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## Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable JIM DEMINT, a Senator from the State of South Carolina.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, the skies display Your marvelous craftsmanship. When we consider Your heavens, the works of Your fingers, we become aware of our deficiencies. Lord, we are flawed people seeking salvation. We are lost people seeking direction. We are doubting people seeking faith. Show us the path to meaningful life. Reveal to us the steps of faith. Quicken our hearts and purify our minds. Broaden our concerns and strengthen our commitments.

Bless our Senators today. Show them the duties left undone. Reveal to them tasks unattended. Lead each of them to a richer and more rewarding experience with You. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JIM DEMINT led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, April, 19, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM DEMINT, a Sen-

ator from the State of South Carolina, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. DEMINT thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

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

### SCHEDULE

Mr. MCCONNELL. Mr. President, this morning we will resume consideration of the emergency supplemental appropriations bill. Under the consent agreement reached last night, the time until 11:45 this morning will be divided for debate in relation to the two pending AgJOBS amendments. At 11:45, we will proceed to two cloture votes on those amendments. Following those votes, the Senate will recess until 2:15 for the weekly policy luncheons. We will return then to the supplemental bill this afternoon, and as a reminder there will be two additional cloture votes today.

If cloture is not invoked on either of the AgJOBS amendments, then at 4:30 today we will have another cloture vote in relation to the Mikulski visa amendment. Upon the disposition of that amendment, the Senate will proceed to a cloture vote on the underlying emergency appropriations bill.

As the majority leader stated last night, it is hoped that the Senate will invoke cloture this afternoon on the underlying bill. This is the only way of assuring that this important bill will be completed this week. I remind all of our colleagues that if cloture is invoked on the bill, it will still be open for debate and amendments for up to 30 more hours.

It is clear we have a lot of work to do over the course of today and tomorrow.

I yield the floor.

### RESERVATION OF LEADER TIME

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

### EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

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

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

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

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

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

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

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

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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

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

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

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

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

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

Chambliss modified amendment No. 418, to prohibit the termination of the existing joint-service multiyear procurement contract for C/KC-130J aircraft.

Bingaman amendment No. 483, to increase the appropriation to Federal courts by \$5,000,000 to cover increased immigration-related filings in the southwestern United States.

Bingaman (for Grassley) amendment No. 417, to provide emergency funding to the Office of the United States Trade Representative.

Isakson amendment No. 429, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, and to ensure expeditious construction of the San Diego border fence.

Byrd amendment No. 463, to require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports.

Warner amendment No. 499, relative to the aircraft carriers of the Navy.

Sessions amendment No. 456, to provide for accountability in the United Nations Headquarters renovation project.

Boxer/Bingaman amendment No. 444, to appropriate an additional \$35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems.

Lincoln amendment No. 481, to modify the accumulation of leave by members of the National Guard.

Reid (for Durbin) amendment No. 443, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances.

Reid (for Bayh) amendment No. 388, to appropriate an additional \$742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

Reid (for Biden) amendment No. 537, to provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the reduction in the highest income tax rate for individual taxpayers.

Reid (for Feingold) amendment No. 459, to extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11:45 a.m. shall be equally divided with the Senator from Georgia, Mr. CHAMBLISS, in control of half of the time, and the Senator from Idaho, Mr. CRAIG, and the Senator from Massachusetts, Mr. KENNEDY, in control of the other half of the time.

Who yields time?

Mr. CRAIG. Mr. President, could I understand the time allocation? The Senator from Georgia has 1 hour.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 58 minutes.

Mr. CRAIG. The Senator from Idaho has?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has 29 minutes.

Mr. CRAIG. And the Senator from Massachusetts has?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 29 minutes.

Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. I yield to the co-author of our amendment, the Senator from Arizona, Mr. KYL.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arizona.

#### AMENDMENT NO. 432

Mr. KYL. Mr. President, first I compliment my colleague from Idaho for bringing to the Nation's attention a problem which does deserve consideration, and that is how to both fulfill our need for workers in this country for difficult labor that some Americans have not been willing to perform and at the same time deal with the very difficult problem of the status of illegal immigrants who are currently in the country and who have been relied upon by employers in the field of agriculture to perform some of this work.

Both the Senator from Georgia and I intend to work with the Senator from Idaho in the future to try to develop the very best kind of guest worker program we can to achieve the objective of providing matching, willing employers and willing employees and at the same time doing it within the construct of the rule of law. We look forward to that debate at a later time.

Earlier in the debate on the supplemental appropriations bill, which is the legislation before us, the Senate adopted overwhelmingly a sense-of-the-Senate resolution that we should not be trying to deal with these immigration problems in this legislation. This bill is too important. It requires that

we provide funding for our war efforts in Iraq and Afghanistan. The reason it is called a supplemental appropriations bill is because it is supplemental to the regular process. It accounts for the fact that there are unforeseen expenditures in the conduct of this war we have to fund and we have to get the money to our troops as soon as we possibly can.

With that in mind, the full Senate voted we should be deferring the debate on these difficult and complicated issues such as immigration reform to a later date when we can take that up in the full consideration it deserves and not delay important legislation such as the funding of the war effort. We are already into the second week on the supplemental appropriation for that purpose. We hoped to finish this bill last Thursday.

I provide that as background to simply note this: We have two votes this morning. The first is on an alternative proposal that has been set out by the Senator from Georgia and myself that would provide a way to match these willing employers and employees but to do so without granting amnesty to illegal immigrants. We will then vote on a second alternative of the Senator from Idaho and the Senator from Massachusetts.

The key point I want to make to my colleagues is if both of these propositions are defeated—and they both require 60 votes to pass under the agreement—then we can move on to complete the work on the supplemental appropriations bill and we might be able to finish that bill this week. In fact, hopefully, presumably, ideally, we will finish that bill this week. There is no reason why we cannot do our work and fund our troops. However, if the Craig-Kennedy legislation were to receive 60 votes, we are in for a tough time because that bill is then open for amendment, and we are already aware of numerous amendments that are going to be filed, all of which are going to delay consideration of the supplemental appropriations bill.

Some of my colleagues signed on to this legislation before the bill was actually printed or before they realized it contained amnesty. The point I would make to anybody who is in that position is whether they support the Craig-Kennedy version or the Chambliss-Kyl version of guest worker legislation, it is not the time to be considering that legislation. We voted already to not have that debate but rather to get on to the supplemental appropriation bill. Therefore, anyone wishing to move on should vote literally against the first vote we will have on Chambliss-Kyl and the second vote on Craig-Kennedy. If either one of them gets 60 votes, then we are in for a long time of debate on immigration, with an awful lot of amendments on that subject and delaying the time that we can get back to considering the supplemental appropriations bill.

Even though it argues against an affirmative vote on our proposition, for

those who are interested in moving on to the supplemental appropriation bill, frankly, the correct vote is a "no" vote on both of these amendments.

Let me explain to my colleagues a second reason to vote "no" on the second vote and "yes" on the first vote. The first vote is Chambliss-Kyl. What we have attempted to do in our guest worker legislation is provide an expedited, streamlined, simplified way for employers to hire the people they need in agriculture, something they are not able to do today. We have a law today, but they do not use it because it is so cumbersome, expensive, and time consuming. The idea is to make it more streamlined so it will work.

In that respect, we think we have a much superior product and that is why I think the Farm Bureau supports our legislation, because they realize farmers will actually use it. I am very concerned that they would not use the Craig-Kennedy legislation because it has so many other things built into it that I believe would make it difficult, at least as difficult to use as the current law.

I will cite one of the reasons now. Up to now it has been the law in the United States that Legal Services Corporation does not represent illegal immigrants or illegal aliens. It represents Americans, people who are here either on legal permanent residency status, green card status, or citizens. There is little funding available to begin representing illegal immigrants and I am afraid the representation of American citizens who are residents would significantly suffer if the Legal Services Corporation is now going to begin representing these illegal immigrants as is called for under the Craig-Kennedy legislation. That represents a significant departure from current law and it certainly will make it more complicated for employers to use that law.

I will move to the other point, because the primary question is whether we want to embark on a road to granting amnesty to illegal immigrants.

Folks on the other side will say it is earned amnesty, but it is still amnesty by any name one wants to call it. It reminds me of that old saying, put lipstick on a pig and it is still a pig. The fact of the matter is it is still amnesty and here is why specifically Craig-Kennedy is amnesty.

Under section 101 of S. 359, an illegal alien shall—it is not "may" but "shall"—be given status after working, and then the periods of time are laid out, but essentially in as little as 2½ weeks, one could accomplish the accumulated 3½-month labor period, but a maximum of 3½ months, minimum of 2½ weeks. They then have a legal status in the country. One year later, they get their green card.

A green card is legal permanent residency, and I underline the word permanent. When one gets their card in this country, they have a status which enables them to live here for the rest of their life. Under existing law, it en-

ables them to do something else. They can also apply for citizenship. They can apply to chain migrate their family into the country.

The point is that while that status should be available to anyone who desires to immigrate to the United States, we believe it should be available to people who abide by the law. We also do not discriminate against those who have violated the law and who seek to apply for this status. We simply urge that they not be given an advantage over those who have done everything right, who have followed the law, applied for the legal permanent residency status from their country of origin, and have sought to get in line the same as everybody else. As the President says, if one wants to come here and stay, they need to get in line with everybody else. They should not be given an advantage. That is what amnesty is. When one is given an advantage over those who have conformed to the law, who have abided by the law, and one is given an advantage because they violated the law, that is frankly a concept I think most Americans would deem not only very unfair but getting on a very slippery slope in this country where people who do it wrong, who violate the law, have an advantage over those who are willing to do it right. That is not the American way and that is the key difference between the Craig-Kennedy legislation and the Chambliss-Kyl legislation.

We say one can work here and continue to work here. In fact, we have three different 3-year periods, one right after the other, in which one can work in the United States. But we say if they seek to become a legal permanent resident, as opposed to a legal temporary resident, that permanent residency should require them to apply for it the same as everybody else. They have to go home, make the application—it takes 1 year to do it—and then they have their green card. Once they get their green card, it is true they can apply for citizenship, but at least they have to follow the rules. They have done it the same as everybody else and they have not gotten an advantage because they came here illegally and stayed in this country illegally.

The final point I want to make is there is another provision of the Craig-Kennedy legislation which I do not understand. It has been alluded to by the Senator from California, Mrs. FEINSTEIN, and others. It is a provision which actually attracts people who have previously violated the law. They snuck in, they came into the United States illegally, they illegally used documents to gain employment, they have been employed illegally in the United States, and the fact of all of those illegal activities is what permits them to come back into the United States. In other words, they have gone home for some reason, and if they can establish that they were here illegally, then they get to come back into the country legally. I don't know of any-

thing that stands the law on its head more than that. Why would somebody try to abide by the law if they realized that, with counterfeit documents, they can simply show up at the border and say, Hey, I worked in the United States illegally and I want to come back in now and get this new status you are creating for me.

It is a magnet not only for counterfeit and fraud but for people to come back into the United States who are now not here illegally, claiming that they have a right to do so on one basis and one basis only—because they violated our law. It seems to me to be totally upside-down to grant legal status to people, to invite them into our country, on the basis that they violated our law when there are not enough visas to grant to people who are trying to do it legally.

This is amnesty, and it is wrong. What we are saying is there is a perfectly legal way to do this, to get all of the employers matched up that we need. We have no cap on the number of people who can apply through our streamlined H-2A process. As many workers as we need, we can get. I think that is why the Farm Bureau supports this. They know whatever labor needs we have in this country, we can fulfill them through a legal process, and there will not be any magnet for illegal immigrants to come to the country anymore.

To conclude, there are two reasons to vote against the Craig-Kennedy legislation and one good reason to vote for the Chambliss-Kyl legislation. The reason to vote against both, frankly, is that unless both of these are defeated, we are going to be on this immigration issue for a long, long time. Who knows when we are going to conclude the supplemental appropriations legislation? We are certainly not going to finish it this week again. This will be the second full week we have been on it.

Second, I don't think at the end of the day we are going to pass legislation—through the Senate and House and have it signed by the President—that grants amnesty to illegal immigrants or invites illegal immigrants back into the United States because of their illegal status. For that reason, we suggest we have a better approach, an approach which can meet our labor needs but do so within the rule of law and without granting a reward to those who have violated our law.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CRAIG. Mr. President, I will yield to the Senator from Nevada for the purpose of the introduction of an amendment to the underlying bill. It would not take time from me. Then I will claim the floor for a few moments.

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

AMENDMENT NO. 487

Mr. ENSIGN. I ask unanimous consent the pending business be set aside and Senate amendment No. 487 be called up.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 487.

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

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

The amendment is as follows:

(Purpose: To provide for additional border patrol agents for the remainder of fiscal year 2005)

On page 191, after line 25, insert the following:

#### CUSTOMS AND BORDER PROTECTION

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", for hiring border patrol agents, \$105,451,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

##### CONSTRUCTION

For an additional amount for "Construction", \$41,500,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

##### REDUCTION IN FUNDING

The amount appropriated by title II for "Contributions to International Peacekeeping Activities" is hereby reduced by \$146,951,000 and the total amount appropriated by title II is hereby reduced by \$146,951,000.

Mr. ENSIGN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

##### AMENDMENT NO. 432

Mr. CRAIG. Mr. President, the Senator from Arizona has come up with some fascinating and interesting explanations of why his is not and ours is amnesty. By that I simply mean there are a lot of people who believe that if people have broken the law and that you grant them any forgiveness whatsoever, that is amnesty. But now, according to Mr. CHAMBLISS and Mr. KYL, we have a whole new definition of why theirs is not, even though they grant those who have broken the law a blue card to continue to stay and work. They say there is a difference.

You know, there really is not a difference in this respect. If I am not amnestied by the Chambliss-Kyl amendment, there is no stretch of the imagination that would suggest otherwise about the Craig-Kennedy bill. I do not believe our bill has amnesty, because I think when you ask someone who has broken the law to pay back to society and to limit their rights, then recognizing that they have done so and allowing them to earn that legal status—and certainly that is what we do in the Craig-Kennedy bill. We demand, if you will, 360 days over 3 to 6 years in the field, working hard, so you gain the right to apply for a green card. I do not

call that amnesty; I call that hard-earned, labor-paid-for, to get the ability to stay and work. You can have your own thoughts about amnesty, but nowadays I am finding out anyone can have his or her own definition of amnesty. Amnesty is in the eye of the beholder. The word is an epithet, like calling someone a communist.

In other ways, there is a very real difference between these two approaches. Let me outline it. We have 200-some-odd agriculture groups, part of a coalition of 509 groups, supporting our bill. It is very bipartisan. It is a significant reform of the H-2A program. It is not just crafted in the last minutes as a stopgap measure to block and divide. It is not so narrowly crafted that it delivers almost no real benefit. Most important, we say something that is fundamental to Americans who are concerned that our border to the south is now out of control and people are pouring over it. We say you had to be here last year, working for 100 days last year, not just here on April 1 of this year, like the other amendment. So regarding that problem we are all hearing about on our borders to the south, where people are pouring over, if they made it by April 1, the Kyl-Chambliss bill says: You get a blue card. You can stay 3 years, 6 years, 9 years, and in 9 years, if you are capable of developing your job into a supervisory position, you can stay permanently.

That is not amnesty? Again, I think I have well established, no matter who tries to interpret what amnesty is, that it is in the mind of the beholder.

The reason I am on the floor today and the reason we have been allowed to come to the floor is because in this particular bill we became germane by an action of the House. I know the Senator from Arizona talks urgency. We have been 3 months producing an urgent supplemental. It has been 3 months since the President asked us to respond. That is not the fault of the Senate. The House took 2 of those months. The House turned this appropriations bill into an immigration bill. We can take a few more hours to discuss AgJOBS.

Can't we take a day and a half to solve what Americans believe is the No. 1 problem in our country, or a problem that is in the top three, and that is uncontrolled immigration and uncontrolled borders? What we are trying to do with a segment of our economy and a segment of our workforce that works predominantly in agriculture is to gain control of the process, shape it, identify it, and stop the flood that is coming across our borders.

Let me show you some of the work we have done. I think it better explains to America the urgency of the problem. They hear the reports on the borders. Now let's look at the statistics as to what we have been doing since 9/11.

The morning of 9/11, we woke up to a rude awakening, that America had slacked off way too long on its immigration laws and that we had 8 to 12

million undocumented foreign nationals in our country—undocumented. That meant that they were here, by definition, illegally. Most were hard working, and most are hard working. Most are law abiding. But some were here to do us evil. Some were here to kill us. We found that out to our great surprise.

That was more than 1,300 days ago, and Congress has done nothing about the laws that were so slack as to create that problem. So over the last 5 years—prior to that and now after that—I have worked with a diverse bunch of groups across the country to come up with a significant change in policy specific to a segment of that larger group—about 1.6 million in that particular workforce. But on this chart is a good example of what we are attempting to do at this moment.

Here is 1994 through the year 2005: total funding level from all sources in the billions of dollars that we are spending on the borders of America today to try to control our borders, and on enforcement of our immigration laws within those borders. Here this red line on this chart goes. Starting in 2001 and up, you see this tremendous increase in what we spend on enforcement. We are now, today, spending \$7 billion a year on the borders and on internal enforcement. That is "b," \$7 billion on enforcement. The Senator from Arizona would be the first to admit that the borders south of his State are still like sieves—people are pouring across them in an illegal way. Yet, today, for America's sake, we are spending \$7 billion on our borders and on internal enforcement.

Look at the green line that represents apprehensions in millions of individuals. Last year we apprehended more than 1.2 million individuals and sent them back across the border. These are dramatic increases. Did it stem the tide of illegality? No, it didn't. The Senator from Arizona is sitting there agreeing with me. They are pouring over the border. Seven billion dollars later, with thousands more new law enforcement people on the borders and with apprehensions up, more people are coming. What is wrong with that picture?

Let me show you what is wrong with that picture. We could build a fence along the border. We could build it high and dig it deep, and we could man it with people every few feet, but if the laws that backed up the fence were not working, somebody would come through. Somebody would get through. They would dig under it. They would go around it. There are more than 7,000 miles of land borders in our country and more than 88,000 miles of tidal shoreline and water inlets. They would come. The reason they would come is that the law is not effective, nor is it deterring them. They would come because our economy and our way of life are a powerful magnet and because our laws provide no reasonable way to

match those willing workers with jobs here that would go begging.

Here is another interesting graph. There was a time in our country when the laws did work. Starting in the 1950s we had a program for guest workers to come into our country and work. They were identified and the worker matched to the work. They came and worked, and they went home. As a result of that, this green line represents the developing of the Bracero Program, which did just that.

From a humanitarian point of view, it was not a good program. Many of these people were not well treated. But the side of it that worked was the side that identified the worker and the work, and here is the result. The red line represents apprehensions, those illegally crossing the border who were caught. Look at the drop, the dramatic drop in illegal activity going on in our country in the 1950s. Illegal immigration dropped more than 90 percent stayed low for a long period of time.

Here we are in 1954: over 1 million apprehensions. What did I say about last year? Over a million apprehensions. Millions were coming across the border illegally before we changed the law. We changed it and, in 1953 and 1954, and we implemented it. These crossings stayed low all through the 1950s and into the 1960s, until somebody did not like it anymore because of the way people were being treated, and they repealed it. Eventually we wound up with the law we have today, the H-2A program. Guest workers in the 1950s, you can see, remained relatively constant at a few hundred thousand, but those numbers dropped and flattened out because there were those in Congress who did not like the old law. They repealed it and up went the number of illegals again. Why? The system did not work. Over the years, the government and the people knew it. We watched it. We ignored it. That is why we are here today, because Americans are asking us not to ignore it any longer. It is almost the same scenario—my goodness, 40 years later, 50 years later.

Did we learn lessons? History has a way of repeating itself, and it appears it is repeating itself today—1954, apprehension of illegals, 1.2 million; last year, 1.2 million. But in the interim we had laws working for a period of time that clearly demonstrated that if this Congress has the will to deal with the problem, it can. My legislation, the Craig-Kennedy legislation, clearly does so. We would dramatically changed the underlying H-2A program in a way that has produced support of over 500 organizations, 200 of them agricultural organizations, and we do so in a bipartisan way and a broad-based way.

The Kyl-Chambliss bill is very narrow in who benefits from limited changes in the current program, and it does not reflect that bipartisan approach, nor does it reflect a national approach in large part on this issue. Their bill would benefit a few employers and a few labor contractors in some

parts of the country. We have brought all stakeholders, all communities of interest to the table with our bill. That is why it is significant for all of us to understand that there are very real differences in these bills. Besides, as long as you just made it here by April 1 of this year, you can stay under the Kyl-Chambliss bill. You get a blue card, and you can stay 3 years, 6 years, 9 years, and if you elevate yourself to a supervisory position, you stay forever.

Under our legislation you have to have been here last year. By January 1, 2005, you will have to have proved you worked 100 days and then you get a temporary card, and then you continue to work, and meet a higher standard of good behavior under the law than other, legal immigrants, to pay for your right to stay to work, to pay for your right to eventually apply for a green card, to be able to move back and forth in a continuum and to be, if you will, a permanent employee in this country.

The Senator from Arizona is talking about a quick pathway to citizenship in our bill. I would not suggest that 10 to 15 years of hard work, standing in line and making application is a quick path to anything. Most Americans would never stand in line for 10 years for anything, let alone work at least 360 days in temporary, seasonal farm labor, over several years in 100-degree heat in fields in Yuma, AR, or Twin Falls, ID. There are some who will, and they work very hard to earn that right. But they will work to earn the right, it will not be given to them unconditionally.

There is one thing the Craig-Kennedy and Chambliss-Kyl bills have in common. We do not make a free gift, of citizenship regardless of circumstance, unconditionally. I would call that amnesty. We give people—our legislation gives people—the right to come here and work, to earn the right to stay, and the right to continue to work. So there is a very real difference. Don't fall off on the idea of this quick fix in the substitute amendment that was just produced in the last few weeks because they know that I knew I was going to be here on the Senate floor with a bill that has been 5 years in the crafting and has literally a nationwide base of support from all groups—from labor, from agriculture, from Hispanic groups, from taxpayer groups, from religious and community groups, and has strong bipartisanship.

Last year, it was cosponsored by 63 Republicans and Democrats alike. This year, we are again building the numbers, and cosponsorship is now nearly 50—again, Democrats and Republicans alike—supporting this. That is why we are here on the Senate floor. Americans are demanding that we control this immigration problem. We are offering an approach, a solution to a portion of that.

I hope the Congress will then continue to work its will to get to a much broader based, comprehensive program.

I retain the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, let me respond to a couple of comments which my colleague just made. He characterized his legislation as enabling people to earn the right to stay. This is the earned amnesty provision. But the point is, there is no difference between coming across the border illegally and working here illegally and working under the Craig-Kennedy bill. You are working in the field, and after a period of time you get permanent legal residency. Between 2½ weeks and 3½ months, you get legal status. Then a year later you get legal permanent residency by doing the very same thing you are illegally doing today.

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

Mr. KYL. I am happy to yield.

Mr. CRAIG. There is a difference. If you come forth and say, I have been here and have worked 100 days and I want to get a temporary green card, we do a background check.

Mr. KYL. The green card is permanent, not temporary.

Mr. CRAIG. The temporary card is for people working 360 days over 3 to 6 years, and then you apply for permanency. It is at least 3 years, and maybe 6 years before you can even apply for permanent residency. Then that processing and adjudication takes about 2 to 3 additional years, because there are backlogs. It is not immediately permanent. It is at least 5 years, and maybe 9 years before you have permanent residency. Then it takes another 5 years before citizenship, if you qualify. Do you do a background check? And do you make those who have a blue card—those whom you are giving the right to stay here legally—go through a full background check in full compliance with immigration law today? Are they drug dealers, felons, three-misdemeanor conductors? We do that. We do a thorough background check to make sure we have the right people working here and not have criminals slipping through our borders. Do you do the same?

Mr. KYL. Will the Senator yield 2 minutes to me on his time?

Mr. CRAIG. I would be happy to yield.

Mr. KYL. The answer is yes. We have a much more effective way because we have biometric identifiers, a fingerprint check, or other kinds of biometric identifiers so the individual identifies himself both as being in legal status for employment and being the person he says he is. That, of course, requires documents to demonstrate legality, in the first instance, so we can absolutely confirm that the only people who are being hired are here legally. You can make the card whatever color you want to, but under today's law, legal permanent residency is called green card status. Everybody knows you get a green card when you have legal permanent residency.

Under your legislation, it is, in fact, the case that with as little as 2½ weeks but no more than 3½ months a status of legality is granted. After 1 year an application can be made for legal permanent residency. The only question is how much time it takes to complete that application process. That is when you can apply for it, 1 year. It may take several more months to gain the status. Once the application has been made, you are a legal permanent resident in this country.

Mr. CRAIG. If the Senator will yield, then we both have identification with the background check. We would require a Homeland Security identifier program. They are working on those kinds of efforts now. We would require the same.

The real difference is your folks could work 1 hour and get a blue card. Ours have to work at least 100 days and have been here prior to January 1. I think we agree on that. I do not know where the Senator gets his reference to 2½ weeks. No one last year worked in agriculture one hour a day for 100 days. That was before AgJOBS was even introduced. That kind of employment arrangement would be irrational. If someone did show up and claim they had worked 1 hour a day for 100 days, that would be a reason to investigate them for fraud.

Mr. KYL. Mr. President, let me reclaim my time.

The key difference is how you gain the status of legal permanent resident. Under the Craig-Kennedy bill, you get that after working here doing the very same thing that you are doing illegally today. You are not doing anything different. You are just doing it now under a new status as opposed to the old status. Once you do that, you get legal permanent residency. That is the difference. Under the Chambliss-Kyl legislation, you never get legal permanent residency.

Second, under the Craig-Kennedy legislation, I think the Senator from Idaho misspoke when he said we don't grant citizenship. I think it is fair to say we don't grant citizenship, but it is that status of legal permanent residency which entitles you to apply for citizenship under the United States Code—8, United States Code, section 1427(a).

The point is, the granting of the legal permanent status under the Craig-Kennedy legislation automatically entitles you to apply for citizenship. That is the amnesty. You can't do that under the Chambliss-Kyl legislation. There is no path to citizenship for people who violated the law except to go back to the country of origin and do it just like everybody else—to get in line like everybody else.

The final point I want to make is this: I think it is a very dangerous proposition to argue that we can't control our borders. We can. I have talked to the Tucson sector chief of the Border Patrol who says if we have enough resources, we can get control of our

borders. It has largely been accomplished in California and Texas. It is not accomplished in Arizona because illegal immigrants came to where we don't have the control. We spent the money in California, we spent the money in Texas, and sure enough they are coming through Arizona. Over half of the illegal immigrants are coming through one sector in the State of Arizona.

The statistic which the Senator from Idaho pointed out is exactly correct in that regard. They are mushrooming.

He is also correct in saying we need two things. I hope he will agree with me we need both. We need both an effort to enforce the law—after all, if the country cannot protect its own borders, it cannot protect its sovereignty. If we do that, we need to devote the resources to do that. We also need enforceable legislation for people who work in this country. We can do that by having a simplified H-2A program and some language similar to what we are talking about here, matching willing workers and employers within the legal construct, and with combined efforts to control the border and enforce those laws we can end up with a legal regime.

But I think it is a very dangerous proposition for us to say we can't, under any circumstances, control our borders. We can, and we must.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, this is going to be a very interesting debate. I hope all of our colleagues are watching this.

I wish to respond to a couple of things my friend said relative to our legislation.

First of all, this is not a stop-gap measure. This is not something we conceived over the last several weeks—even the last several months. I have actually been working on this issue for the entire 11 years I have served in the House of Representatives and now in this body. In fact, on the floor of the House of Representatives in 1995, Congressman RICHARD POMBO of California and myself proposed a very similar piece of legislation to what the Chambliss-Kyl amendment is today to reform the H-2A program. We weren't as expansive back then because we didn't conceive the blue card concept. But we had a very similar proposition relative to H-2A because H-2A has been a good program, if it were streamlined. And if it were not so cumbersome for employees to use, it would be used more often than what it is today.

Second, I want to talk about this issue relative to the control of the borders. Senator KYL is exactly right. I think it is very dangerous for anybody to argue during this process or any other process that we cannot control the borders. We can control the borders, and we must control the borders. If we don't control the borders to our country during this process or conceive

of some way to make sure that Homeland Security does so during this process, then we are going to accomplish nothing.

Our goal is—I know what the goal of Senator CRAIG and Senator KENNEDY is—to provide our agricultural sector in this country with a stable, with a quality, and with an abundant labor force pool from which to choose, and that they must be legal. That we can agree on. But we can control the border, and under our legislation—it is absent from Senator CRAIG's legislation—we demand that the Department of Homeland Security, within 6 months after the effective date of this amendment, come forward to Congress with a proposal as to how they want to seal the border and control it from allowing illegal immigrants to come across that border.

It can be done, it should be done, and it must be done as a part of this process.

I want to go back to the AgJOBS bill and talk about what is truly the major significant difference; that is, the issue of amnesty.

Under the AgJOBS bill that Senator CRAIG and Senator KENNEDY have, first, illegal aliens are eligible for temporary work visas if they have worked in agriculture a minimal amount of time. I will not go through what Senator KYL just said but, basically, if they have been here for 100 days and worked 1 hour each day, then they can apply for what is known as "temporary adjustment status" under the Craig-Kennedy bill. That makes them legal. We simply do not do that. We intentionally put the burden on the employer to make sure the employee is who he says he is.

First of all, I need the workers; second, that these workers will be coming here as law-abiding citizens; and, they have not violated the law—as you can do under Senator CRAIG's and Senator KENNEDY's amendment, not once, not twice, but you can have three misdemeanors on your record and still get the legal adjustment status.

We have zero tolerance. We think folks who come here and say they want to work in the United States must be law-abiding citizens, if that is what they want to do. We say, unlike Craig-Kennedy, that the burden must be on the employer to, first of all, go out and say, I want to hire American workers to fill these jobs. Then, if he can't do that, it is the employer who comes in and says: I have tried to hire American workers to fill these jobs. I cannot find the American workers to do it. Therefore, under the H-2A reform provision, I need these workers for a temporary period of time—X number of days—to do this job. Then they will return to their native country.

In the case of the blue card, it is a little bit different. There are some agricultural industries in this country—for example, the landscape or the nursery business—where employees are needed for a 12-month period every time, not just for a temporary 90-day



or 120-day period of time. In that particular instance, these employers—again, the burden is on the employer—make the estimation that they need these employees—this individual is here, is law abiding, and that they want to have a blue card issued to that individual.

That individual, again, can work only for that employer. When he leaves the employ of that individual, the burden is on the employer to let the Department of Labor know he has left. If he goes to work for another employer, which he can do in the agricultural sector, the employer for whom he goes to work must again file the proper documentation with the Department of Labor as well as with the Department of Homeland Security so they can track that individual. That is critically important.

The major difference in that provision versus the Craig-Kennedy provision is they grant the temporary adjustment status which says they are here illegally. After a 3½ month period of time, they can then work for a year and get a green card, which means they basically can stay in the United States forever with that green card. If they want to apply for citizenship, they can apply for citizenship while they are in the United States.

Under Chambliss-Kyl, they must comply with current law in order to get a green card. In order to do that, you must go back to your native country. You must stand in line, as everyone else is required to do today, in order to make application for a green card. They do not get any preferential treatment.

If they want to secure what we think is the most precious asset an American has, and that is American citizenship, that individual, under the Craig-Kennedy amendment, simply can stay in this country legally with a green card, and while they are here under that green card—even though they came illegally—they can make application for citizenship. I don't know whether it will be granted in 5, 6, 7 years, but that is immaterial. They can do so outside of what is current law.

Under the Chambliss-Kyl amendment, you cannot do that. If you are going to apply for a green card, you must go back to your native country and stand in line with everyone else and come in under the cap provided for in current law, make application, go through all the process, and maybe get your green card. If you want to apply for citizenship, again, you have to follow current law. You have to go back to your native country, you have to make the proper application, and go through all the appropriate steps before you can secure citizenship.

That major difference of rewarding those people here illegally in the Craig-Kennedy AgJOBS amendment versus not rewarding individuals who are here illegally but only granting them a temporary status under the Chambliss-Kyl amendment is the major difference in these two bills.

Why should we even grant anyone here illegally the right to stay in this country? The Department of Labor estimated 2 years ago we have between 8 million and 13 million people in this country illegally. We have no idea who they are. Sure, we see them standing on the street corner from time to time looking for jobs. We know, in the agriculture sector, about 85 percent of the employees are here illegally. They all have false documentations. They are pretty easy to get. You can go to almost any street corner, unfortunately, or across the border in Senator KYL's State of Arizona and pay somebody somewhere between \$300 and \$1,000—I understand is the current market rate—and you will get a fake Social Security card and other fake documentation that will allow you to stay here.

It is illegal for an employer, before he hires somebody, whether it is the agricultural sector or not, to ask that person for further verification of the fact they are here legally in this country. That is a weird provision in our law, but it is a fact, so we don't know who these people are. The mere fact we have a 5-million gap between 8 million and 13 million tells how serious the problem is. It is serious from the standpoint these people are taxing our education system, our judicial system, and our health care system. We need to identify who these people are.

We are firing the first rifle shot. Again, on this, Senator CRAIG, Senator KENNEDY, and I agree. I applaud them, particularly Senator CRAIG, for continuing to push this ball forward. We need this debate in the Senate as well as in the House of Representatives. Once we identify those people who are involved in agriculture and are here illegally, we have to make a fundamental determination, as legislators, and that is are we going to try to round those people up? Are we going to try to hire the hundreds of thousands of additional border patrol agents and INS agents, round those people up, and send them back from where they came and expect them to stay there? Or are we going to be practical, and are we going to identify those people—we will not look at them and say: We will give you permanent status in this country, but we will allow you to stay here legally for a temporary period of time if you are law abiding. As I say, we have zero tolerance. The AgJOBS bill will allow for three misdemeanors and still allow them to stay here.

Second, we ask: Are you displacing an American worker? We agree on that. Both of us say we should not displace an American worker. But if they are not displacing American workers, if they are law abiding, and if their employer—one other critical difference in the two bills—if their employers make the attestation here he has complied with all the laws, he has sought to hire American workers, and he cannot do so, the employer will be granted the right to either have those workers come in under the streamlined H2-A

process or the employer will be the one who secures the blue card for that employee that he needs on more of a full-time basis.

I submit there are significant differences in these two bills but the basic overall difference is we think the Federal Government has the obligation, No. 1, to control the border. We think you can control the border. We think, if you did not control the border, I don't care how sophisticated a piece of legislation we pass in this Senate or the House of Representatives, or it might go to the President's desk, we will have accomplished nothing.

We do request and mandate the Department of Homeland Security give us that plan within 6 months as to how they will control the border. As Senator KYL said, they have a plan in place in Texas and California that is working better than what we have in place in Arizona, where it simply is not working. It is working much better than what we have in my home county of Colquitt County, GA, where it is not working. They are getting into our county somehow. We need a provision to control the border.

Second, the major difference is a question of whether you want to vote to grant somebody who is here illegally, who may have violated our law on three separate occasions with misdemeanors, a pathway to citizenship or whether you want to give somebody who is here for the right reasons, and who has not violated the law but who is needed by an agricultural employer, give them the opportunity to work for that agricultural employer for a temporary period of time and never, during the whole time he stays in the United States, be given anything other than a temporary status.

Mr. KYL. Might I ask the Senator from Georgia to yield for a quick question?

Mr. CHAMBLISS. Sure.

Mr. KYL. I was told a colleague was watching this debate from his office and is under the impression a point was made, under our legislation, a supervisor could apply for citizenship or be granted citizenship or legal permanent residency under the Chambliss-Kyl legislation. I wonder if the Senator would clarify that is not the case.

Mr. CHAMBLISS. That is absolutely not the case. There is no way, under the Chambliss-Kyl amendment, anyone, anybody who is here illegally and who gets a blue card by virtue of the employer of that individual requesting the blue card, ever becomes anything other than a temporary resident of this country.

Under our law—and we maintain current law—under current law, there is no way someone who is in this country on a temporary basis can ever apply for a green card—and can never apply for citizenship.

Mr. CRAIG. Will the Senator yield?

Mr. CHAMBLISS. I am happy to yield.

Mr. CRAIG. I ask you to respond on my time. I appreciate that.

I understand what you are saying, "greening" versus "blueing," but if you give someone a blue card and he becomes a supervisor, he may not be a permanent resident but he is permanently in this country by your legislation.

We all identify with the green card today because it has been around a long time. When you get a permanent green card, you can become a permanent resident and not a citizen. I suggest, and you may disagree, if you become a supervisor after 9 years of being here with a blue card, it is permanent, is it not?

Mr. CHAMBLISS. I appreciate the question of the Senator from Idaho. That is exactly the opposite from what is the truth. The truth is, he is always a temporary employee, and if he has a supervisory position and if he is granted additional time after 9 years, his temporary status never changes.

Mr. CRAIG. But he is permanently here if he wants to be.

Mr. CHAMBLISS. That is not true because if his employer ever released him from his employment, he has to notify the Department of Homeland Security and the Department of Labor, and that individual must go back to where he came from. Or if he secures a—

Mr. CRAIG. So I am right, but under certain conditions I am wrong. Thank you.

Mr. CHAMBLISS. You are wrong, but there are exceptions to everything.

Mr. CRAIG. I thought so.

Mr. CHAMBLISS. He is never a permanent citizen as he becomes under your bill after about 2½ weeks.

Mr. CRAIG. Mr. President, I have to come back on that. Not after 2½ weeks.

He gets a temporary green card for 360 days or 5 years. Then he applies for permanency. That is the way the bill reads. That is an additional 2 years. Math is math and it adds up and that is 6 years. I am sorry, that is not 2 weeks. It does not work that way. That we disagree on.

Mr. CHAMBLISS. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. CHAMBLISS. Is it not true, under your bill, an individual can get the temporary adjustment status after working 100 hours?

Mr. CRAIG. As of 2004, not in 2005. January 1, he had to be here last year working, cannot come across the border through Arizona. March 29, before April 1 of this year.

Mr. CHAMBLISS. Is it true that 1 hour is defined in the Fair Labor Standards Act, or 1 day's work is defined as 1 hour, and it is actually 100 days?

Mr. CRAIG. I understand it is kind of the semantics we played a few moments ago. Temporary is not permanent, even though they are permanently here temporarily. I understand those semantics, yes.

Under the Fair Labor Standards Act, 1 hour is a day. But I do require not 1

hour, I require 100 days. You require 1 hour.

Mr. CHAMBLISS. Is it not true this is a fundamental difference in our two amendments? Under your amendment, the employee or the illegal alien comes in and says: I worked here for those 100 hours last year or 2 years ago.

Mr. CRAIG. And must demonstrate through tax returns—

Mr. CHAMBLISS. Where under our bill they come in and an employer says: I need this employee, and I want to make application for the H2-A or the blue card.

Mr. CRAIG. That employee must demonstrate tax records and an employment record during that 100-hour period by an employee prior to January 1, 2005.

Mr. CHAMBLISS. Would the Senator not agree a fundamental difference is, under your bill, the employee is the one who makes that attestation. Whereas, under our bill, it is the employer—the American employer—says: I need you.

Under your bill, the employee says: I have been here for this period of time, and therefore I deserve to receive this adjustment.

Mr. CRAIG. In my situation, they must have worked and, of course, they must do that full background check we all go through.

It is a time-consuming thing. One of the things the American people want that we are both doing is to control the current illegal population, to identify and find out who they are, to make sure they are not bad people, if we are going to grant them the right to stay and work. That we both accomplish.

It is not just, oh, get a card because you got 100 hours or, oh, you get a card because you got 1 hour, in your circumstance. It is because you have submitted yourself to a full background check. That is 14 pages in the current code of this country as it relates to immigration. That is very significant for all of us.

Mr. CHAMBLISS. Mr. President, I yield the Senator from Alabama 10 minutes.

Mr. SESSIONS. I thank the Senator from Georgia. I appreciate the debate that has been going on. It is an important debate. It is something we need to be discussing.

I say, with real conviction, we can improve the immigration system in America. We can make it work better. We must do that.

This is a defense supplemental bill, early in this Senate calendar. We are not ready, in any way, shape or form, to be debating this comprehensive legislation today.

If the American people were to know what is being proposed, they would be very unhappy with us. I certainly hope we are not about to make this law.

I understand, at one point, there were over 50 cosponsors to the Craig-Kennedy legislation, which is breathtaking, in a way. But I don't think the American people and Members of this

body fully understand the import of it. It is a big deal.

I say to my colleagues, you will be voting on this soon. I urge you to get your mind focused on what we are about to vote on and I urge you to say, "I am not ready to vote on such comprehensive legislation—this is a Defense bill"—and vote no. That is the first thing we ought to do.

Let me see if I can summarize, from reading this legislation carefully, what I think the AgJOBS amendment says without any doubt.

People who are here illegally, for any number of reasons, who should not be here contrary to the law, and, therefore, are who also working illegally and violating American law—under this bill, if they have worked 100 hours in 100 days, meaning 1 hour per day, within 18 months—virtually no real work is required in the 18 months—they become, immediately, just like that, a lawful temporary resident. They immediately become able, legally, to stay here. If they have brought their families here unlawfully, their families also get to stay and can not be deported.

Then, in the next 6 years, if they work 2,060 hours—this has been explained as somehow earning your citizenship. I want to remind us that these people are here voluntarily, they are working and they are being paid what they earn. They are simply doing what they wanted to come here and do. This should not earn them a path to citizenship. They are not doing volunteer work in the community. They are earning a living and being paid for their work. Some say they should be earning more than their pay, that they are earning amnesty as well. But if they work 2,060 hours in 6 years—now, 2,060 hours is about 1 year's work for an American worker; that is how much you work a year—if they do that, some say they are then entitled to legal permanent resident status. At that point, they can bring in their family if they are out of the country. They can come into the country with you and also become legal permanent residents—even if you never intended for your family to follow you when you decided to come to the U.S. illegally and work illegally.

Then, if you wait 5 years, as a legal permanent resident in the United States, and you work, and you are not convicted of a felony, you are not convicted of three misdemeanors—three will block you, but two will not. You can be convicted of two misdemeanors. You can be investigated for drug smuggling, for murder, for child exploitation, all of these things. You can even be indicted for those charges. But the statute says, if you are not convicted, the Secretary shall make you a lawful temporary resident and shall make you a legal permanent resident. It is mandatory on the Secretary. They are not able to do a background check and say: Well, the FBI is investigating this guy for drug smuggling or being a member of some gang or involved in



child sexual exploitation. It says "conviction" is necessary to keep you from getting amnesty. Otherwise, you shall be approved as a temporary and permanent resident. And being a legal permanent resident puts you on the road to citizenship.

That is what it is all about. If, indeed, a person has in 18 months met this 100-hour work status and has gone back to their home country, maybe without any intention of returning to America—this amendment will effectively be a notice to them from Uncle Sam that says: By the way, you once worked here illegally. We know you have left and gone back, but you should come back and become a temporary resident, then a permanent resident, and then a citizen.

So it says: Come on back. They may not even have been intending to do this, but this may be an offer they feel they can't refuse because they may think: Well, the illegal alien is thinking—"I can go to the U.S. and become a lawful temporary resident, and then I can become a legal permanent resident. And, I can bring my family. I will move to the U.S."

That is not the way we want to be doing immigration in America. It is not the way we need to be doing it. There is no dispute that this is amnesty. How can it not be amnesty? If this is not amnesty, what is amnesty? You take someone who violated the law, give them a guaranteed path to citizenship, not subject to review by the Department of Homeland Security and the Immigration and Customs Enforcement, ICE, people—a guaranteed path. You shall be made a temporary resident if you meet these qualities. You shall be made a permanent resident if you meet this standard. And if you meet the legal permanent resident status, you are on the road to citizenship. That is what it is all about.

If we ever want to create a legal immigration system—and I know we do—that is generous and allows people to come here who will be contributors to our country, that has any integrity whatsoever, we must not adopt this AgJOBS bill. It is a capitulation. It is a total collapse of any attempt to create an enforceable legal system. I must say that. We absolutely do not need to be sneaking it in on a Defense supplemental without the American people knowing what is going on here. They are not going to be happy.

Now, how do these amnesty programs work? My colleague earlier challenged my numbers. I said it could be a million or even more people. He said it would be a half a million, plus children. But Dr. Phillip Martin, professor of agricultural economics of UC Davis and a member of the Agricultural Workers Commission says that at least 860,000 workers will come, and then their family members on top of that.

We know last time we had an agricultural workers amnesty, in 1986, that amnesty drastically underestimated the number that would be approved. I

think the number was two or three times as many as expected that were approved. So I think the numbers will be huge.

Now, the commission that was called upon to study the 1986 amnesty said the program legalized "many more workers than expected. It appears that the number of undocumented workers who had worked in agricultural seasonal services prior to the IRCA was generally underestimated."

The commission also said that the 1986 agricultural amnesty, which was similar to the amnesty we are voting on today in fundamental principles, did not solve agriculture worker problems, rather they found that "six years after IRCA was signed into law, the problems within the system of agricultural labor continue to exist." That was an official finding of a commission created by that act. Additionally, the commission found that "an increasing number of newly arriving undocumented workers" were still coming to the U.S.

And finally, they said, "Worker-specific and/or industry-specific legalization programs, as contained in IRCA, should not be the basis of future immigration policy." That is exactly what we will be doing if we pass this amendment.

Mr. President, I do not know how much time I have.

The ACTING PRESIDENT pro tempore. The Senator has 1 additional minute.

Mr. SESSIONS. Mr. President, I am going to put this chart up and make a couple of points in relation to some of the details in the act that are really breathtaking in their scope.

I mentioned the amnesty provisions already. The AgJOBS amendment also overrides State law by eliminating "at will" employment, where an employer or employee can leave the employment whenever they chose. This says, if you come in under this act, unlike an American citizen, you cannot be terminated, except for just cause. To make sure that happens, this act has about six pages creating an arbitration situation where the Federal Government pays to arbitrate these disputes, an arbitration system that is not made available to an American citizen worker. They do not get that protection. It will also provide illegal aliens with taxpayer-funded legal assistance through the Legal Services Corporation to process their applications for legal status.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has used 10 minutes.

Mr. SESSIONS. Mr. President, I ask if the Senator would not mind if I have 3 additional minutes.

Mr. CHAMBLISS. How about 2?

Mr. SESSIONS. Two minutes.

Mr. CHAMBLISS. Mr. President, I yield 2 additional minutes to the Senator from Alabama.

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

Mr. SESSIONS. I thank the Senator.

By the way, the AgJOBS amendment also provides they shall be given fully paid-for health insurance, which American workers do not get.

It provides that the worker organizations and employer associations are the ones to receive the applications for temporary status. But, they cannot provide that application or the information in the application to the Department of Homeland Security unless the alien consents. They might receive information or evidence in the application pertaining to a crime, but, apparently the sponsors of this amendment are not concerned about that. Instead, they want the applications and the information that is given to the organizations and associations that are authorized to receive them kept from the Department of Homeland Security. As a matter of fact, the only way your application is allowed to go to the Department Homeland Security and its Secretary—the only way it can go there—is if you have a lawyer. If you do not have a lawyer, your application has to go to one of these groups who will send it to DHS for you. These groups are not independent, fair groups.

The employer groups and the worker organizations are groups that have a special interest in promoting this. So this is not protecting the interests of the people of the United States to give this process over to two groups, both of which have a special interest in promoting people coming into this country. And, of course, there are no numerical limits on the number of aliens who would be given amnesty.

Also, finally, I would note, as the Senator from Georgia is well aware, group after group that are said to have been in favor of this legislation have changed their mind or oppose it. The National Farm Bureau no longer supports AgJOBS. Farm groups all over the country are opposed to it. I know that the largest individual H2A employer in the country opposes the AgJOBS amendment. I also know that the largest co-op user of the H2A program—the North Carolina Growers Association—oppose the amendment. I have received letters from Mid-Atlantic Solutions, the Georgia Peach Council, AgWorks, the Georgia Fruit and Vegetable Growers Association, the Virginia Agricultural Growers Association, the Vidalia Onion Business Council, and the Kentucky-Tennessee Growers Association all of which oppose the passage of AgJOBS.

The ACTING PRESIDENT pro tempore. The Senator has used his additional 2 minutes.

Mr. SESSIONS. I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, how much time remains on each side?

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 11 minutes 10 seconds. The Senator from

Idaho has 9 minutes. The Senator from Massachusetts has 29 minutes.

Mr. CHAMBLISS. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I believe the Senator from Massachusetts will be arriving soon. His time and my time are for the same purpose. He has given me the ability to use up some of that time. I will not, at this moment, ask unanimous consent for those purposes because there is no one on the floor from the other side to visit with about that.

Senator CHAMBLISS mentioned year round work in the nursery and landscape industry. The nation's premiere nursery and landscape association is the co-chair of the vast coalition supporting AgJOBS. Why? Because they know AgJOBS will work. It will provide the workers they need. The blue card system in the substitute amendment will not. It is written so narrowly that there will be little incentive for workers to come forward and it will be cumbersome to use.

The Senator mentioned misdemeanors. AgJOBS goes beyond current law in the good behavior it requires. We would deport for a single felony, for any three misdemeanors, however minor, and for any one serious misdemeanor, which involves 6 months jail time. But if you say deport for any misdemeanor, you are talking about some truly minor things, like loitering, jaywalking, parking a house trailer in a roadside park, depositing trash from a home or farm in a roadside trash can, having untethered animal stock on a highway, or making known in any manner what library book another person borrowed. These are misdemeanors in different states. We do tighten up the law. We do require better behavior than current law and better than that of other, legal immigrants. But the punishment should be proportional to the offense. We provide for that.

I want to go through one thing again in some of the time we have left because what Americans are frustrated about today—whether it is the solution we have offered up or the solution our other colleagues have offered up—is that history has shown us what works and what does not work. For border security alone—and I know I have been corrected by the Senator from Arizona for the language I have used, and appropriately so—my guess is, if we did not put \$7 billion on the border and into internal enforcement, if we put \$14 or \$15 or \$20 billion on the border, we could probably finally do a fairly good job of locking that border up. Of course, the more persons we lock out, the more undocumented persons we lock in. We need to deal with that, too.

Americans are frustrated. They want that border controlled, as do all of us. But what we know works well is the coupling of more security with a law that provides for a legal work force.

And that is what we are offering today, some \$7 billion a year worth of certification and better internal enforcement. We are putting law enforcement money on the ground in the local communities. And because there is a segment of our economy that needs this particular type of employee, we have a guest worker program that faces up to the economic reality of our country.

That is what we are talking about. We did that some time ago. We did that in the 1950s, and it worked. We were, here on this chart in 1954, apprehending nearly 1.2 million illegals a year and taking them back across the border. Then we created the Bracero Program. Now, the program worked because it matched employee and employer. It received a lot of criticism, and I will not step back from being very clear about it in the way the employee was treated. That is partly what brought the program down. But we literally saw numbers of illegals drop almost to nothing and flat-lined from through the 1950s into the early 1960s, as the Bracero Program worked.

What had we done? We matched Border Patrol along with effective law enforcement along with a guest worker program that worked. Along came the 1960s. We changed it and eventually wound up with the current law. We flat-lined, by bureaucracy, the number of guest workers we allowed legally into the program on an annual basis.

You can see what happened. Here it is, as shown on this chart. Apprehensions of illegals and illegal entry began to rise. What happened last year, as this very dysfunctional program all but broke down? We were back at 1.2 million apprehensions. America has asked for a solution. We have brought a solution to the floor. The only experience our country has had on a broad basis with the a legal guest worker program is the one I have outlined.

AgJOBS is a groundbreaking, necessary part of balancing a realistic approach to solving this problem. American agriculture has boldly stepped forward and admitted they have a problem.

They are not hiding behind lobbyists saying: Lift the lid in a certain program, allow more people in. They are almost in a panicked way saying to us: We have a 70-plus-percent illegal problem that we are dependent upon for the harvesting of our fruits and vegetables, for the supplying of the American food shelf with its food. Please do something about it. Please provide a vehicle that allows these people to be legal, and we will agree to work with you in setting up the necessary mechanisms to make sure they are treated right, the housing is there, they are paid well, and all of those kinds of things.

If we don't have a legal work force in place, and we continue to lock up the border—and we should—and we do all of the other things such as uncounterfeitable ID cards, we literally could collapse American agriculture. That is something this Congress should

not be responsible for doing simply by being negligent.

That is why for the last 5 years and more I have worked on this issue. We have worked cooperatively, Democrat and Republican alike—Congressman HOWARD BERMAN, who is on the floor at this moment from the House, Congressman CHRIS CANNON, Senator TED KENNEDY, and I—for hours and hours, with all the interested groups, now 509 groups, over 200 of them in agriculture. We have come up with this approach. We didn't come up with it, as my colleagues have, as a blocking measure to stop this legislation by throwing at the last minute something into the mix, by changing the color from green to blue and suggesting that it is new because it is blue. They do a few of the things we do, but ours is a much broader program and bipartisan. That is significant as we try to move legislation forward to solve this problem.

As I have said, the agricultural sector is facing its worst problems ever. Fifty to 75 percent of its farmworkers are undocumented. As internal law enforcement has stepped up, farms large and small are going out of business because they can't get the workforce at the right time to plant the crop, to tend the crop, to harvest the crop. This mighty machine we call American agriculture, which has fed us so well for hundreds of years, is at a very dangerous precipice, perhaps the most dangerous it has ever seen in its history.

This year for the first time since records were kept, the United States will be on the verge of becoming a net importer of foodstuffs. Hard to imagine, isn't it? The great American agricultural machine, and now we are at a point of being a near net importer of foodstuffs. We did that with energy. When I came to Congress in 1980, we supplied the majority of our own energy. Now we are a net importer. We did that with minerals. When I got here, we were supplying most all of our minerals. Now we are a net importer. Are we going to let this happen with food because we can't agree on a reasonable program to have one of the most valuable inputs into agriculture stabilized, secured, and legal, and that is the workforce?

No, we have all come together, Democrats and Republicans, labor, farmworker organizations, Hispanic groups. That is what you have before you in AgJOBS. That is why it got 63 cosponsors last year. We are nearly at 50 today, and building. Its time is now. It is important we have this vote that will occur this morning. It is a critical piece of legislation.

Aside from that, every year on the Arizona border, the California border, New Mexico, Texas border, over 300 people die trying to get into this country to earn a wage. They do that because of a dysfunctional H-2A law, because of a system that does not provide for a legal work force, and because of bad people who prey upon them as victims, and they are literally victims of

a law and victims of a broken process. We ought not stand idly by and allow that to happen, either. Control our borders? You bet. Create a legal work force? Absolutely. Apprehend illegals after we have created this system that works well? Absolutely. The integrity of a country is based on the control of its borders and the ability to openly and fairly assimilate into its culture immigrants who come here for the purpose of benefiting not only from the American dream but by being a part of us. That is one side of it.

The other side is the realistic understanding that there will be those who simply want to come and work and go home. There are types of work that they can qualify for that Americans cannot do or choose not to qualify for, and they ought to be allowed to do that. American agriculture depends on it, as do many other segments of our economy. It is critically important that we respond accordingly.

Last year under the program, the broken law, about 40 plus thousand H-2A workers were identified and brought in legally by that law. Yet, in the same agricultural group, there are a total of 1.6 million workers. That is how we come up with those numbers of some 70-plus percent undocumented workers or somewhere in that area. There has been a great effort by the other side to confuse the argument. We believe in the Department of Labor Statistics. The Department of Labor statistics show that, under the Craig-Kennedy provision, about 500,000 workers would be eligible to apply for adjustment, to start the process, and they have about 200,000, maybe 300,000 dependents who would qualify, not millions and millions and millions. That is so unrealistic when we are looking only at a field of 1.6 million to begin with. That is the reality. That is the honest figure. We didn't come up with it just in the dark of night. This has been 5 years and more of study, working with the Department of Labor and analyzing and understanding what the workforce is, who would stay and who would go home, who would not come forth to be identified and who would.

That is why it is time now that we allow this legislation to move forward for the purpose of it becoming law. America demands that we respond. Thirteen hundred days after 9/11 and we have not yet responded to the reality that is probably one of the most significant challenges the United States as a nation has ever faced—to control our borders, control our destiny, recognize our needs, understand our economy, be humane and fair to people, and do all of those things within the law. That is our responsibility to make that happen. It is without question a very important process.

I ask unanimous consent that time under the quorum call be equally divided.

Mr. KYL. Mr. President, reserving the right to object, we don't have very much time on our side, and that would

mean that we could get out of time without the other side even coming down here until the very end. May I ask the Chair—I would like to pose a parliamentary question—under the agreement that was entered into, the time is not taken equally off of both sides in a quorum call, is it?

The ACTING PRESIDENT pro tempore. No, it is not. That requires unanimous consent.

Mr. KYL. Further reserving the right to object, because I think there is only about 10 minutes left on this side and a half hour left on the other side, that would mean our time could be wiped out without another word even being spoken. I would not agree to that at this time.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is currently using the time of the Senator from Massachusetts.

Mr. CRAIG. How much time, then, is left on all three?

The ACTING PRESIDENT pro tempore. The Senator from Idaho has consumed his time. The Senator from Massachusetts now has 24 minutes. The Senator from Georgia has 11 minutes.

Mr. CRAIG. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CRAIG. I will continue to consume time of the Senator from Massachusetts. I understand he is en route to speak on behalf of AgJOBS. We will continue to do that. Over the course of the last day, I have sent to the desk and provided to my colleagues a comprehensive list of over 509 organizations nationwide, some 200 of them in agriculture, that have been a part of this growing broad coalition of Democrats, Republicans, liberals, conservatives, labor, employer, and other groups that have recognized the very critical nature of American agriculture today and the importance of stabilizing its workforce and causing that workforce to become legal. That is exactly why the Senator from Massachusetts and I are here.

We have obviously had other colleagues of ours come forward with legislation proposing another approach. It is nowhere near as broad based, nor does it solve the kinds of very real problems all of us want to solve; that is, clearly creating a legal workforce.

Here are some of the frustrations I wish to talk about for a few moments that are important. There is an opinion in this country that if you just throw money at it, the problem will go away. Let me suggest right now that that is what we are doing. We are throwing a lot of money at it. In so doing, we are throwing about \$7 billion a year at the

border and at internal enforcement, \$7 billion well spent. In part, it is beginning to build systems that are getting better as they relate to controlling dominantly our southern border, but our northern border, as well, and our shoreline.

We did it for two reasons. Actually, we started doing it after 9/11 for terrorist purposes because we were fearful that we would see terrorists coming up through Mexico and into the southern part of the United States or across our southern border or, for that matter, across our northern border. At the same time we were recognizing a near flood of people coming across those borders attempting to identify with work in our country. As you can see, the number of apprehensions of illegals peaked in about the year 2000. It was dropping. We started pushing heavy money at it. But it has begun to climb again.

The reality is, we are now putting about \$7 billion a year into it and last year apprehended approximately 1.2 million illegals. We are stepping up to that plate now and stepping up aggressively, and we will do more.

I have just joined with the Senator from West Virginia, Mr. BYRD, to take money out of this supplemental in areas where we didn't think it was needed to put more into Border Patrol.

But as I have said earlier, there is not just a single solution to this problem. We have to be able to control the numbers of people coming across by stopping their belief that if they get across the border, there is a job. We have to provide a legal work force system that works. You do that by identifying the employees and the employers, and doing so as we did historically in the past, and as AgJOBS clearly does in the major reform of the existing law, the old H-2A program, which has allowed these problems to occur and is totally not functional today.

That is what we have offered. We think it is tremendously important. It is not without criticism, and we certainly know that. Any time you touch the immigration issue, it is not without criticism because there are those who simply don't believe anybody ought to be allowed into the country under nearly any circumstance, even though we are a nation of immigrants. Our strength, energy, and dynamics have been based on the phenomenal immigration from all over the world that has produced the great American story as we know it. That immigration, to keep our economy moving, to keep our culture where it is, strong and vital, is going to need to continue. But we need to control it in a way that allows the reasonable kind of assimilation that successful cultures have been able to accomplish down through the centuries, as we have allowed controlled, managed immigration into our country. We are not doing that, and we have not done it for 2 decades.

As I have said several times on the floor in the last day and a half, awakening from 9/11 was a clear demonstration of that reality, that there were 8 million to 12 million undocumented foreign nationals in our country whom we were ignoring. No longer can that happen, we say. Well, it is happening. We have let it happen for more than 1,300 days since 9/11. That is why we are on the floor at this moment. That is why we should not wait for a better day and push this back. Several Senators have been saying: Oh, we will get something done by late this year or early next year. There is nothing on the drafting table. There are some hearings being held. No comprehensive work is going on that will identify the broader picture and the very important, specific segment of our economy. Meanwhile, there will be crops in the fields, and we need a legal work force, identified and trusted, to put that food on the tables of American families.

The authors of this legislation, AgJOBS, recognize this is not a comprehensive piece but it is a piece that deals with a segment of our economy that is in the most critical need of their problems being solved today—the economy that feeds us, puts the food on the market shelves for consumers in a safe, reliable, healthy fashion. That is what we are talking about today. We are talking about the need of American agriculture to be able to respond to what is so very important on a seasonal basis—planting, tending, harvesting of America's food supply.

So that is why I am here, and I am not taking it lightly. We are most serious about our effort to try to respond to this problem. We have been attempting to gain access to the floor for well over a year for this debate and not to deny it as something we simply put off. That is the importance of what we do. That is why the Senator from Massachusetts—who is much different from I politically—and I have come together, as that broad-based coalition demonstrates. All politics have come together on this issue—left, right, and center, Democrat, Republican, labor, employer. Why? Because of the very critical nature of the problem before us and the importance that we effectively respond, for the sake of America, to control our borders, to identify the undocumented who are within, to provide American agriculture with a safe, identifiable and, most importantly, legal labor supply. I see my colleague from Massachusetts has joined us on the floor. With that, I retain the balance of our time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask the Chair, what is the time allocation presently?

The ACTING PRESIDENT pro tempore. The Senator has 13 minutes 40 seconds.

Mr. KENNEDY. I yield myself 8 minutes.

Mr. President, I want to thank my friend, Senator CRAIG, for his leadership in this area. As he just mentioned at the end of his comments, Senator CRAIG and I do not share a great many common positions but we both are enthusiastic about this legislation. We come to it from different interests, over long periods of time. He may remember, as I very well do, in the early 1960s, we had what was called the Bracero issue and problem. It was a very deep problem, where we had this extraordinary exploitation of workers who came across the border living in these absolutely inhumane conditions and being exploited like workers in no other part of the world. It took us a long time to get away from the Bracero problem and issue. There was enormous conflict between the workers and the growers for many years. I remember very distinctly the work of Cesar Chavez and the great interest that my brother Robert Kennedy had in the rights of immigrant workers. It was a poisonous atmosphere year after year.

And now, through the hard work of many of those who were enlightened in the agribusiness, as well as the leadership with farmworkers, they came together to recommend legislation. I paid great respect to our House colleagues, Congressman BERMAN and Congressman CANNON, for their constancy in watching this issue develop.

Mr. President, we have an opportunity in the Senate now to take a dramatic step forward toward true, meaningful, significant immigration reform. Agribusiness is only about 10 or 12 percent of the total problem. But should the Senate of the United States, in a bipartisan way, come to grips with this issue in a meaningful way, it will open the path for further action in these next few weeks and months so we can have a total kind of different view and way of handling immigration in our country.

The current system is a disaster. It is enormously costly and unworkable. We have spent more than \$24 billion over the period of the last 6 years, and the problem has gotten worse and worse. We hear talk about extending a fence across the borders in southern California for a number of miles. We have to be reminded the total border in the South is 1,880 miles. Are we going to have a fence that is going to extend that far, that long, over the period of the future? This system just does not work. We do not have enough border guards or policemen out there who are going to the borders. We have to have a dramatic alteration and change. We are not going to deport the 7 million or 8 million undocumented that are here, that are absolutely indispensable, primarily in the agricultural sector, but are playing increasing roles in other sectors as well.

So we have an extraordinary problem. With all due respect to those who have tried the hard-line way of doing it, they have not been able to demonstrate any success. We hear those

voices in the Senate, again: Give us another 500 border guards or some more barbed wire or another extension of the fence, let us just provide some additional kinds of technology, and we will solve our problem.

No way. We have learned that lesson. We should have learned that lesson. Now we have an opportunity, under the proposal Senator CRAIG and I have proposed, and in a bipartisan way, to try a different way.

With all respect to those who oppose this, we believe this is absolutely consistent in terms of our national security issues. The dangers to national security are what happens in the shadows, the alleyways. What is happening in the shadows and alleyways is happening among the undocumented. People are able to hide in those areas. If we bring the sunlight of legality to an immigration policy, we are going to make it much more difficult. We are going to free up border guards to be able to go after those who might be terrorists, instead of constantly looking out for the undocumented that are traveling back and forth across the border. If we have learned something over the period of time, it is immigration is not the problem. The problem is the terrorists. The best way to deal with that is to focus both manpower and technology to be able to deal with that.

Now, our effort also responds to and rebuts the idea that this is amnesty. That is the quickest way to kill the legislation. People can say, look, this is amnesty, and then go back to their offices, and that shakes people up enough to say they are not going to support that. We are talking about men and women who have lived and worked here, paid their taxes here, and they have to have done it some time ago. We are not talking over the last year; we are talking about people who have worked and have been a part of the communities a number of years ago, to permit them a long period of time, probably stretched over a period of 7 to 9 years before they would even be eligible to start down the path toward citizenship—a long period of time, Mr. President. It just seems to me that these issues have been debated and discussed. Some have been misrepresented.

Finally, this has a dramatic impact in terms of both working conditions and labor conditions for those who are going to be impacted by this issue. It is going to have a similar kind of impact in terms of American workers. You have undocumented, you have illegal workers; they are going to be exploited, and they are going to drive wages down, they are going to fear their boss or their employer might tell on them. Therefore, they are going to settle for less in terms of payment. That is only natural. We can understand that. We have the figures and statistics to demonstrate that. But when you drive those wages down, you drive the wages down for American

workers in related industries in those areas, and we have the figures to show that, too. This has a depressing impact in terms of legitimate American workers as well.

So I think this is an enormously important vote. If we are able to get support for this legislation, this will be a pathway to try to deal with the rest of the scene on immigration. If we are able to get the downpayment, which this is, this will open a new day and new opportunity.

I don't often agree with the President of the United States, but he has at least addressed this issue. We come to different conclusions with regard to the ability to be able to earn their way into legitimacy on this issue. Nonetheless, he understands. We can understand why; he has been a Governor of a border State. I hope we can find a way of developing a common ground here—Republicans and Democrats, those who have been interested and have followed the challenges out there in terms of agribusiness, those of us who have been proud to represent the workers who, over a long period of time, have been exploited in too many instances and who have suffered. All they are looking for is fairness and respect and some ability to rejoin with members of their families. Not long ago, the Senate considered fast-track legislation regarding those individuals who were serving in the Armed Forces overseas—a number of them had actually lost their lives—who were permanent resident aliens—not even citizens, but were permanent resident aliens who served in our Armed Forces. The President gave citizenship to some who were killed in Iraq. We were able to try to provide for those going into the military at least some ability to faster citizenship. They were prepared to go to Iraq to die and fight for this country. All they wanted to do was be able to live in this country as well. If they were going to do that, we were going to understand and respect their service to this Nation. We provided an opportunity to move their process toward citizenship faster, if they were going to serve in the Armed Forces or be in the Guard and Reserve, with the real prospects of going to Iraq. Are we going to say those individuals, they are going to be able to get consideration, and their brothers and sisters who may not have gone into the service are still going to have to live in the shadows of illegality?

It seems to me we ought to be able to find common ground. We ought to be able to provide common ground here when we recognize the current process and system is a disaster.

We have an unregulated system where illegality is running rampant and, quite frankly, those who are opposed to us and offer alternatives are offering more of the same.

This is an opportunity for a breakthrough. This is an opportunity for a new start. This is an opportunity for a bipartisan effort that is going to do something significant about the chal-

lenges we are facing with immigration. I hope it will be successful.

I withhold the remainder of our time. Mr. LEAHY. Mr. President, I am a cosponsor of the AgJOBS bill, which will do a world of good for farmers and farmworkers in Vermont and around our Nation.

First, this amendment would reform the H2A program for temporary agricultural labor. As it currently exists, this program is cumbersome and deeply unpopular with farmers. As a result, it is underused and promotes the widespread use of illegal labor on our Nation's farms. Indeed, experts estimate that more than half of our Nation's farmworkers are here illegally.

Second, this amendment would provide an opportunity for that illegal workforce to come out of the shadows and obtain legal permanent residency in return for the contributions they have made and will make to American agriculture, both before and after enactment. It would allow undocumented aliens who can demonstrate that they have worked in agriculture for 100 or more days in a 12-month period during the last 18 months to apply for legal status. Eligible applicants would be granted temporary resident status. If the farmworker then works at least 360 days in agriculture during the next 6 years, he or she may apply for permanent resident status. Workers would be free to choose from any employer. These provisions would create a substantially larger legal, stable workforce from which farmers around the country could hire. And without these provisions, it is difficult to see why farmworkers currently here illegally would come forward and announce their presence.

The AgJOBS bill is supported by a broad coalition of the agriculture industry and farmworker union and advocacy groups. It has broad bipartisan support in the Senate, and I urge all Senators to vote for cloture.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CHAMBLISS. Mr. President, what is the time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 11 minutes. The Senator from Massachusetts has 2 minutes 45 seconds.

Mr. CHAMBLISS. Mr. President, I yield myself 5½ minutes.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, we are coming to the close of the debate on this issue. I think it is important that we review for those of our colleagues who are listening, as well as to the American people who are listening relative to this issue, concerning whether we should grant amnesty to illegal aliens who are in this country, who are working in the agricultural field and given a pathway to citizenship, or should we grant to those individuals an accommodation to stay here, assuming they are law abiding,

assuming they are working in agriculture for an employer who needs them and they are not displacing an American worker, and where they will always be categorized as a temporary worker. That is the fundamental difference between our two bills.

I say to the Senator from Idaho, as well as the Senator from Massachusetts, again, I appreciate the debate we have had this morning because we have struck at the nerve of this issue relative to the agricultural sector.

The Senator from Massachusetts is right. This is, in all probability, going to lay the groundwork for the broader overall issue we will deal with relative to immigration. I hoped we could have dealt with this issue in a broader immigration bill, but with the rules of the Senate being what they are, we are here today talking about the supplemental for the Iraq war, and this is an issue which, under our rules, can be brought forth, has been brought forth, and that is obviously why we are here.

There are a number of organizations on both sides that have come out in favor of the AgJOBS bill, as well as the Chambliss-Kyl amendment. I want to make sure that all of my colleagues understand that the most recognized agricultural group in America, the American Farm Bureau, has endorsed the Chambliss-Kyl amendment. They have sent a letter to every Member of the Senate. They have sent letters to all of their membership around the country, as well as being on the telephone calling those folks today asking that they contact their Senators and request that they vote for the Chambliss-Kyl amendment.

The reason the American Farm Bureau has done that is the American Farm Bureau knows and understands that we do need that stable, quality supply of agricultural employees for our farmers and ranchers around America, and they agree with Senator KYL and myself that we need to do it in a way that gives these workers a temporary status, does not displace American workers, allows our employers—our farmers and ranchers—to only hire those individuals who have had a background check by the Department of Homeland Security and have no criminal record whatsoever, as we provide for in the Chambliss-Kyl amendment. Only then can you come to the United States and be recognized as an eligible agricultural employee under the Chambliss-Kyl amendment.

Under the AgJOBS bill, you can have up to three misdemeanors and still qualify for the adjusted status, which means you are here legally, which means you can apply for a green card while you are here, which then means you can apply for citizenship while you are here, even though you came to this country illegally to start with and even though you have committed up to three misdemeanors and have been convicted of three misdemeanors while you have been here.

We know a supply of agricultural workers is needed. Senator KYL and I

have worked very hard on this measure over the last several months to try to ensure that we accommodate all of our farmers' and ranchers' needs across America. Today we think streamlining the H-2A process, which will give us a prevailing wage rate that our employers can pay to their agricultural employees, will provide a streamlined paperwork process to allow our H-2A employers to have that ready supply of labor in a short period of time and to make sure that when they complete the job they have been allowed to come here to do, they go back to their country as available to our farmers and ranchers.

Also, with the blue card provision we have in our bill, farmers and ranchers who need employees for a period in excess of a small window will have available to them employees who can be here for up to 3 years provided the Department of Homeland Security has done a background check and determined that they have never violated the law in this country, provided that those employees never be given anything but a temporary status, and provided that those employees agree and acknowledge that they will never be allowed to apply for a green card for permanent status or for citizenship in any way whatsoever, other than under what is existing law today.

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

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, what is the time situation again?

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts has 2 minutes 45 seconds.

Mr. KENNEDY. The other side?

The ACTING PRESIDENT pro tempore. Four minutes 51 seconds.

Mr. KENNEDY. I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, one of the favorite techniques around here is people misstate what is in a particular proposal and then differ with it. I do not accuse anyone of doing that on this particular legislation, but I do believe they ought to listen to Senator CRAIG and myself as to exactly what our bill does and what it is intended to do. If there are some changes that will make these points clear, we are glad to do it. We want to free ourselves from distortions and misrepresentations.

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

To be eligible for legal status, applicants must present no criminal or national security problems. All appli-

cants will be required to undergo rigorous security clearances. Their names and birth dates have to be checked against our Government's criminal and terrorist databases. Applicants' fingerprints will be sent to the FBI for a criminal background check which includes comparing the applicants' fingerprints with all arrest records in the FBI's database.

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

Opponents of AgJOBS claim this bill is soft on criminals. Wrong again. AgJOBS has the toughest provisions against those who commit crimes—tougher than current immigration law. Convictions for most crimes will make them ineligible to obtain a green card. Applicants can also be denied legal status if they commit a felony or three misdemeanors. It does not matter whether the misdemeanors involve minor offenses. In addition, anyone convicted of a single misdemeanor who served a sentence of 6 months or more would also be ineligible.

Finally, opponents of the AgJOBS bill also claim it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the earned adjustment program, farmworkers must establish that they worked in agriculture in the past. Farmworkers must have entered the United States prior to October 2004; otherwise, they are not eligible. The magnet argument is false. New entrants who have worked in agriculture will not qualify for this program.

This is a sensible, responsible, well-thought-out program that has had days of hearings and weeks and months of negotiations. It is a sensible answer, a downpayment to a problem this country needs to address. I believe, with all respect to my friends and colleagues on the other side, their proposal is more of the same. I hope the Senate will support our amendment.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields the time?

Mr. CHAMBLISS. Mr. President, I yield the remainder of our time to the Senator from Arizona, Mr. KYL.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, let me try to summarize the status of this debate over the last couple of hours as pertains to both of these propositions.

The first to be voted on is the Chambliss-Kyl proposal, and then the second will be the Craig-Kennedy proposal. Both need 60 votes to proceed.

The first point I make to my colleagues is that we voted in this body on a sense-of-the-Senate resolution saying we should have this immigration de-

bate later when we can do it right and can take all the time we need, where everybody can participate in it and know how to approach the problem not just from the standpoint of agriculture, in fact, but for a total attempt to solve our immigration reform issues in this country.

We decided that it would not be a good idea to try to have that debate on the supplemental appropriations bill because it would hold up the bill. Guess what has happened. We are in the second week of debate on this bill to fund our troops in Afghanistan and Iraq, and there is still no end in sight. If either one of these proposals gets 60 votes, we are off to the races with lots more amendments, debate time, and I do not know when we will get to finish the supplemental appropriations bill, which the distinguished chairman of the committee has been urging us to get about the business doing. In that sense, it would be a shame if either one of these two propositions got the 60 votes. That is my first point.

The second point is that as between the two, both attempt to reform our immigration system and match willing employer with willing employee, but one of them does so in a way that is going to, in fact, attract people to this country who have been here illegally in the past and under the provisions of the bill would enable them to come back.

People who have already gone home would be able to present themselves at the border and simply claim and try to document that they worked in this country illegally in the past and, therefore, they get to come back in again. I do not know of anything that makes less sense than having an illegal immigrant who worked here illegally go back home and then we invite them to come back into the country to get legal status simply by working in the fields again. That makes no sense.

Secondly, it is very clear that one version is amnesty and the other version is not. One simply cannot argue that when you give an advantage to people who broke the law in terms of obtaining legal permanent residency, which Chambliss-Kyl does not do, and, therefore, a path to citizenship, which Chambliss-Kyl does not do, you cannot argue that advantage given to these people who have broken our laws is not a form of amnesty.

That is the key substantive difference between these two bills. Both try to match willing employer and willing employee. One does it without amnesty and the other does it with amnesty. What we mean by that is amnesty meaning legal permanent residency and a pathway to citizenship which is achieved by virtue of the fact that somebody worked here illegally in the past. That is not, we believe, a good idea and a way to start off with a new guest worker program that we all agree needs to be enforceable and enforced.

We need to control our borders. We need to have a workable law. It needs



to be a law that matches willing employer and willing employee and does not do so with amnesty, and until we are ready to do that, I suggest we should defer that debate, get on with our supplemental appropriations bill, and have that debate when we consider it in the context of overall immigration reform.

Therefore, how do people vote on the first vote? As I said, the first vote is on the Chambliss-Kyl proposal. We urge a "yes" vote on that proposal. The second vote is on the Kennedy-Craig proposal. We urge a "no" vote on that. If they both fail, then we can get on with the business of the supplemental appropriations bill to fund our troops in Afghanistan and Iraq.

Mr. President, if there is no other speaker, I suggest we yield back all time and proceed with the votes.

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

## CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

## CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Chambliss amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Saxby Chambliss, Mitch McConnell, Elizabeth Dole, Larry E. Craig, Judd Gregg, Norm Coleman, Trent Lott, Arlen Specter, George V. Voinovich, Bob Bennett, Pete Domenici, Pat Roberts, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 432, offered by the Senator from Georgia, Mr. CHAMBLISS, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The bill clerk called the roll.

Ms. STABENOW announced that the Senator from Illinois (Mr. DURBIN), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

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

The yeas and nays resulted—yeas 21, nays 77, as follows:

[Rollcall Vote No. 97 Leg.]

## YEAS—21

Allard	DeMint	Lott
Bond	Dole	Salazar
Burns	Graham	Santorum
Burr	Grassley	Stevens
Chambliss	Gregg	Sununu
Cochran	Kyl	Thomas
Collins	Landrieu	Warner

## NAYS—77

Akaka	Allen	Bayh
Alexander	Baucus	Bennett

Biden	Feingold	Mikulski
Bingaman	Feinstein	Murkowski
Boxer	Frist	Murray
Brownback	Hagel	Nelson (FL)
Bunning	Harkin	Nelson (NE)
Byrd	Hatch	Pryor
Cantwell	Hutchison	Reed
Carper	Inhofe	Reid
Chafee	Inouye	Roberts
Clinton	Isakson	Rockefeller
Coburn	Jeffords	Sarbanes
Coleman	Johnson	Schumer
Conrad	Kennedy	Sessions
Cornyn	Kerry	Shelby
Corzine	Kohl	Smith
Craig	Lautenberg	Snowe
Crapo	Leahy	Specter
Dayton	Levin	Stabenow
DeWine	Lieberman	Talent
Dodd	Lincoln	Thune
Domenici	Lugar	Vitter
Dorgan	Martinez	Voinovich
Ensign	McCain	Wyden
Enzi	McConnell	

## NOT VOTING—2

Durbin	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 21, the nays are 77. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. COCHRAN. I move to reconsider the vote.

Mr. KYL. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

## COMMITTEE MEETINGS

Mr. FRIST. Before we vote, I have 10 unanimous consent requests for committees to meet. The request has been cleared on both sides, and I ask for these requests and ask that the requests be printed in the RECORD.

Mr. REID. Reserving the right to object, does this include—

Mr. FRIST. This is for 10 requests for committees to meet, other than the Committee on Foreign Relations.

I add that there was one committee left out of this request due to an objection on the other side of the aisle. Chairman LUGAR is holding a business meeting in the Foreign Relations Committee at 2:15, and there is an objection. I ask unanimous consent that committee request be granted and the committee be allowed to meet at 2:15.

Mr. REID. I object.

Mr. FRIST. I am disappointed there is an objection to allowing this important committee to do its work. That will make it necessary to recess for a period this afternoon to give Chairman LUGAR an opportunity to have his committee meeting. I understand there may be a request from the other side for a vote on the motion to recess. Senators should be on notice that if we are unable to work out this objection, we will vote at 2:15 this afternoon. Unfortunately, this recess will not allow debate and votes on additional amendments to the underlying emergency appropriations prior to this afternoon's cloture vote.

I yield the floor.

## CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Craig amendment to Calendar No. 67, H.R. 1268.

Bill Frist, Larry E. Craig, Mitch McConnell, Elizabeth Dole, Judd Gregg, Saxby Chambliss, Trent Lott, George V. Voinovich, Arlen Specter, Bob Bennett, Pete Domenici, Pat Roberts, John E. Sununu, Orrin Hatch, Richard Burr, John Cornyn, James Talent, Chuck Hagel.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that the debate on amendment No. 375, offered by the Senator from Idaho, Mr. CRAIG, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

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

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 98 Leg.]

## YEAS—53

Akaka	Feingold	Mikulski
Baucus	Hagel	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Nelson (NE)
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Burns	Kennedy	Reid
Cantwell	Kerry	Salazar
Carper	Kohl	Sarbanes
Chafee	Landrieu	Schumer
Clinton	Lautenberg	Smith
Coleman	Leahy	Snowe
Corzine	Levin	Specter
Craig	Lieberman	Stabenow
Dayton	Lincoln	Voinovich
DeWine	Lugar	Warner
Dodd	Martinez	Wyden
Domenici	McCain	

## NAYS—45

Alexander	Crapo	Kyl
Allard	DeMint	Lott
Allen	Dole	McConnell
Bennett	Dorgan	Murkowski
Bond	Ensign	Roberts
Brownback	Enzi	Rockefeller
Bunning	Feinstein	Santorum
Burr	Frist	Sessions
Byrd	Graham	Shelby
Chambliss	Grassley	Stevens
Coburn	Gregg	Sununu
Cochran	Hatch	Talent
Collins	Hutchison	Thomas
Conrad	Inhofe	Thune
Cornyn	Isakson	Vitter

## NOT VOTING—2

Durbin	Obama
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The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we have several amendments that have been cleared on both sides, and I am prepared to bring those to the attention of the Senate.

## AMENDMENT NO. 547

Mr. President, I send to the desk an amendment on behalf of Mr. BOND regarding Federal Housing Enterprises Oversight, and I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BOND, proposes an amendment numbered 547.

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

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

The amendment is as follows:

(Purpose: To appropriate \$5,000,000 for OFHEO to meet emergency funding needs; these funds are supported by fees collected from the regulated GSEs)

Insert the following on page 203, after line 17:

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT SALARIES AND EXPENSES (INCLUDING TRANSFER OF FUNDS)

For an additional amount of the "Office of Federal Housing Enterprise Oversight" for carrying out the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, \$5,000,000 to remain available until expended, to be derived from the Federal Housing Enterprises Oversight Fund: *Provided*, That not to exceed the amount provided herein shall be available from the general fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the general fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the general fund estimated at not more than \$0..

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 547) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 527

Mr. COCHRAN. Mr. President, I call up amendment No. 527 on behalf of Ms. LANDRIEU regarding oil and gas fabrication ports.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Ms. LANDRIEU, proposes an amendment numbered 527.

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

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

The amendment is as follows:

(Purpose: To modify the provision relating to offshore oil and gas fabrication ports)

On page 209, lines 15 and 16, strike "benefits" and insert "value".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 527) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 441

Mr. COCHRAN. Mr. President, I call up amendment No. 441 on behalf of Mr. SANTORUM regarding loan guarantees.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. SANTORUM, proposes an amendment numbered 441.

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

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

The amendment is as follows:

(Purpose: To allow certain appropriated funds to be used to provide loan guarantees)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, funds that have been appropriated to and awarded by the Secretary of Energy under the Clean Coal Power Initiative in accordance with financial assistance solicitation number DE-PS26-02NT41428 (as described in 67 Fed. Reg. 575) to construct a Fischer-Tropsch coal-to-oil project may be used by the Secretary to provide a loan guarantee for the project.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 441) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT NO. 407

Mr. COCHRAN. Mr. President, I call up amendment No. 407 on behalf of Mr. REID regarding the Walker River Basin.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. REID of Nevada, proposes an amendment numbered 407.

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

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

The amendment is as follows:

(Purpose: To provide assistance for the conduct of agricultural and natural resource conservation activities in the Walker River Basin, Nevada)

On page 211, strike lines 3 through 8 and insert the following:

## AGRICULTURAL AND NATURAL RESOURCES OF THE WALKER RIVER BASIN

SEC. 6017. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Commissioner of Reclamation, shall provide not more than \$850,000 to pay the State of Nevada's share of the costs for the Humboldt Project conveyance required under—

(A) title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2016); and

(B) section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1853).

(2) Amounts provided under paragraph (1) may be used to pay—

(A) administrative costs;

(B) the costs associated with complying with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(C) real estate transfer costs.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring land, water, and related interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(c)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers; and

(B) designed to maximize water conveyances to Walker Lake.

(d) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide—

(1) \$10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) \$5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute

Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 476

Mr. COCHRAN. Mr. President, I call up amendment No. 476 on behalf of Mr. BYRD regarding the Upper Tygart Watershed project.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BYRD, proposes an amendment numbered 476.

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

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

The amendment is as follows:

(Purpose: To transfer funds relating to certain watershed programs of the Department of Agriculture)

On page 198, between lines 21 and 22, insert the following:

SEC. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108-447) for the Lost River Watershed project, West Virginia, \$4,000,000 shall be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

Mr. BYRD. Mr. President, the amendment I am offering today is technical in nature in that it will provide for the transfer of previously appropriated funds from one ongoing Natural Resources Conservation Service, NRCS, project in West Virginia to another. The two projects involved are the Upper Tygart Valley Watershed project and the Lost River Watershed project. The Upper Tygart project will, once completed, provide water service to at least 16,000 residents in Randolph County, WV. The Lost River project is a series of dams that were designed to provide flood control, water supply, and recreation in Hardy County, WV.

The Upper Tygart Valley Watershed project requires a final \$4 million in funding to initiate construction. The additional funds are necessary due to the fact that the project design was not yet completed when cost estimates for the project were formed. There has also been a dramatic rise in the cost of building materials for the project.

Funding in the amount of \$4.2 million was provided to the Lost River Watershed project in the fiscal year 2005 Ag-

riculture Appropriations bill. However, the project cannot proceed to construction in the current fiscal year due to a change in the project purpose requested by the project sponsor and subsequent requirements for the NRCS to reevaluate the project.

Due to these circumstances, I am offering this amendment which will provide the Natural Resources Conservation Service authority to transfer the previously appropriated construction funds from the Lost River Watershed project to the Upper Tygart Valley Watershed project. This action will enable the NRCS to initiate construction of the Upper Tygart project during the coming months. Again, I would like to reemphasize to my colleagues that this amendment does not appropriate new funds but instead transfers previously appropriated funds between two existing Natural Resources Conservation Service projects in West Virginia.

I thank my colleagues for their support of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 476) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 548

Mr. COCHRAN. Mr. President, I send to the desk an amendment on behalf of Mr. LEAHY regarding the protection of the Galapagos.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LEAHY, proposes an amendment numbered 548.

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

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

The amendment is as follows:

To encourage the Government of Ecuador to take urgent measures to protect the biodiversity of the Galapagos.

At the appropriate place in the bill, insert the following:

#### PROTECTION OF THE GALAPAGOS

SEC. \_\_\_\_ (a) FINDINGS.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the current leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected; and

(4) The Government of Ecuador has reportedly given preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the

biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing.

(b) Whereas, now therefore, be it

*Resolved*, That—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service through a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long-term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 548.

The amendment (No. 548) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I have no further amendments to present to the Senate at this time.

I yield the floor.

#### AMENDMENT NO. 499

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise in support of the amendment offered by the senior Senator from Virginia, Mr. WARNER, of which I am a cosponsor as well as the two Senators from Florida.

The Department of Defense is on an ill-timed course to weaken our military strength by reducing the number of aircraft carriers from 12 to 11 and maybe even more. This decision is completely inconsistent with recent past statements on the absolute number of carriers needed to conduct operations.

According to ADM Vernon Clark, Chief of Naval Operations, just a little over 2 years ago:

The current force of 12 carriers and 12 amphibious groups is the minimum we can have and sustain the kind of operations we are in.

According to the 2002 Naval Posture Statement:

Aircraft carrier force levels have been set at 12 ships as a result of fiscal constraints;

however, real-world experience and analysis indicate that a carrier force level of 15 ships is necessary to meet the warfighting Commander in Chief's requirements for carrier presence in all regions of importance to the United States.

I am not convinced that reducing our carrier fleet is the best strategic decision in the midst of our global war against terrorism. Realistically, it looks like the Department of Defense and the Navy are maneuvering quickly to negate any legislative oversight. But we in Congress should make sure that all considerations are taken into account before we rush into a decision that may hamper our military's ability to fight this global war on terrorism. That is why this amendment is being offered.

What does this amendment achieve? First, the amendment ensures that the Navy proceeds on the scheduled necessary maintenance of the USS *John F. Kennedy* so that the carrier is kept in active status. In addition, this amendment requires the Navy to keep 12 carriers until the latter of the following: 180 days after the quadrennial defense review comes before Congress or that the Secretary of Defense has certified to Congress that agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers that are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that command.

Moreover, it is important that we keep the *Kennedy* available because Admiral Clark stated that it is essential to have a carrier home ported in Japan. However, we know that Japan has serious reservations—in fact, prohibitions—about allowing us to port a nuclear carrier there, and currently there is no sign that that prohibition would be removed for nuclear carriers. Therefore, with Japan's prohibition on nuclear vessels, it is unwise to limit our options by retiring one of the only two nonnuclear aircraft carriers. The other is the *Kitty Hawk*, which is actually an older vessel than the *JFK*.

The bottom line is that the United States must have maximum flexibility in protecting our security interests in the Pacific and the Indian oceans. I believe any plan to mothball the *Kennedy* is shortsighted, especially during this time of war and with China's rapid naval buildup. In addition, as far as China is concerned, with the continued tension between China and Taiwan, it is imperative that we have a carrier in the region that can respond quickly to any possible conflict that may arise.

In that regard, the Washington Post published a story written by Edward Cody on April 12, 2005, entitled "China Builds A Smaller, Stronger Military; Modernization Can Alter Regional Balance Of Power Raising Stakes For The U.S."

I ask unanimous consent that this article be printed in the RECORD.

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

[From the Washington Post, Apr. 12, 2005]

CHINA BUILDS A SMALLER, STRONGER MILITARY; MODERNIZATION COULD ALTER REGIONAL BALANCE OF POWER, RAISING STAKES FOR U.S.

(By Edward Cody)

A top-to-bottom modernization is transforming the Chinese military, raising the stakes for U.S. forces long dominant in the Pacific.

Several programs to improve China's armed forces could soon produce a stronger nuclear deterrent against the United States, soldiers better trained to use high-technology weapons, and more effective cruise and anti-ship missiles for use in the waters around Taiwan, according to foreign specialists and U.S. officials.

In the past several weeks, President Bush and his senior aides, including Defense Secretary Donald H. Rumsfeld, Secretary of State Condoleezza Rice and Director of Central Intelligence Porter J. Goss, have expressed concern over the recent pace of China's military progress and its effect on the regional balance of power.

Their comments suggested the modernization program might be on the brink of reaching one of its principal goals. For the last decade—at least since two U.S. aircraft carrier battle groups steamed in to show resolve during a moment of high tension over Taiwan in 1996—Chinese leaders have sought to field enough modern weaponry to ensure that any U.S. decision to intervene again would be painful and fraught with risk.

As far as is known, China's military has not come up with a weapon system that suddenly changes the equation in the Taiwan Strait or surrounding waters where Japanese and U.S. forces deploy, the specialists said. China has been trying to update its military for more than two decades, seeking to push the low-tech, manpower-heavy force it calls a people's army into the 21st-century world of computers, satellites and electronic weapons. Although results have been slow in coming, they added, several programs will come to fruition simultaneously in the next few years, promising a new level of firepower in one of the world's most volatile regions.

"This is the harvest time," said Lin Chong-pin, a former Taiwanese deputy defense minister and an expert on the Chinese military at the Foundation on International and Cross-Strait Studies in Taipei.

U.S. and Taiwanese military officials pointed in particular to China's rapid development of cruise and other antiship missiles designed to pierce the electronic defenses of U.S. vessels that might be dispatched to the Taiwan Strait in case of conflict.

The Chinese navy has taken delivery of two Russian-built Sovremenny-class guided missile destroyers and has six more on order, equipped with Sunburn missiles able to skim 4½ feet above the water at a speed of Mach 2.5 to evade radar. In addition, it has contracted with Russia to buy eight Kilo-class diesel submarines that carry Club anti-ship missiles with a range of 145 miles.

"These systems will present significant challenges in the event of a U.S. naval force response to a Taiwan crisis," Vice Adm. Lowell E. Jacoby, director of the Defense Intelligence Agency, told the Senate Armed Services Committee in testimony March 17.

Strategically, China's military is also close to achieving an improved nuclear deterrent against the United States, according to foreign officials and specialists.

The Type 094 nuclear missile submarine, launched last July to replace a trouble-prone Xia-class vessel, can carry 16 intercontinental ballistic missiles. Married with the newly developed Julang-2 missile, which has a range of more than 5,000 miles and the abil-

ity to carry independently targeted warheads, the 094 will give China a survivable nuclear deterrent against the continental United States, according to "Modernizing China's Military," a study by David Shambaugh of George Washington University.

In addition, the Dongfeng-31 solid-fuel mobile ballistic missile, a three-stage, land-based equivalent of the Julang-2, has been deployed in recent years to augment the approximately 20 Dongfeng-5 liquid-fuel missiles already in service, according to academic specialists citing U.S. intelligence reports.

It will be joined in coming years by an 8,000-mile Dongfeng-41, these reports said, putting the entire United States within range of land-based Chinese ICBMs as well. "The main purpose of that is not to attack the United States," Lin said. "The main purpose is to throw a monkey wrench into the decision-making process in Washington, to make the Americans think, and think again, about intervening in Taiwan, and by then the Chinese have moved in."

With a \$1.3 trillion economy growing at more than 9 percent a year, China has acquired more than enough wealth to make these investments in a modern military. The announced defense budget has risen by double digits in most recent years. For 2005, it jumped 12.6 percent to hit nearly \$30 billion.

The Pentagon estimates that real military expenditures, including weapons acquisitions and research tucked into other budgets, should be calculated at two or three times the announced figure. That would make China's defense expenditures among the world's largest, but still far behind the \$400 billion budgeted this year by the United States.

Taiwan, the self-ruled island that China insists must reunite with the mainland, has long been at the center of this growth in military spending; one of the military's chief missions is to project a threat of force should Taiwan's rulers take steps toward formal independence.

Embodying the threat, the 2nd Artillery Corps has deployed more than 600 short-range ballistic missiles aimed at Taiwan from southeastern China's Fujian and Jiangxi provinces, according to Taiwan's deputy defense minister, Michael M. Tsai. Medium-range missiles have also been developed, he said, and much of China's modernization campaign is directed at acquiring weapons and support systems that would give it air and sea superiority in any conflict over the 100-mile-wide Taiwan Strait.

But the expansion of China's interests abroad, particularly energy needs, has also broadened the military's mission in recent years. Increasingly, according to foreign specialists and Chinese commentators, China's navy and air force have set out to project power in the South China Sea, where several islands are under dispute and vital oil supplies pass through, and in the East China Sea, where China and Japan are at loggerheads over mineral rights and several contested islands.

China has acquired signals-monitoring facilities on Burma's Coco Islands and, according to U.S. reports, at a port it is building in cooperation with Pakistan near the Iranian border at Gwadar, which looks out over tankers exiting the Persian Gulf. According to a report prepared for Rumsfeld's office by Booz Allen Hamilton, the consulting firm, China has developed a "string of pearls" strategy, seeking military-related agreements with Bangladesh, Cambodia and Thailand in addition to those with Burma and Pakistan.

Against this background, unifying Taiwan with the mainland has become more than

just a nationalist goal. The 13,500-square-mile territory has also become a platform that China needs to protect southern sea lanes, through which pass 80 percent of its imported oil and tons of other imported raw materials. It could serve as a base for Chinese submarines to have unfettered access to the deep Pacific, according to Tsai, Taiwan's deputy defense minister. "Taiwan for them now is a strategic must and no longer just a sacred mission," Lin said.

Traditionally, China's threat against Taiwan has been envisaged as a Normandy-style assault by troops hitting the beaches. French, German, British and Mexican military attaches were invited to observe such landing exercises by specialized Chinese troops last September.

Also in that vein, specialists noted, the Chinese navy's fast-paced ship construction program includes landing vessels and troop transports. Two giant transports that were seen under construction in Shanghai's shipyards a year ago, for instance, have disappeared, presumably to the next stage of their preparation for deployment.

But U.S. and Taiwanese officials noted that China's amphibious forces had the ability to move across the strait only one armored division—about 12,000 men with their vehicles. That would be enough to occupy an outlying Taiwanese island as a gesture, they said, but not to seize the main island.

Instead, Taiwanese officials said, if a conflict arose, they would expect a graduated campaign of high-tech pinpoint attacks, including cruise missile strikes on key government offices or computer sabotage, designed to force the leadership in Taipei to negotiate short of all-out war. The 1996 crisis, when China test-fired missiles off the coast, cost the Taiwanese economy \$20 billion in lost business and mobilization expenses, a senior security official recalled.

A little-discussed but key facet of China's military modernization has been a reduction in personnel and an intensive effort to better train and equip the soldiers who remain, particularly those who operate high-technology weapons. Dennis J. Blasko, a former U.S. military attaché in Beijing who is writing a book on the People's Liberation Army, said that forming a core of skilled commissioned and noncommissioned officers and other specialists who can make the military run in a high-tech environment may be just as important in the long run as buying sophisticated weapons.

Premier Wen Jiabao told the National People's Congress last month that his government would soon complete a 200,000-soldier reduction that has been underway since 2003. That would leave about 2.3 million troops in the Chinese military, making it still the world's biggest, according to a report issued recently by the Defense Ministry.

Because of pensions and retraining for dismissed soldiers, the training and personnel reduction program has so far been an expense rather than a cost-cutter, according to foreign specialists. But it has encountered competition for funds from the high-tech and high-expense program to make China's military capable of waging what former president Jiang Zemin called "war under informationalized conditions."

The emphasis on high-tech warfare, as opposed to China's traditional reliance on masses of ground troops, was dramatized by shifts last September in the Communist Party's decision-making Central Military Commission, which had long been dominated by the People's Liberation Army. Air force commander Qiao Guogang, Navy commander Zhang Dingfa and 2nd Artillery commander Jing Zhiyuan, whose units control China's ballistic missiles, joined the commission for the first time, signaling the importance of

their responsibilities under the modernization drive.

Striving for air superiority over the Taiwan Strait, the air force has acquired from Russia more than 250 Sukhoi Su27 single-role and Su-30 all-weather, multi-role fighter planes, according to Richard D. Fisher, vice president of the International Assessment and Strategy Center in Washington. The Pentagon has forecast that, as the Sukhoi program continues to add to China's aging inventory, the air force will field about 2,000 warplanes by 2020, of which about 150 will be fourth-generation craft equipped with sophisticated avionics.

But specialists noted that many of China's Su-27s have spent most of the time on the ground for lack of maintenance. In addition, according to U.S. and Taiwanese experts, China has remained at the beginning stages of its effort to acquire the equipment and skills necessary for midair refueling, space-based information systems, and airborne reconnaissance and battle management platforms.

A senior Taiwanese military source said Chinese pilots started training on refueling and airborne battle management several years ago, but so far have neither the equipment nor the technique to integrate such operations into their order of battle. Similarly, he said, China has been testing use of Global Positioning System devices to guide its cruise missiles but remains some time away from deploying such technology.

Buying such electronic equipment would be China's most likely objective if the European Union goes ahead with plans to lift its arms sales embargo despite objections from Washington, a senior European diplomat in Beijing said. A Chinese effort to acquire Israel's Phalcon airborne radar system was stymied in 2000 when the United States prevailed on Israel to back out of the \$1 billion deal.

Mr. ALLEN. At a time when our military is already stretched thin, why would we want to eliminate one of the most effective methods of projecting our power and possibly opening up an area of vulnerability for the United States and our allies. The decision is clear: We must preserve at least a 12-carrier minimum for the safety of Americans and for the rest of the world, particularly our allies.

I strongly support this amendment and urge my colleagues to do the same. This amendment offers a lifeline to the USS *John F. Kennedy*, and I am pleased that my good partner, Senator WARNER, was able to offer this common-sense approach to keeping the Kennedy viable as well as our deterrence and our ability to protect our interests in the western Pacific.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 407, AS MODIFIED

Mr. COCHRAN. Mr. President, in the amendments we cleared and approved a moment ago, there were two modifications which I neglected to send to the desk. The first was a modification of the Reid amendment. I ask unanimous consent that the Reid amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 211, strike lines 3 through 8 and insert the following:

AGRICULTURAL AND NATURAL RESOURCES OF THE WALKER RIVER BASIN

SEC. 6017. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior (referred to in this section as the "Secretary"), acting through the Commissioner of Reclamation, shall provide not more than \$850,000 to pay the State of Nevada's share of the costs for the Humboldt Project conveyance required under—

(A) title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (116 Stat. 2016); and

(B) section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (117 Stat. 1853).

(2) Amounts provided under paragraph (1) may be used to pay—

(A) administrative costs;

(B) the costs associated with complying with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(C) real estate transfer costs.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

(i) innovative agricultural water conservation;

(ii) cooperative programs for environmental restoration;

(iii) fish and wildlife habitat restoration; and

(iv) wild horse and burro research and adoption marketing.

(2) In acquiring land, water, and related interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(c)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

(A) acquired only from willing sellers; and

(B) designed to maximize water conveyances to Walker Lake.

(d) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary, acting through the Commissioner of Reclamation, shall provide—

(1) \$10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the

greatest increased water flows to Walker Lake; and

(2) \$5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

#### AMENDMENT NO. 476, AS MODIFIED

Mr. COCHRAN. Mr. President, I make the same request with respect to modification of the amendment previously agreed to by the Senate on behalf of Senator BYRD.

The PRESIDING OFFICER. Without objection, the amendment, as previously agreed to, is so modified.

The amendment, as modified, is as follows:

On page 198, between lines 21 and 22, insert the following:

SEC. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108-447) for the Lost River Watershed project, West Virginia, \$4,000,000 may be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 36).

Mr. COCHRAN. I thank the Chair and yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:17 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. COBURN).

#### EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005—Continued

Mr. FRIST. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, Senators have until 4:30 p.m. today to file second-degree amendments to both the Mikulski amendment and the underlying bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### UNANIMOUS-CONSENT REQUEST

Mr. FRIST. Mr. President, given the objection to the Foreign Relations Committee meeting, I ask unanimous consent that the Senate stand in recess until 4:20.

Mrs. BOXER. I object.

Mr. REED. I object.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate recess until 4:20.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Coburn Cornyn Frist

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. FRIST. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays are ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 99 Leg.]

#### YEAS—91

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

#### NAYS—7

Allen	Dodd	Mikulski
Baucus	Feingold	
Boxer	Leahy	

#### NOT VOTING—2

Durbin Obama

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

#### MOTION TO RECESS

Mr. FRIST. Mr. President, I modify the pending motion to recess until 5 p.m. I send the motion to the desk.

The PRESIDING OFFICER. The motion is so modified.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. FRIST. I ask unanimous consent that at 5 p.m., Senator MIKULSKI have 5 minutes before the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Reserving the right to object.

Mr. WARNER. Mr. President, as a cosponsor, I would like to have 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Is the Senator saying we are going to go immediately to cloture on the whole bill or the Mikulski amendment at 5 o'clock?

Mr. FRIST. For clarification, at 5 o'clock Senator MIKULSKI will be given 5 minutes before the cloture vote on her amendment.

Mrs. HUTCHISON. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, as a cosponsor, may I have 2 minutes?

Mr. FRIST. Mr. President, I think that will be fine, with the leadership on both sides for 2 additional minutes, Senator MIKULSKI for 5 minutes, and Senator WARNER for 2 minutes.

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

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Ms. STABENOW. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 100 Leg.]

#### YEAS—56

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Isakson	Thomas
Collins	Kohl	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	

#### NAYS—42

Akaka	Dorgan	Lincoln
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Biden	Harkin	Nelson (FL)
Bingaman	Inouye	Nelson (NE)
Boxer	Jeffords	Pryor
Byrd	Johnson	Reed
Cantwell	Kennedy	Reid
Carper	Kerry	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Corzine	Leahy	Schumer
Dayton	Levin	Stabenow
Dodd	Lieberman	Wyden