully calculated.

I had the chance, when traveling around the damaged area, to witness the destructive capacity of this huge hurricane and hear from a lot of my constituents, a lot of displaced Texans who were trying to find the necessities of life, including food, water, and shelter. Of course, they were very anxious to know about their homes, whether they would be able to return home, when they would be able to return home, and what they would find when they got there.

I appreciate that the chairman of the Finance Committee has included in the extenders package things such as bonus depreciation and expensing. These may seem like arcane subjects, but they actually mean a lot. They will mean a lot to the people of my State when it comes to rebuilding and getting back on their feet and getting back to work.

I understand the unique circumstances we find ourselves in and the need to get the extenders package passed, which, as I said earlier, I support. I offer my congratulations to Senator CANTWELL, who is on the floor, and Senator ENSIGN for their leadership. They have been working hard and long at trying to get this done, and I know we are almost over the goal line.

Included in the package is an extension of the State and local sales tax deduction. This is something that is important to my State and to the other States that do not have an income tax. Because, of course, you can deduct your Federal income tax from your—your State income tax from your Federal income tax, but if you don't have a State income tax, as Texas does not and, I might add, never will, this provides a level playing field by allowing the deduction of State and local tax.

This also includes an extension of the very important research and development tax credit which helps many companies in Texas and around the country be competitive in the globalized economy.

This measure also includes the extension of several renewable energy tax credits that have helped grow the Texas renewable energy industry. I know my colleagues get a little tired of Texans always bragging about Texas, but I am not going to stop now. We are No. 1 in the production of electricity from wind energy. Many people think of Texas as an oil and gas State, and we are that, but we are much more. We are an energy State. Credits for wind, solar, geothermal, biomass, hydropower, clean renewable energy bonds, fuel cell, and credits for residential energy efficiency home improvements are helping to diversify our Nation's energy portfolio and are a significant contribution toward answering the energy crisis we find ourselves in today.

This measure also supports the clean use of coal. Coal, of course, is cheap. It is domestic. We have a lot of it. We are sometimes called the Saudi Arabia of

coal here in the United States. Its use is essential to helping reduce our dependence on imported energy from abroad. Of course, coal can burn dirty, and we need to continue to do the research and development that is so important to finding ways to use that energy with which we have been endowed here in this country in a way that results in not only good and inexpensive energy use, but also a good, clean environment. We need to spur the advanced technology market to capture carbon and sequester it. Of course, the Federal Government has sort of been involved in a start-and-stop effort to try to do that kind of research. As a matter of fact, two cities in Texas, Jewett and Odessa, were finalists in the Federal Department of Energy effort to do an extensive research project into clean coal technology. Unfortunately, that got so big and expensive that the Secretary of Energy decided to basically go another way.

The fact is we have the geology in Texas because of a lot of old oil wells that could sequester carbon dioxide, and we also know that the capture of carbon dioxide has many beneficial uses, particularly when it comes to secondary recovery and tertiary recovery in old oil fields.

Another key part of solving our energy crisis is the transformation of our transportation sector through the use of plug-in electric vehicles and other alternative fuels. This package establishes a new credit for consumers who purchase plug-in electric vehicles. Now, I am still a little bit skeptical of how many people in my State of 24 million people are going to decide to trade in their pickup truck for a plug-in hybrid vehicle that has a battery that will go maybe 40 miles. That won't get you very far, particularly out in west Texas. But I think in a lot of places, that kind of technology, hopefully, will come to the market as soon as 2010. I know GM is going to introduce the Volt and I know other car manufacturers will be introducing their own models of these plug-in electric hybrids, and I think this new credit will provide that choice and that option to consumers in Texas.

So I thank, again, Senator GRASSLEY, Senator BAUCUS, and the Finance Committee staff. I wish to extend my appreciation to my colleague, the senior Senator from Texas, Senator HUTCHISON, for all of her hard work. We have tried to work together, and have worked together, in the best interests of our State, but also in a way that I think creates a win/win for the people of America. I believe this effort is the first step to making Texas whole again, and I trust that our colleagues who have expressed so much sympathy and concern for the people of Texas who were affected by this terrible hurricane will have long memories.

When we come back after this bill is passed, we will continue to work together on other important measures to make sure that each of our States af-

ected by natural disasters, wherever they may be, will be treated in a fair and evenhanded sort of way. Senator HUTCHISON, of course, has been taking the lead when it comes to working on what I anticipate will likely be a supplemental appropriation request. But as I said at the outset, this hurricane is very recent. There are still a couple million people without power, and the assessments are still being done. But we will be back and we will be seeking the further—not only words of support from our colleagues, but something real and tangible in terms of support for the people of our State.

I see my colleague, the senior Senator from Texas on the floor, and I certainly yield the floor to her.

The PRESIDING OFFICER. The senior Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I wish to say to my colleague from Texas that we have been working together all day on the tax extender package, because there are many facets that affect Texas in this tax extender package. Then, on a separate note, I am certainly working with our whole delegation on the appropriations part of the continuing resolution we expect to see next week.

I so appreciate working with the chairman of the Finance Committee, as well as Senator GRASSLEY. Both Senator BAUCUS and Senator GRASSLEY have been very helpful in trying to fashion an addition, actually, to the tax extender bill because, of course, as Senator CORNYN has said, this hurricane hit our State last weekend. We have seen the pictures—all America has seen the pictures—of the streets of Galveston, the former streets of many of our areas, and the residents who still cannot get back into their homes, including 2 million people who still don't have power. So we know the devastation that has hit our area, but we don't know yet what the total cost is going to be, because we can't even get into Galveston to start making assessments. Certainly Port Arthur, Orange, Beaumont, the lower parts of Harris County—all the way through our area, we are seeing the effects of this storm that are not yet calculable.

The Finance Committee has agreed to add into the bill, that was already on the way, the help that Texas and Louisiana are going to need because of Ike in the tax part of the extender package. The disaster part that will be added in is going to be very helpful to the private sector and the ability to start getting the housing up and going in these areas that have been completely wiped out. I think that later, when Senator BAUCUS comes to the floor, we will want to talk about it to make sure it is clearly understood exactly what the effects will be on Texas and Louisiana. But our delegations have worked very closely together with Senator BAUCUS and Senator GRASSLEY to achieve what I think is a good result.

In addition to the disaster part of the bill, there are important parts of the

tax extender package that will affect all of our communities. Certainly in Texas, the sales tax extension that is a matter of equity for States that don't have income tax, to be able to have the same deduction for our sales taxes that income tax State taxpayers have for theirs is a very important component of the tax extender package. Then, again, since Senator BAUCUS has just walked on the floor, I wish to say that I think what has been worked out on the oil and refinery tax issue from the manufacturing standpoint, along with the additional two years of the expansion of refinery tax credit, we are going to be able to continue to build out the refineries that will affect the price of gasoline all over our country, because as we are seeing right now, due to Hurricane Ike, the shutting down of refineries affects the price of gasoline everywhere. If we can add to the capacity of our refineries all over the country—this is not only Texas and Louisiana; this is Michigan and everywhere where there are refineries—if we can add to that capacity, it adds to supply, and it will bring down the price of gasoline. The extension of 2 years is going to be very helpful for refineries to have an incentive to do even more than they have already been committed to do.

Certainly, I think the addition of the manufacturing tax credit, even at the lower level, will also add to the capability as these Gulf of Mexico rigs and refineries are spending millions of dollars, not only on cleaning up the damage and trying to get back up and operating, but they are also helping their employees at a time such as this with the problems they are having with their homes being gone and their living conditions being unable to be sustained.

I thank the Senator from Montana, the chairman of the Finance Committee, for working with us on that. I ask if the Senator is ready to go with a colloquy, or should we wait. I don't know what the status of the tax extender package is at this point, but perhaps he would be able to tell us.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I think someone is getting the colloquy together. We don't have it at the moment. However, I think we can basically have an impromptu colloquy right here to handle most of it, and if we want to do more later, we can do so.

Essentially, the Senator from Texas very correctly and appropriately called me and said we need to do more for Texas, including Galveston, and some other coastal counties. I said to the Senator, if the disaster provisions in the tax bill, which were somewhat patterned—basically patterned—after the Katrina provisions, many of those would apply to Texas. With the consequences of Ike and Gustav, we went back and looked so we could do more.

The slight problem we faced is it takes some time to pinpoint and to write precise tax provisions that affect

the areas that are hit by disaster. We don't want to give relief to counties or portions of counties where there is no disaster. That would not be the correct thing to do. In fact, we ran into that problem back during the time of Katrina when the initial request, which was, on the surface, appropriate, but when we looked more closely, there were too many dollars spent inappropriately and not enough spent appropriately. It takes a little time to work that out.

After about 2 months, we talked to mayors, local people, and disaster people to make sure we tailored it well. We ended up with a result that was quite good and appropriate. It wasn't as large as the initial estimate, but the initial estimate was way overblown. It was not well tailored. I mentioned this to the Senator from Texas, and she said she understood. On the other hand, she said, "We need help here." I appreciated that and said: You bet.

I tried to find some ways to provide additional disaster assistance in the bill that I hope we take up on Tuesday. Essentially, what we worked out is an increase in the allocation of low-income housing tax credits, as well as an increase in the allocation of private activity bonds. The total amount is geared for those counties on the coast. I think there are four or five coastal counties which were hit the most.

But to make sure we are not too locked in, we also give the Governor the right to reallocate the benefit of these provisions to other areas in Texas but under the total amount. The thought is that we are helping, that way, tailor the assistance most appropriately and specifically.

I say to my friend from Texas, it was good to work with her to find the combination, as I said to the junior Senator from Texas, and there would be an opportunity to come back later for more if that is appropriate.

Mrs. HUTCHISON. Mr. President, the key provisions that the Senator outlined are exactly what we have agreed to in that we would get extra amounts that would be allocated for the five coastal counties in Texas and into Louisiana. Because the amount is higher, the Governor would have discretion, within the other disaster areas, to allocate that excess. That is indeed part of this because there are areas in Houston, Harris County, Galveston, Port Arthur, and Beaumont that will be in the main bill. There are counties such as Orange, Tyler, Polk, and others in the disaster-declared areas that could make the added excess, and so it would be allocated throughout the area according to the discretion of the Governor.

Mr. BAUCUS. The Senator is correct. That is my understanding, and that is what we intend to provide.

Mrs. HUTCHISON. The tax-exempt bonding authority, as well, and the low-income housing tax credits will bring that housing back on line, which is so important.

Mr. BAUCUS. The Senator is correct. Allocations for both, that is correct.

Mrs. HUTCHISON. Senator CORNYN had mentioned earlier that he might want to address the additional potential, since we all know this happened just a week ago, and we don't have final actual numbers. I ask him if he wants to speak on something that he had been very active in doing.

Mr. CORNYN. I reiterate my thanks to the Senator from Montana, the chairman of the Finance Committee. He described what I had understood, and we are reading the fine print to make sure that is how it is written. I anticipate that we will be able to be satisfied with that. As Senator HUTCHISON knows because she and I traveled the affected area, the two areas most affected were Galveston and Orange County. The fact that specific counties were listed does not limit relief to areas that may have been, as a matter of fact, disproportionately impacted, such as Orange. So I am glad to hear that confirmed for the record because it is very important.

As we have all said, it is still very early and there is a lot of work to be done in just assessing the damage. As a matter of fact, before the storm, there was a projection that the surge of water that would be pushed up by the storm could reach a level of 25 feet—a wall of water being pushed up the Houston ship channel. It was projected that 125,000 homes would be destroyed.

According to the computer models, there was a projection that as much as \$81 billion in damage would be done. At that time, we were principally concerned with making sure that lives were saved and, of course, in the immediate aftermath with the search and rescue operation. But that assessment, of course, fortunately, is going to be a lot lower than the computer models projected because the surge was not quite as bad as predicted. The storm hit in a way that didn't push that 25-foot wall of water up the Houston ship channel.

As I said, we are grateful for all of the cooperation. I hope we will be able to come back when we have firmer numbers and a more detailed assessment, and we will experience a similar sort of cooperative spirit in trying to make sure the people of Texas are treated on the same basis that other victims of natural disasters in other parts of the country have been treated.

Mrs. HUTCHISON. Mr. President, I want to just say to Senator CORNYN and to Senator BAUCUS, as we said earlier, there are actually 29 counties that will be in this affected area. What I appreciate so much is that Senator BAUCUS realized that it would be very difficult for us to pass a disaster package and leave out Texas and Louisiana when the devastation is so bad. It is the beginning, and I am sure there will be more. But the fact that Senators BAUCUS and GRASSLEY have understood the enormity of our situation, it gives us great comfort. I talked to the mayor

of Houston, also, about this issue. We have been talking to the other mayors, and they so appreciate the Senator's accommodation. We are all going to be able to continue to work together, just as we have in so many of these disasters that keep on having issues, and we want to do it in the right way because that is the American way.

I thank the Senator from Montana. I also thank the Senator from Iowa, Mr. GRASSLEY. We will continue to work with them.

Mr. BAUCUS. Mr. President, I might say to the Senator from Texas that I had a nice conversation with the mayor this afternoon, too. He was helpful in explaining what needed to be done. He appreciated the efforts both Senators from Texas have undertaken. I think he would like more, but he understands where we are.

Mrs. HUTCHISON. I think he understands exactly where we are now. He told me he had a good conversation with the Senator from Montana. We are all working on this together and taking 1 day at a time. We appreciate it.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I will offer something at some point. There is not a Democrat here. I am not trying to pull a fast one on anybody. I understand there is an objection to the bipartisan agreement called the Legal Immigration Extension Act of 2008 by one, perhaps, Senator. I want to share some thoughts about that and how we got where we are today.

There are four pieces of legislation that are expiring or are about to expire. After a good bit of work in the Senate Judiciary Committee, we reached an accord that we would not offer any changes in immigration law before we try to recess this year. A lot of us have some real firm views about some things that need to be done, but everybody has basically agreed not to push that. But it is important that a number of things get passed. The most important thing that needs to be passed—and it would be unthinkable were it not to pass—would be the extension of the E-verify program.

It is a voluntary Web-based system operated by the Department of Homeland Security, in partnership with the Social Security Administration. It allows participating employers to electronically verify the employment eligibility of people they would hire, to see if they are presenting a legitimate Social Security number.

More than 84,000 employers voluntarily participate in E-verify and we would get—get this—a thousand new enrollments by employers each week. It is growing in popularity. Because it was a limited program, it is set to expire in November of this year. So the agreed-upon legislation would be to extend the program for 5 years. I note that this program, under the Kennedy-McCain bill, and the subsequent comprehensive bill that was offered on the

floor, which was voted down, would have made E-verify mandatory on all employers. This does not do that. This just keeps it as it is.

Presumably, we are going to have to have a real serious talk about what to do next year. Also in the package I just mentioned would be an extension of the ED-5 regional center program. This is a program that says if someone comes to America—and it has been in effect since 1990—and they are willing to invest \$1 million in hiring at least 10 Americans, they would be able to get a visa. That program is set to expire, and we have agreed that it would continue for 5 years—not be permanent, but it would be extended for 5 years. It is an additional group of people on top of the 1 million or so we allow in the country every year. It is an additional group on top of that.

Then there is Senator CONRAD's 30 J-1 visa program. Senator CONRAD, in 1994, passed a provision that would allow foreign medical graduates to waive the mandatory return to their foreign residence, and if they were going to practice in a State for 3 years before they return to their home country, they could stay here. Many States have found that to be an advantage.

Again, that is on top of the others. I am a little bit concerned that every time we do one of these programs it is just on top. We are not choosing and prioritizing the people who would best flourish in America, but we are just adding on top. But I have agreed to go along with that and extend that program for 5 years.

There is also the nonminister religious worker visa program. It was passed in 1990, and it allows up to 5,000 workers on top of the people who are already able to come here and be a part of America, and people believe that should be extended. I am prepared to agree to that as part of the package. So that would be what we would do there.

Those were the pieces of legislation that Senator LEAHY and, I think, the entire Judiciary Committee agreed that we should move forward on.

Now, let me mention why the E-verify program is critical.

I have to say to my colleagues that I cannot agree and this Congress and this Senate should not agree to an additional expansion of immigrants into this country as a price to continue the current law. If we are going to do that, then we need to have a full debate about immigration and a full debate about the numbers that should be admitted, and properly so, into our country, and what standards should be utilized. That is the situation we are facing.

E-verify, as included in this bipartisan package, would not be changed in any way. It will remain the program it is today, but it expires on November 30 of this year. It was originally established in 1996, and it must not be allowed to expire. If this Congress allows E-verify to expire, then we will have made a statement to this Nation that

the one system that is working today and could be expanded in the future to create a lawful system of immigration is being abandoned. It would rightly cause every American who has been hearing Members of the Senate and the House promising to do something about restoring the rule of law to immigration—they would know we were not serious at all. They would know this is one more flimflam that would be carried out.

I feel very strongly about this issue. The total number of users in corporations today are 84,000, representing 438,985 hiring sites. It is being used quite a bit today in a voluntary fashion.

So far in 2008, there have been over 5.8 million queries run through the system compared to a total of 3.2 million in fiscal year 2007. If you do not want the law enforced, that makes you nervous. Look, it has increased maybe 50 percent in 1 year. More and more people are using it. It is having some sort of impact in the country. If you want the lawlessness to continue, you don't want E-verify to be extended. The growth now continues at 1,000 new users and participants each week.

More and more people are finding it to be a good system. It is voluntary. Companies are finding it works, and it is not burdensome. It helps deter the use of fraudulent documents. Businesses have a difficult time examining documents. They are not document examiners. They are concerned if they deny somebody without a good basis they may sue them. If they don't deny somebody, the Government might fuss at them. This is a way they can do a quick check to determine whether someone is in the country legally.

Both in the 2006 and 2007 comprehensive immigration legislation, this proposal, as I said, would have been made mandatory. However, the legislation we are talking about today certainly is not that; it is only a temporary extension of the existing program. I want to make that clear.

No system is perfect, but we have invested millions of dollars to improve this system. Many of the kinks have been worked out. The system, I think, could and should be enhanced substantially, and I would like to see it made better, but by all means it should not be killed. We must not let it expire. The employers are relying on it. We must not pull the rug out from under them and undermine the rule of law.

To give a brief background on the E-verify system, the Immigration Reform Act of 1986 made it unlawful for employers to knowingly hire or employ aliens who are not eligible to work in the United States. It required employers to examine the identity and work eligibility documents of all new employees.

Employers are required to participate in a paper-based employment eligibility verification system, commonly referred to as the I-9 system, in which they examine documents presented by

the newly hired workers to verify identity and work eligibility and to complete and retain I-9 forms.

Under the current law, if the documents provided by an employee reasonably appear on their face to be genuine, the employer has met his document review obligation. However, the easy availability of counterfeit documents and fake identification has made this a mockery of law. It is not working.

In 1996, Congress authorized a basic pilot program to help employers verify the eligibility of their workers. Participants would verify a new hire's employment authorization through the Social Security Administration and, if necessary, through the Department of Homeland Security databases.

The basic pilot of E-verify was authorized in five States until an expansion of the program was agreed to by Congress in 2003. Now all States and all employers can take advantage of this voluntary and free program.

Let me give some facts on the statistics. There has been a lot of concern that the program does not work fairly. I dispute that most strongly. Mr. President, 94.5 percent of individuals whose numbers are checked are authorized to go to work. There is not a problem. It is done routinely within 3 seconds. One-half of 1 percent are final nonconfirmations. That is, they are identified as not being eligible to work right off the bat. So an employer should not hire them and could commit an offense if they do. Five percent come out of the computer check as tentative nonconfirmations. If a person has that happen to them, they have an opportunity to step forward and show that the computer is wrong and find out what the problem is and fix it. However, the facts are that the vast majority of people who are shown to be tentative nonconfirmations do not contest the matter. What that indicates is they know they are not legal, they know they are not entitled to go to work, and they don't contest it, which proves, I think, that the system is working.

President Bush's Executive order requires contractors of the Federal Government to use the system. It is only right that the Government do business with companies that are not violating our immigration laws. We don't need to let somebody bid on a contract and submit a low bid because they are able to use low-cost illegal labor and defeat the bid of a legitimate American contractor who is using legitimate labor, paying insurance, paying retirement benefits, paying decent wages.

I have had a personal example in the last few weeks in which a businessman told me his company has been losing bids to an out-of-State corporation. This corporation just appeared. He is convinced, and there is evidence apparently, that the corporation is using large numbers of illegal workers, and he cannot win any bids. He said: My people have been working for me for 10 and 15 years. I pay them good wages and good benefits. I want to keep them.

I cannot compete. What are you going to do about it? This is one way.

States are on board with the E-verify, and they are beginning to take a look at it. In fact, many of them are encouraging their businesses to use it. Arizona, Arkansas, Colorado, Idaho, Minnesota, Mississippi, Missouri, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, and some others, have passed legislation requiring either explicitly or implicitly that certain employers within those States participate with E-verify.

On Wednesday of this week, the Ninth Circuit, the most liberal circuit in the country and the most favorable circuit to—

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator has used 10 minutes.

Mr. SESSIONS. Mr. President, I ask for 1 additional minute.

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

Mr. SESSIONS. The Ninth Circuit upheld an employer law in Arizona that revokes a business license of employers caught knowingly hiring illegal immigrants. Businesses in that State do rely on the E-verify program. Killing this program would undermine their law. This is the right thing for us to do.

It is not possible for us at this late date, in light of the agreement we have reached, to have Members of the Senate ask for an expansion, a dramatic expansion of a half a million people to come into our country as a price that must be paid to extend E-verify. That is my concern.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 875, S. 3257; that the bill be read a third time and passed, the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Mr. President, reserving the right to object, I appreciate what my colleague, Senator SESSIONS, is trying to accomplish. But I think there is another view. That view in large part is expressed by the House of Representatives that sent over in a vote of 407 to 2 a much different and obviously very bipartisan approach toward E-verify. It is one that does what Senator SESSIONS wants to do, which is extend the program for 5 years. But it also had some other critical protections.

No. 1, the protection of the Social Security Administration programs, and in that vote of 407 to 2, realizing there are only 435 Members of the House of Representatives—that is how overwhelming it was—it, in fact, also made sure that funds would be provided for the Commissioner of Social Security by the Secretary of Homeland Security to administer this program. When it is costless—it is not costless to the taxpayers, and in reality it is not costless to the Social Security funds.

The bottom line is these provisions that were passed by the House to extend the life of E-verify 4 or 5 years also have a protection of the Social Security programs. It is one that I believe makes a lot of sense.

It also had to ensure, if you are an American and you get—I know Senator SESSIONS downplayed the percentage of people who get kicked out—but in fact if you are totally eligible to work but somehow through computer error are denied that ability in the first instance, now the burden shifts. The burden goes to an American citizen to prove, in fact, that they have a right to work in the first place.

We might say it is only 5 percent, but 5 percent of millions of people in this country is a lot of people. So the House of Representatives passed in their proposals, in addition to extending E-verify for 5 years and making sure that Social Security funds were held whole, they also passed provisions having a GAO study of this program and ensuring that, in fact, it was improved in a way so that we could understand the magnitude of those individuals who are totally U.S. citizens or legal permanent residents with the full right to work but who are being denied because of computer error.

Those provisions which passed 407 to 2 are ones that I would like to see in an E-verify extension.

Mr. SESSIONS. Mr. President, reclaiming the floor under the regular order.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. I object.  
The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. I will be glad to share with the Senator my thoughts about it. The House did pass it 407 to 2, I believe. We are not expressing any pride of authorship. Will the Senator accept the bill as passed by the House? I think we can perhaps do that and we can reach an agreement. Just accept the bill passed by the House.

Mr. MENENDEZ. I urge the Senator to consider, and I will make a unanimous consent request when the Senator is finished, that S. 3414, which includes all of the House provisions, as well as H.R. 5569 which would be the EV5 extension, as well as all of the other items the Senator spoke about—the Conrad State 30, the religious workers would be included.

The PRESIDING OFFICER. The Senator's time has expired. Does he wish additional time?

Mr. SESSIONS. Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. Reserving the right to object, and I will not object, but I do, in that reservation, want to be recognized next after the Senator finishes his 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. MENENDEZ. I would ask the Senator to modify his request so that I

be recognized immediately after his 5 minutes.

Mr. SESSIONS. I would be pleased to modify and ask unanimous consent that the Senator from New Jersey be recognized after my 5 minutes.

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

Mr. SESSIONS. Mr. President, I thank Senator MENENDEZ for his courtesy, and I think we have an opportunity to reach an agreement. On the House version there are some things he says he likes better than the bill we agreed on in our committee, which I think passed our committee unanimously here in the Senate, but I would be prepared to go forward with that.

I urge my colleague from New Jersey to recognize the proposal he is making would add about 550,000 more people. It would allow that many more to enter the country on a legal basis. We have a million now who enter our country each year, and this would be a huge increase—I think a one-time increase—but it is a huge increase and it is not acceptable. We had sort of reached a stalemate last year when the American people rejected the comprehensive bill. They rang our phones off the hooks. The switchboard of the Senate shut down. There was a general recognition that we needed to do an enforcement system before we started granting amnesty and expanding immigration. That was, I think, a pretty national sentiment. Even Senator MCCAIN, who proposed the legislation, stated that the American people, he understands now, expect us to create a lawful system before we start expanding the system we have and giving amnesty to those who violated the law.

This is a big change from what the Senator has been proposing. I submit that the choice is simple. We will either go forward with the agreement that we reached in committee, without the changes Senator MENENDEZ offers, or we will have to have a real debate. And that would be all right with me, but I don't think it is what our leadership desires at this point in time.

So I say that I would be delighted to continue to discuss this with Senator MENENDEZ, but I feel pretty firmly, I feel very firmly that although I could accept, I am confident, the House version that he has made some comments about, I cannot accept a major alteration of existing immigration policy because that is not the right way for us to go at this point.

It is something I guess we are going to have to talk about next year. I see no alternative to ignoring it any longer than next year. It is time for this Senate to get busy and to create a system that ends the mockery that exists for our legal system today and creates a lawful system that will serve our national interest.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I appreciate the comments of my distinguished colleague from Alabama, but I have to correct some things.

First, we do, under the unanimous consent that I will ask for briefly, under S. 3414, extend E-Verify. We extend it for 5 years. We do it, as the House did, protecting Social Security and protecting U.S. citizens who get rejected by the system and yet have every right to work. So that is one thing.

The second thing is, I heard my colleague talk about extending current law. We heard a lot of business-related elements—investors who have a lot of money and who are going to get visas, businesses are going to have these checks and all these things are going to happen. Well, current law allows a U.S. citizen to claim their immediate family. And as far as family values, it seems to me that the core of what our immigration policy has been and the core of what Members of this body have talked about time and time again in the context of family values is that family reunification is the core of those family values. You can't have family values if you don't have a family in the first place. And the family in the first place is the core essence of that family. That is, in essence, what the current law provides.

So what is simply done, as we look to solve businesses' challenges and problems, and bring in investors who have a lot of money, who now get a visa because they have a lot of money, is to say to a current U.S. citizen that we are going to recapture and use, for the purposes of absolutely legal immigration, under the current law, visas that exist but don't get used because of the way our system is working. This would allow a U.S. citizen to claim their relative using those visas, or a portion of them.

By the way, I would urge my distinguished colleague to look at the numbers. We are not talking anywhere near the number he throws around of half a million. It is more like 300,000. And we have even talked about working on that number and narrowing the universe. So this is about using the existing legal system to have U.S. citizens be able to claim their relatives under the existing system and make sure the visas that exist under the existing system are used in a way that meets the goal of legal immigration.

Now, I don't know why we are so hell bound on giving businesses everything they need and then saying to U.S. citizens they do not have the opportunity to be able to meet some of their challenges. In my mind, that is promoting a lawful system. I know it is very easy to slap up the word "amnesty" every time somebody wants to talk about immigration. You can become famous by claiming everything is amnesty, but it doesn't necessarily make it true.

The bottom line is what we are talking about is making sure that U.S. citizens who are presently torn apart from

their families, and who under existing law have the right to claim that immediate family, have the wherewithal to be reunified using visas that don't get used but which should be used for this family reunification under existing law. So it seems to me we can do E-Verify, and do it the way the House did it, so Social Security is not hurt in terms of funds; and we can make sure that we improve upon a system that right now rejects a percentage of American citizens who have legal eligibility to work and yet now have the burden of proof shifted upon them.

It changes the whole legal precedent where in our country you are considered innocent until proven guilty. Under E-Verify you are guilty until proven innocent. I would be outraged as a citizen if I had to be challenged about my ability to work when I have every right to work but some system is barring me from that right to work. And that situation exists under E-Verify. Now, it doesn't mean we should do away with E-verify, but we need to make it better, and the House provisions do that.

We also say: OK, you want to give those people who have a lot of money to come here and make investments a visa? OK, we will do that. You want the religious workers, of course, who are not necessarily clergy members, but religious workers? OK, we will do that. You want to bring in doctors? OK, we will do that. But at the same time let's have a smaller universe of those whose families have been waiting and who followed the law.

This is the interesting part. We can't even seem to incentivize people who follow the law. These are people who didn't come crossing a border, whether it is the southern or northern border. These are people waiting. They have waited and they are still waiting. Yet their U.S. citizen husband or wife or mother and father can't get reunified in what is a core family. We seem to have lost sense of that core value.

So in that respect, I think we are being very reasonable here. And this is not about a broad comprehensive immigration reform. This is not about amnesty. It is not about all those things people like to throw up on the wall and suggest ultimately that is the case and paint it as one big swath. I don't know when U.S. citizens became second-class citizens in terms of being able to be reunified with their families.

UNANIMOUS-CONSENT REQUEST—  
S. 3414

Mr. MENENDEZ. In pursuit of meeting these goals, redoing E-verify, giving it a 5-year life, doing it the right way, doing those other things, as well as trying to help this small universe of American citizens, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3414, the Visa Efficiency and E-Verify Extension Act of 2008, the Senate proceed to its immediate con-

sideration and to the consideration of H.R. 5569, the E-V-5 extension, which was received from the House, en bloc; further, that the bills be read a third time and passed, en bloc; and the motions to reconsider be laid upon the table, en bloc, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, Mr. President, I note that we are talking about some sort of capture of unused visas in the past, which we calculate at about 550,000. Maybe it is 300,000. This is a major alteration of current law that has a certain number of family members, a large number, actually, who can come in every year. This would be a major expansion of that.

Those are the kinds of things I think the Senate has gotten to the point we know we don't need to have a full debate on before we recess this year. Therefore, I consider that addition to the House bill that Senator MENENDEZ wishes to see become law as a non-starter and would have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. MENENDEZ. Mr. President, I regret my colleague's objection. At the end of the day, I understand how passionately he feels. I hope he understands how passionately I feel. The reality is I find it very difficult when my constituents, U.S. citizens, paying their taxes, being good citizens, come to me and say: We cannot get reunified with our spouse. We cannot get reunified with our mother and father. We cannot get reunified with our son and daughter. That is the universe we are talking about.

If we do not stand for the very core value of family reunification, while we talk about those who have money to invest and who get visas because they have money, well, we have seen what has happened with our system around here when everything is about money, and it is a huge failure. The proposition is that if you have money, yes, you can get a visa. But God forbid we give a U.S. citizen who is claiming their family a visa as well.

I feel very passionately about this. I understand Senator SESSIONS feels very passionately about the way he views it, and I hope we can reconcile our passions and be able to have a little less heat, a little more light, and create an opportunity to be able to move forward in the days ahead. We have time until the end of November, and I certainly look forward to working constructively to make that happen.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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