

families. His work with Chairman WARNER on our annual defense authorization bill provides that critical support for our troops in the form of both equipment and readiness. In 2004, the National Guard Association of the United States presented him with the Harry S. Truman Award for distinguished service in support of national defense. The awards go on and on and on. This is only one of the many awards he has received for his unflinching support of our military. I commend and thank Senator LEVIN for his tremendous contributions to this country and for his long and distinguished service to the people of Michigan.

(Applause, Senators rising.)

VOTE ON AMENDMENT NO. 3994

The PRESIDING OFFICER. The question is on agreeing to the Salazar amendment No. 3994.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—79

Akaka	Ensign	Menendez
Alexander	Feingold	Mikulski
Baucus	Feinstein	Murkowski
Bayh	Frist	Murray
Bennett	Graham	Nelson (FL)
Biden	Grassley	Obama
Bingaman	Hagel	Pryor
Boxer	Harkin	Reed
Brownback	Hatch	Reid
Cantwell	Hutchison	Roberts
Carper	Inhofe	Salazar
Chafee	Inouye	Santorum
Chambliss	Isakson	Sarbanes
Clinton	Jeffords	Schumer
Coburn	Johnson	Smith
Coleman	Kennedy	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stabenow
Craig	Kyl	Stevens
Crapo	Landrieu	Sununu
Dayton	Lautenberg	Thune
DeMint	Leahy	Vitter
DeWine	Levin	Voivovich
Dodd	Lieberman	Warner
Dole	Lincoln	Wyden
Domenici	Lugar	
Durbin	Martinez	

NAYS—16

Allard	Byrd	Sessions
Allen	Cornyn	Shelby
Bond	Dorgan	Talent
Bunning	Enzi	Thomas
Burns	McConnell	
Burr	Nelson (NE)	

NOT VOTING—5

Cochran	Lott	Rockefeller
Gregg	McCain	

The amendment (No. 3994) was agreed to.

Mr. KENNEDY. 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. KENNEDY. Mr. President, I believe when we return at 2:1 p.m., we will go to Senator DORGAN's amendment, followed, hopefully, shortly thereafter by the Bingaman amendment, depending on the outcome, for the notification of the Members.

I thank all of our colleagues for their cooperation for a good morning's debate and discussion.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 1:02 p.m., the Senate recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006—Continued

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is 2:15. We are reconvening. We are about ready to proceed with the bill. We have quite a number of Senators who have stated an interest in filing amendments. We urge them to come to the floor so we can get a queue and proceed to consider the amendments and dispose of the bill.

Mr. DORGAN. Mr. President, is the Senator asking an inquiry at this point? I did not hear the inquiry.

Mr. SPECTER. We are ready for your amendment, Senator DORGAN, if you are prepared to offer it.

Mr. DORGAN. I will be laying the amendment down in just about a minute. I am reviewing one piece of it. I will be laying the amendment down in about a minute.

Mr. SPECTER. While you are undertaking those last-minute preparations, would you give some consideration to a time agreement, an hour equally divided?

Mr. DORGAN. Mr. President, I will do that, but I will not do it at the moment. I want to perfect the amendment and begin discussions, see how many on my side and perhaps your side wish to speak on it before we would make an agreement with respect to the time.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from North Dakota.

AMENDMENT NO. 4017

Mr. DORGAN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes amendment numbered 4017.

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

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

The amendment is as follows:

(Purpose: To prohibit aliens who are currently outside the United States from participating in the H-2C guestworker visa program)

On page 250, between lines 13 and 14, insert the following:

“(1) ELIGIBILITY FOR DEFERRED MANDATORY DEPARTURE STATUS.—The alien shall establish that the alien is eligible for Deferred Mandatory Departure status under section 245C.

Mr. DORGAN. Mr. President, I have offered an amendment. I will describe very briefly what it does. It essentially strikes the guest worker provision, as it is now known. Guest worker is described in other ways—future flow, guest worker. It strikes that provision, but it does it in a way that would not interrupt the underlying bill's decision to have those who are here for 2 to 5 years to step outside this country and step back in. It would not affect those folks, but it would prevent the guest worker provision from being operative in a way that would allow those who are now living outside of our country, who are not in this country, living outside of the country, to come in in future years under this guest worker provision.

The guest worker, future flow—all these titles that are used by the President and by people in the Senate, it is kind of like Mr. Roger's Neighborhood. These are wonderful-sounding terms—future flow. I didn't know what that was until I learned or heard some of the descriptions of future flow. What that means is we are going to provide a circumstance where we try to get control of immigration but at the same time allow others who are now outside of our country to come into our country under a guest worker provision.

Let me describe the circumstances, especially on the southern border, for the moment. Last year, we believe there were 1.1 to 1.2 million people who tried to come into this country but were apprehended and stopped and prevented from coming in illegally. We also believe that in addition to the 1.1 million or so who were stopped and not allowed to come into this country illegally, there were another probably three-quarters of a million people who came illegally across the southern border.

In addition to that, about 175,000 people came in legally across the southern border—those who had children here under the quotas or other circumstances and came into our country legally. So 1.1 million were apprehended and stopped, about three-quarters of a million came illegally, and about another 175,000 came legally into this country.

We are at a time where, if you read the paper every single day, what you see is the new corporate economic strategy. In fact, Tom Friedman wrote a book, “The World Is Flat.” Of course, the world isn't flat. That sells a lot of books, but the world isn't flat. The proposition of “The World Is Flat” is that there are now 1 billion to 1.5 billion people around the rest of the world

willing to work for a very small amount of money, so those who want to produce products can move those jobs now to China, India, Bangladesh, Sri Lanka, and produce for a very small amount of income. So they pay pennies: 20 cents an hour, 30 cents an hour, 40 cents an hour to produce the product. They ship the product into the United States to sell. Then they run the income through the Cayman Islands so they don't have to pay taxes.

Even while this strategy of shipping good American jobs overseas is underway by some of the largest corporate interests, those interests also want not only to ship those jobs overseas, they want to import cheap labor at home. That is the strategy: export good American jobs and import cheap labor. That is probably a good strategy for profits, I am guessing, but it is an awful strategy for this country. That is not the way we built this country. The broad middle class that burgeoned in this country in the last century happened because of the good jobs that paid good wages and had health care benefits and retirement and so on. That is what helped create a middle class in this country. And the presence of that middle class in this country, the middle-income workers in this country, has made this country something very unusual on the face of the Earth.

Now we see a new strategy. The world is flat, we are told. That flat world means you can get rid of American jobs, move them to China. I have told the stories forever, so I will not again, but Fruit of the Loom underwear, you know, the underwear with the dancing grapes telling us how wonderful Fruit of the Loom is, they are gone; Levis, they are gone; Huffy bicycles, gone; the Little Red Wagon is gone; Fig Newton cookies is now Mexican. I could tell stories forever about exporting American jobs, but the corollary to that is that is not enough. Exporting good American jobs is not enough. Now it is importing cheap labor.

Alan Blinder—no radical economist, former Vice Chairman of the Federal Reserve Board—Alan Blinder just wrote a piece. He said there are somewhere between 42 million and 54 million American jobs that have the potential to be outsourced. He said not all of them will be moved abroad in search of cheap wages. But, he said, even those that stay here are going to have to compete with cheaper wages, with lower wages abroad. So that is the future. That is the strategy. That is the new corporate approach—aided and abetted, I might say, by the Congress with these trade deals.

In addition to that which is threatening American workers, we have the back side coming in: illegal workers. Yes, they are illegal. When they come into this country, they are illegal if they don't come through a legal process. They come in and compete with subpar wages with American workers.

Let me just ask the question for a moment: What would happen in this country if tomorrow we had no immigration laws at all? If we said: Look, we are the United States of America. We are a great country. We say to the rest of the world: Welcome. Come here, stay here, live here, work here. Just come on, come to America. You are welcome. There are no longer any immigration laws at all.

What would be the result of that in a world in which one-half of the population lives on less than \$2 a day, in a world in which one-half of the population hasn't even made a telephone call? What would be the result of our saying we no longer have any immigration laws; we invite the rest of the world to come to this country?

It is interesting. There have been polls done in other countries: How many of you would like to immigrate to the United States? It is massive numbers of people. We would be awash in people. So it is not selfish for our country to be somewhat protective of our standard of living, somewhat protective of our jobs and our interest in retaining a middle class that lives well, that has a job in order to work at a decent wage, has health care, has retirement. It is not selfish for us to do that.

There are many voices speaking for immigrants. I don't want in any way to diminish the dignity or the worth of immigrants. I come from immigrants. I assume most of the people serving in this Chamber come from immigrant parents, grandparents or great-grandparents.

I don't want in any way for this debate to inflame or in any way diminish the worth or dignity of immigrants. I don't want us to inflame passions against those who have tried to escape poverty in their own countries to come to the United States to escape misery and poverty. But we in America have a responsibility as well to our citizens, and there is precious little talk about them in this Chamber these days. We have built the strongest economy in the world. Now we talk about immigration. I don't think that we can talk about immigration without talking about American jobs, about salaries, workers' benefits, and opportunities for those who are here legally. Yes, I am talking about all the American workers. That includes Hispanic workers, African-American, Asian, Caucasian, all American workers.

I will show some charts in a few moments to discuss what is happening to them.

We have gotten a lot of people speaking up for those who are immigrants, many who have come here illegally.

Let me speak for a moment on behalf of American workers, and let me talk for a little bit about what has happened to the American workers.

We are told by the President and by others, including debate in this Chamber, that Americans don't want these jobs, so we need the illegal immigration to occur. And now we would make

it legal, and now we would have additional guest workers to occur because Americans will not take these jobs.

Seven percent of the transportation workers are illegal, but 93 percent are legal.

Americans will not take those jobs?

Ninety-one percent of the jobs in manufacturing are U.S. citizens, legal workers, and 9 percent are illegal workers.

Construction: 86 percent of the people who work construction in this country are American workers, legal workers, American citizens here legally. And we are told that Americans will not take these construction jobs? I don't think so. Of course, they will.

The evidence is pretty substantial. The question is: What has been the impact on American workers of illegal immigration?

We talk about this, as I said, as if it is kind of "Mister Rogers' Neighborhood"—it is all feel-good, easy sound bites, soft words, future flow, guest workers.

Let me talk about a study by Professor Borjas of the John F. Kennedy School of Government at Harvard University in 2004. He said the impact of immigration from 1980 to 2000—and principally we are talking about legal immigration, the impact by ethnicity of U.S. workers—has cost the average American worker \$1,700 in lost wages per year.

Whom does it hurt the most? It hurts the Hispanic workers in this country, those who are here legally. It hurts the African-American workers. It hurts Asian workers. It hurts all American workers.

This is not a painless or pain-free exercise to have millions and millions of people come through the back door into this country illegally to assume jobs. It is not painless. The American people are paying the cost of that. The American workers are experiencing the problems as a result of it. The problems are lower wages.

Let me describe what has happened to income in this country. As we can see the changes in after-tax earnings by income bracket, the top 1 percent are doing well. It is the case of the top fifth. The people at bottom are hurting, with very little income increase at all.

What is happening is we have now the development of the "haves" and the "have nots." At least a portion of that, in my judgment, a significant portion of that imbalance comes as a result of public policy in this Chamber from people who believe that as the economy works when we put something in at the top—and it is called classic trickle-down economics—put something in at the top, it filters down, trickles down, and pretty soon everybody gets a little damp. It is not true. It doesn't work.

I would like to show some additional charts about what we are dealing with.

When we talk about guest workers and future flows, let me describe it specifically with respect to the bill that is

on the floor. The bill on the floor says we have 11 million to 12 million people who have come here illegally. We are not sure how many, we need to find a status for them. And it develops three different categories for them. But it also says, in addition to all of that, there are other people living outside of our country whom we want to invite in, in the future, 325,000 a year, and over 6 years with a 20-percent escalator each year that is in this bill you are talking about the potential of 3.8 million additional people.

This piece of legislation says: By the way, let us invite another 10 million people here in 10 years.

That is the way it grows, with 325,000 and the 20-percent escalator.

Is that what we should be doing in our country? Is that the strategy that makes sense?

This country is unusual on this planet. We live here with about 6.3 billion neighbors. We circle the Sun, and in this spot on the globe there is illumination of having developed something extraordinary in the world. I have described the time when I was on a helicopter that ran out of fuel in the mountains and jungle area between Honduras and Nicaragua. We landed under power, but the red lights were on and the bells were ringing and we were not going to fly anymore. We were stuck there for some many hours until we were found. The campesinos from the mountains came to see who had landed. We had an interpreter with us. I was asking them, through this interpreter, a little bit about their lives, what they would aspire for their lives. A young woman was there with three or four children. I said: What is it you aspire for your life?

I want to come to America. I want to move to the United States.

I asked: Why?

Because that is the area of opportunity. The United States is an area of opportunity. It is jobs. It is for me and my children to have jobs in the future.

We find that virtually in every part of the world. So as a result of that, we have had to have immigration laws. Twenty years ago, we had this same problem; that is, illegal immigration overrunning this country.

It has a direct impact, as I have shown, on American workers, something not much discussed in this Chamber today. But it has a direct and a detrimental impact on American workers. That includes Hispanic workers who are here legally and have been here a long time. It diminishes their wages. But 20 years ago we had this debate.

The debate when I was serving in the House at the time was: How do you deal with immigration? The answer was simple. Senator Simpson was on the floor of the Senate, Congressman Mazzoli was in the House, and a piece of legislation passed and was signed into law called the Simpson-Mazzoli bill. There was great celebration because this was going to solve the immigration problem.

How would it solve the immigration problem and employer sanctions? The proposition was that the lure for people to come to this country is to find a job. If you shut off the jobs and you say to the employers: Don't you dare hire illegal workers, don't you dare bring people through the back door and pay them subpar wages because they are illegal. If you do that, you are going to be hit with sanctions. This Government is going to penalize you.

Guess what. Last year, I am told there was one enforcement action in all of the United States against a company that was hiring illegal workers. The year before, there were three actions in all of the United States against employers who hired illegal workers.

This Government did nothing to deal with it, nothing.

The other day in North Dakota—they are building an energy plant—I believe it was the highway patrol who picked up seven people, illegal workers. I think six were from Guatemala and one from Mexico. They drove them about an hour north to Minot, ND, to the immigration office. They processed them through the immigration office. They then drove them back to the motel near, I believe, Washburn, ND, dropped them off and said: You are now required to come to Minneapolis within the next month—they gave them a specific date—to a hearing on your case. Of course, they will never be in Minneapolis. We will never see them again. They will never show up again.

It is the process. As some call it, catch and release. You catch them, you let them go, and say: Show up later. Oh, by the way, next time they show up, they will probably be on another job site because this Government does nothing to enforce the law. Now we are told this is a three-legged stool, as if this is a furniture store. All morning I hear three-legged stool. I do not know where the stool came from. I don't know about the three legs. All I know is that you must, it seems to me—if you are going to be dealing with immigration issues—find a way to effectively reduce illegal immigration. You have to do that. You don't do that by turning a blind eye to the issue of employer sanctions.

Say you are an employer and want to bring in a string of illegal agricultural workers and pay them subpar wages, you are going to get in trouble. If you do that, you are not going to solve this problem.

In the President's address last night to the country, I didn't hear a word about that. He is going to deploy the National Guard, an overstretched National Guard. They have been on multiple deployments, in some cases, to Iraq, but no discussion about shutting off the jobs that represent the lure for illegal workers to come into this country—not a word.

It is true that the first step to deal with the immigration issue is to enforce the prohibition on hiring illegal workers.

This issue we are discussing is a big, broad issue. It has legal immigrants coming in who are not citizens but entitled to work under the H-2A program and the H-2B program. We have workers who come in on a temporary basis dealing in agriculture. We already have processes by which people come into this country legally to work. What is being discussed is on top of all of that.

You have a bill that comes to the floor of the Senate that says: All right. Let us take the 11 million or 12 million—whatever it is—who are here illegally and separate them into three groups. One is the group that has been here less than 2 years. They have to go back. The second is the group that has been here 2 to 5 years. They have to go back, and then they can come right back in.

Third is the group that has been here longer than 5 years, and they have the capability of earned citizenship, as will the 2 to 5 million people under certain circumstances.

So that is what is in front of us.

On top of that, as if they put a big old discolored patch on an inner tube, this legislation—and by the way, in addition to dealing with that and trying to get tough on employer sanctions, something I have heard before as all of my colleagues have as well, and responding to those needs—in addition to all of that, we have decided there are not enough people coming into our country, so we want to allow more, up to 3.8 million more in the coming 6 years. These are people who do not now live here whom we want to come in to take American jobs. We are told the reason for that is there will be people attempting to get across the border anyway.

Let us at least recognize they are going to be what are called future flows.

That seems to be giving up on the issue of whether you have good border enforcement. You either have decent enforcement on the border or you don't. If you have good enforcement, why on Earth would you decide that in addition to allowing 11 million or 12 million people who are here illegally to deal with their status internally in this country and decide in addition to that we have decided that, yes, we have quotas for our country. We have immigration opportunities in H-2A and H-2B and many other areas. But on top of that, we have decided we want up to 3.8 million more to come through our doors. Why is that provision in this bill?

I am told it is in this bill because that is the price the Chamber of Commerce extracted for supporting this bill. No one has disabused my plea of that. I am told that is the basis on which the U.S. Chamber of Commerce would support this piece of legislation. Why would they want up to another 3.8 million in 6 years, or far more in 10 years? Why would they want additional guest workers or future flows to come in legally on top of what is already allowed in this legislation? The answer is

simple. It goes back to the first chart I showed. It is the economic strategy and the new national world, exporting good jobs and importing cheap labor. The guest worker provisions and the future flow provisions are about importing cheap labor.

Yesterday I mentioned a man named Jim Fyler. Jim Fyler died because he was shot 54 times. He was shot 54 times because Jim Fyler believed strongly that people should have the right to collectively bargain and to organize. Jim Fyler cared deeply about coal miners and the conditions under which coal miners were working: underground, long hours, child labor, bad wages, no benefits. Jim Fyler was one of those folks who, on behalf of collective bargaining, on behalf of forming a union of coal miners, was shot 54 times.

We have gone through all of that in a century—people losing their lives fighting, battling for the right to organize, people battling for the right to work in a safe workplace. We have had the political fights for minimum wages, the fight to prevent polluting the air and water by companies producing products and dumping their chemicals into the water and the air. We have been through all of these fights.

Now the American worker is told: By the way, those fights are over. In fact, you won them for a while, but now you have lost because anyone who wants to produce can pole-vault over that and move their production to China and hire someone for 33 cents an hour, work them 7 days a week, 12 to 14 hours a day, and if American workers do not like it, tough luck: The reason we did it is because you cannot compete.

By the way, for those who still have your jobs and they are not outsourced, look behind you. In the back door, we are bringing in low wage workers. Those low wage workers will work for substantially less money than you are willing to work.

This is about low wage replacement workers, as I call them. It is not guest workers. It is not future flow. It is low wage replacement workers, 3.8 million in the coming 6 years in this bill.

My amendment does two things. One, it gets rid of this future flow guest worker. That does not mean we won't have immigration. We will. We have many other provisions in the law allowing for legal immigration, temporary workers, agricultural workers. That already exists. I eliminate the provision that is above that.

My amendment also accommodates the underlying bill, if, in fact, it passes, and will not interrupt that with respect to the 2- to 5-year people who must step out of the country before they come back into the country and then seek legal status. I have written this amendment so I don't interrupt that, either. Someone mentioned earlier that they thought this would affect that. It does not. This simply affects the piece of legislation that will allow

those who never lived in this country, who now live outside of our country, and who, in this piece of legislation, will be told, in addition to all the legal ways you can come to this country, we are going to have a future flow, a guest worker provision that allows you to take American jobs. Why? Because I guess American workers are not available for those jobs or maybe it is because this same body has not increased the minimum wage for nearly 9 years. For 9 years, this body has not seen fit to increase the minimum wage. Maybe there are jobs they have trouble getting the American workers to take. Maybe it is because they have not increased the minimum wage at the bottom of the economic ladder, the bottom rung. The solution to that? Well, we will not increase wages for American workers. Let's not shore up benefits for American workers. Let's instead decide we will bring in additional guest workers from outside of our country.

I will show a chart that describes what these folks are earning. In Russia, it is 51 cents an hour in wages; 37 cents an hour in Nicaragua; 33 cents an hour in China; 33 cents an hour in Bangladesh; 30 cents an hour in Haiti; and 11 cents an hour in India. This is what we want American workers to compete with?

It is one thing to see American jobs moved to those overseas wages. I have spoken at great length and I have almost resisted the attempt to speak at greater length about these companies which have decided to avail themselves of 20-cents-an-hour labor so they can ship their product to the store shelves in Pittsburgh, Fargo, Los Angeles, and Chicago. I have almost resisted that, but I am thinking maybe I shouldn't. Maybe I should discuss at some length the circumstances of moving those jobs overseas. Then, by the way, for those whose jobs have not moved, we have a surprise for you in the back end.

We now have, additionally, guest workers coming in who will work at the bottom of the economic ladder and, as the professor from Harvard has said, put downward pressure on wages in this country.

All I am asking the Senate is this: Maybe we could have some discussion, even as we talk about immigration, about the impact and the effect of this subject on American workers, on workers who are here legally. Yes, those are Hispanics, African Americans, Asians, Caucasians, everyone. Many are struggling. They lose their job and get another job at lower pay. The burgeoning middle class is slimming down because the world is flat. We are, too.

That is total rubbish, of course. The so-called flat world is a rose-colored evaluation of how corporations can simply make more money by having American jobs leave our shores and then sell their products back into our country. I am saying that in the long term, I don't think that works. I don't think that supports or creates the

foundation for the sustaining of a strong, robust economy in this country that grows for everyone.

We have dangerous inequalities in this country of ours with respect to income. I have shown a couple of charts about that. We need to have some discussion about the impact on American workers with respect to these policies. That is why I have offered this amendment.

I believe the Senator from Pennsylvania wishes to speak.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I inquire of the Senator from North Dakota whether he is prepared now to enter into a time agreement. There have been no Senators on this side of the aisle who have expressed an interest in debating the issue. My reply will be relatively brief. My suggestion would be that we ought to seek to close off debate—it is now 8 minutes to 3 o'clock—close off debate by 3:15 and move on to another amendment.

I alert colleagues on this side: we are in a position to move forward with the Kyl-Cornyn amendment, which is next on the list. I do not know what amendments will be offered by the Democrats, but I have made an inquiry, and they are making an effort to identify the Senators who will offer amendments and bring them to the Senate. If the Kyl-Cornyn amendment can be worked out, which is a distinct prospect, we would then move to the Sessions amendment. I have alerted Senator SESSIONS. If he can come to the Senate in the next few minutes, that will be helpful. Then we have Senator VITTER's two amendments. Senator VITTER talked to me shortly before noontime. If he can come to the Senate and be available, we are in a position to move ahead.

I inquire of the Senator from North Dakota whether he is in a position to agree to conclude debate, say, in 20 more minutes, equally divided.

Mr. DORGAN. I am not in a position to do that. Forty minutes a side is satisfactory. I have a number of Members who have asked for time to speak on amendments. We are trying to reach them.

I understand the Senator from Pennsylvania has an interest in efficiency and moving forward, but there are a good many jobs that depend on getting these things right. This is an important amendment. I am happy to agree to 40 minutes a side.

Mr. SPECTER. I understand the position of the Senator from North Dakota.

I ask unanimous consent that 80 minutes be divided equally between the Senator from North Dakota and myself as manager of the bill and that the debate be concluded in 80 minutes, unless time is yielded back.

I now have the handiwork of the expert staff. In their form, I ask unanimous consent that there be 80 minutes for debate in relation to the Dorgan

amendment, provided that no second degrees be in order prior to the vote, and after the use or yielding back of time, the Senate proceed to a vote in relation to the Dorgan amendment.

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

Mr. SPECTER. I thank the Chair.

By way of reply, I can understand the concerns of the Senator from North Dakota about the loss of American jobs. I compliment him for speaking about this subject with some frequency with some effect in the Senate.

I agree totally with the Senator from North Dakota that we ought not to export American jobs. I also agree with the Senator from North Dakota that we ought to retain American jobs in America to the maximum extent that we are able to do so.

The Judiciary Committee had a hearing and had four witnesses testify. Without going into their testimony in great detail—it is all a matter of record—the net conclusions were that there would not be a significant impact in the loss of American jobs.

It is frequently said that the immigrants handle jobs that Americans do not want. As a generalization, that is true, but not universally true.

We have had considerable suggestions and contentions by Senators from agricultural States about the indispensable nature of immigrant workers. Anecdotally, I have many from my home State come to me and tell me about the need for agricultural workers.

Mr. DORGAN. Will the Senator yield?

Mr. SPECTER. I would on his time.

Mr. DORGAN. Mr. President, let me say quickly, and I appreciate the Senator's courtesy for yielding, my amendment does nothing with respect to agricultural workers. We still have the provisions in underlying law allowing for temporary workers to come in and support the agricultural needs of this country.

Mr. SPECTER. I am not unaware of that, but it goes to the overall point of the experts who testify as to whether we would be taking away jobs American workers would want. The experts further testify that although there was some impact on the wages, there would not be a significant loss in wages.

When the Senator from North Dakota talks about the costs of bringing in 10 million people, that simply is not what title IV does. The title he wishes to eliminate as to any immigrants coming into the country in the future is only open to those now in the country. Title IV provides that there be an annual cap of 325,000, with each guest worker employed for up to 3 years, renewable for an additional 3 years. Then the approach is that those individuals will return to their home country unless they can otherwise qualify to stay here.

The guest workers will enjoy travel privileges in and out of the United States and portability between jobs.

We allow workers to obtain green cards by self-petitioning, if they qualify, and allow students with advanced degrees in science and math to stay in the United States. Title IV exempts workers with advanced degrees in science and math from green card caps, and it increases the annual allotment of H-1B professional worker visas from 65,000 to 115,000, with a fluctuating cap.

Title IV is important as part of a balanced program. If we do not provide for guest workers who can fill the needs of the American economy, then we are going to create a vacuum and a situation where illegal immigrants will come in to fill those needs. But if we calibrate the number of guest workers which can be accommodated by our economy, which are needed by our economy, then we will discourage illegal immigrants from coming in and taking jobs, finding jobs, which would otherwise be filled by the guest workers who come to this country legally.

This title has been crafted very carefully by the Judiciary Committee. There is substantial support for it, as I understand it, on the other side of the aisle, even as there is some opposition on this side of the aisle. But if there are other Senators who wish to come and debate on this side of the aisle, I invite colleagues to debate and move ahead, and perhaps yield back time if that time is not to be used.

I yield the floor.

Mr. DORGAN. Mr. President, I yield up to 15 minutes to the Senator from California, Mrs. BOXER.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I thank my colleague, Senator DORGAN, for being such a leader on this particular part of the bill which I have found extremely troubling from day one.

I note that the chairman of the Judiciary Committee said we better not take the guest worker program out because, oh, my goodness, if we do take it out, there will be more illegal immigration. Well, maybe I am wrong on this—I do not think I am—but isn't a basic part of this bill to strengthen the border, the protections at the border? And isn't that part of what we are trying to do so we can stop the flow of illegal immigration—and having done that, allow the 11 to 12 million who are already here, who have clean records, who are willing to step forward, who are willing pay a fine, the chance at earned legalization?

And then there is another piece that deals with specific sectors of our economy, such as agriculture, where we know there are problems with the workforce. With respect to the agriculture industry, we set up a program called AgJOBS, which I credit Senator FEINSTEIN for putting it in the bill. Senators CRAIG and KENNEDY, in a bipartisan effort, have supported this for many years, along with myself and others.

So we had, I thought, a very well balanced bill until we added a guest work-

er program. In other words, the bill strengthened the border in one section, created a pathway for the undocumented immigrants currently in the country, and then—addressed one area, agriculture, where we know we need these workers and set up a very carefully tailored program. The bill also made adjustments for highly skilled workers such as engineers, and fixed some of the visa programs.

So I thought that was a fairly balanced bill. Then what happened is, another piece was added, which is this really open-ended guest worker program which, in my opinion, will result in a permanent underclass of workers coming into our country.

What disturbs me is what the provision does to the American workforce. You hear: Oh, these are people who will do work that Americans won't do. Now, I would say that is a good argument when it comes to agriculture. But we have taken care of agriculture in the bill. We have the AgJOBS provision. And we have taken care of the 11 to 12 million undocumented workers currently in the U.S. and given them a path for continued employment.

So now, on top of it, we are looking at a program for 325,000 guest workers, each and every year, with an escalator of up to 20 percent added on to that. And what do you create now? A huge underclass of workers who will take jobs away from Americans.

Now, the American people are compassionate. They are understanding. I think most of them want us to do a comprehensive bill. Most of them do not like what is in the House bill, where if you lean over to help someone who may be having a heart attack on the ground in front of you and that person is undocumented, according to the House, you could go to jail. The American people do not like that.

But the American people also know we have not raised the minimum wage in almost 10 long years—which, by the way, I think we ought to darn well do on this bill—and that if you create another, virtually open-ended guest worker program, you are going to hurt the American people at the end of the day.

So you hear the colleagues on the other side saying: Oh, No. 1, if you don't have this additional guest worker program, then people will sneak across the border. No. We are strengthening the border. That is one of the underlying principles of the bill. So that is not accurate.

Now they say: Oh, if you don't do this, we will have jobs that are not filled. Now, what kind of jobs would guest workers do? Remember, we have already taken care of agriculture, so these guest workers are not for agricultural jobs. There are also separate provisions for the most highly educated immigrants, the various visa programs. So what would the guest workers do?

Here are some examples: construction, food preparation, manufacturing, and transportation jobs. Now, these are

fields where the vast majority of jobs are held by U.S. citizens and by legal workers. So it is incorrect to claim that the guest worker program, which has been kind of added on to what I think is a good bill, is targeted at jobs Americans will not do. These jobs are good jobs in good industries.

Now, according to the Bureau of Labor Statistics, in 2004, there were 6.3 million workers employed in the U.S. construction sector, at an average wage of \$18.21 an hour or \$37,890 a year. Now, when I meet with my working people in California, they are fighting hard for these jobs. They want more of these jobs, not fewer of these jobs. The last thing they want is a guest worker program that is going to provide a big pool of workers who may make far less than this amount and take jobs away from my people.

I support the underlying bill except for this provision. I think this guest worker provision throws the whole thing out of whack.

For the bottom quarter of Americans, who are making an average wage of about \$7 an hour, construction work is a dream job. They pray for those jobs. They stand in line hours for those jobs. But what are we doing if the Dorgan amendment does not succeed? We are going to take those jobs away because an employer is going to say: Gee, should I hire an \$18-an-hour American worker or, let's see, a foreign worker in a guest worker program who I could pay less? You know what is going to happen.

Now, I think the real reason for a guest worker program is not what we hear about, oh, well, otherwise there will be more people sneaking across the border, or we are short all these workers and we don't have workers for construction jobs, transportation jobs, food preparation jobs, manufacturing jobs, and the like; but it is really to set up, in my view, a permanent number of workers who are prepared to work at very cheap wages. That would be bad for the American workforce.

If we take this guest worker program out of this bill, we will have, my colleagues, a far better bill, a bill that we can all feel good about, a bill that does, in fact, reach out and say to undocumented workers who have worked here 5 years, 10 years, 15 years, 3 years—and they have clean records and they have paid their taxes and they are willing to come forward and pay their fines, and the rest—we will have a good bill for them, we will have a good bill that strengthens the border, which I strongly support and have supported for years, we will have a balanced bill, that includes the AgJOBS piece. But if we do not take this out, we have a bill that I believe is going to hurt many American workers.

So I think the real reason this was put in was to have cheap labor, a cheap labor workforce.

Now, the median wage in Mexico is \$1.83 an hour. The typical hourly wage in China is 33 cents. So I ask my col-

leagues, what does a minimum wage—even if it is not raised, and shame on us that it has not been raised in 9 long years, going on 10 years—what does a \$5-an-hour wage look like? Heaven to those people. And we are going to sanction this fairly open-ended program that escalates up to 20 percent a year for what reason other than to provide a permanent cheap labor force? It is very worrisome to me.

There are some businesses that are wonderful, exemplary. There are others that would rather not look at their business as a family but just want to get the cheapest labor they can possibly get. So I cannot support the undermining of U.S. working conditions, and I cannot support a guest worker program that will decrease wages for low-income Americans.

For goodness' sake, I have stood on this floor 1 year—2, 3, 4, 5, 6, 7, 8, 9—going on 10 years, fighting to increase the minimum wage. How could I possibly vote to keep in this bill a guest worker program when we have such an opportunity to strengthen this bill by stripping this out. It would leave us with a bill with tighter enforcement at the border, a humane, legal path for people who are living in the shadows—it will make us safer to get them out of the shadows, that is for sure—an AgJOBS program that is tailored to agriculture in a way that makes sense, and all those visa programs that address high skilled jobs? All that makes sense.

I commend the committee for giving us a chance craft such a bill. I would be proud to have as my legacy such a bill. But if we can remove this, what I call this guest worker add-on, if we can remove this, I think we will have a far stronger bill.

I commend my friend, Senator DORGAN. He is—I wanted to say he is dogged, and he is. He is dogged on behalf of working people. And I think he got this just right. I am very glad he has offered us this chance to improve this bill by pulling out the guest worker program.

With that, Mr. President, I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I would like a brief few minutes.

Mr. McCAIN. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Pennsylvania has 35 minutes. The Senator from North Dakota has 27½ minutes.

Mr. SESSIONS. Mr. President, I would just ask for 5 minutes in support of Senator DORGAN's amendment.

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

Mr. SPECTER. I ask the Senator, are you for or against the amendment?

Mr. SESSIONS. I am for it. I know Senator DORGAN's time is limited. I would ask for maybe 3 minutes.

Mr. DORGAN. I will yield the Senator 5 minutes.

Mr. SESSIONS. I will try to wrap up briefly.

Mr. President, I believe this section of the bill as drafted is flawed. It goes further than the drafters and the American people or the President would want it to go. I am not sure how we can fix it at this point. I think the way to concentrate everybody's mind and get it fixed would be for the Dorgan amendment to pass.

Let's start over and talk about how we are going to handle this. My staff has looked at these numbers and tried to be as objective as they possibly can to see just what this would allow to occur in America if it were to pass, and I am confident that it includes more than people would think.

First of all, it is absolutely not true that this is a temporary worker program. It is called guest worker, which sounds like "temporary worker," but it is not. A person will come into our country under this program—325,000 the first year. Their employer can apply, the day they get here, the first year, for a green card. A green card gives them permanent residence in the United States, unless they get convicted of a felony or something. They get permanent residence. Within 5 years, they can apply for citizenship. So there is nothing temporary about this so-called guest worker program.

The President mentioned this morning a couple times, I understand—I heard it a bit, one clip on TV—that he favored a temporary worker program. This is not a temporary worker program.

Second, the numbers are extraordinary. Some of you who have been listening to me today are pretty good mathematicians. It is 325,000 the first year. But if that number is reached, automatically it kicks up 20 percent. The next year, if that number is reached, it is 20 percent; the next year, 20 percent; the next year, 20 percent. Those are pretty big numbers. In fact, if it were to stay at that 60 percent level, the numbers would be extraordinary. If you took the congressional resource number, that when a person comes in under this provision as a guest worker and they get a green card and are able to bring in their family, they have calculated 1.2 family members they would bring in for each guest worker. And if you add up those numbers of what we can reasonably expect over a 20-year period, it would be 133 million people. I don't think we will be at 20 percent every year. There are some factors that would show that is not the case. But that is what the bill authorizes, 20 percent automatically, if the caps are reached each year. If it went up at about 10 percent a year, you would still have a very significant increase in just this one program.

When you talk about 100 million people, you are talking about one-third of the current population of the United States being admitted under a low-skill worker program, called a guest worker program, that does not require high-skill abilities.



We need to completely redo it. I believe that; I really do. I urge my colleagues to think seriously about this, what we are voting for. I know the motive and I know the desire to do the right thing. We are a nation of immigrants. We are going to allow immigration in the future to continue. When we do, we will increase legal immigration into this country, and I will support that. But the rate of increase provided for in this provision is unjustifiable and, therefore, I support the Dorgan amendment.

I yield back the remainder of my time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield 10 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I begin by thanking the Senator from Pennsylvania for his continued leadership and incredible effort on this issue. He has invested thousands of hours, and I continue to appreciate the great job he is doing.

I also congratulate the President of the United States for his remarks last night. It is pretty obvious that his remarks were well received. He gave an outstanding depiction not only of the situation in the United States but the need for us to act. As he said near the end of his remarks:

Tonight I want to speak directly to Members of the House and Senate. An immigration reform bill needs to be comprehensive because all elements of this problem must be addressed together or none of them will be solved at all.

The President's comments are exactly right:

All elements of this problem must be addressed together or none of them will be solved at all.

He went on to say:

The House has passed an immigration bill. The Senate should act by the end of the month so we can work out the differences.

The Senator from North Dakota, my friend, keeps talking about how the 1986 amnesty didn't work. It obviously didn't work. The reason it didn't work is because there wasn't a guest worker program, which is exactly what the Senator from North Dakota is trying to remove from the bill which then would give us 1986 all over again. More importantly, there are certain realities in America today that we are trying to address. Among them, that the American population is growing older. The baby boomers are retiring and leaving in their wake a number of jobs that need to be filled. Restaurants are locking their doors because there is no one to serve the food or clear dishes. Today, fruit is rotting on the vine and lettuce is dying in the fields because farmers can't find workers to harvest the crops.

Why do we need a viable guest worker program? So that we can stop the

flood of illegals from coming across our borders, so we can make the present incentive that brings people to cross our borders illegally come to a halt. How do we do that? Our proposal says if an employer advertises a job for 60 days over the Internet, in a broad variety of ways, and no American comes forward to take that job, then a willing worker and a willing employer can join together in a contract that that person can come and work and fill that job that it has already been proven an American won't take. If that person continues to work in the United States, he is allowed to remain in the United States under our proposal.

An equally important aspect is that those who are now south of our border or anywhere else in the world will recognize that even if they cross our border illegally and are able to do so, there will be no job for them because the person who has entered into that contract has a tamper-proof biometric visa, and that is the only document that will be recognized as a valid document in order for someone to obtain employment.

So if someone does cross our border illegally, gets a job—one, he shouldn't get it because he doesn't have that contract but, two, if an employer hires that individual, then, of course, that employer should be prosecuted to the full extent of the law.

It is not an exact parallel, but let me remind colleagues, about 15 years ago we declared a war on drugs. All of us, we were going to stop the flow of drugs from coming across our border and destroying America. Any objective observer will tell you that our progress has been limited, if at all successful. Why? Because there is still a demand for drugs, and they are coming across our borders. People are using them, and there is still a demand.

There is a demand for workers in this country. And these people are coming across our borders, both northern and southern—we seem to concentrate so much of our attention on the southern border, but they are coming across both borders—to feed themselves and their families which they can't do where they are. I would be glad to discuss the failure of the Mexican Government to enforce their border, including their southern border, the need for us to work more cooperatively, the corruption problems, all of the issues that are associated with the issue of people coming across our border. But I predict, even if we had the best cooperation from the Mexican Government, people who can't feed themselves and their families where they are would still try to come to this country to get jobs. And if you can prove that there are jobs that no American will take, why not have a process, a system where someone can come and take it and work?

There are very few of my colleagues who would deny that the overwhelming majority of people who come to this country are honest, God-fearing, hard-

working people, some of whom, by the way, have died in the desert in an effort to come, a larger number every year in the Arizona desert. Their only desire is to better themselves and provide better lives for themselves and their families. There are all kinds of other benefits associated with this, as well. One of the reasons why workers come to this country today and stay is because it is so difficult to move back and forth to the families and the homes they came from. If they have a tamper-proof visa, then, of course, on their vacations or even at the completion of their work, they would feel comfortable in returning to the place where they came from. But now, with the difficulty of crossing back and forth over the border, more and more of them remain here, and sometimes there is a criminal element.

Let me make another point. With illegal immigration, with transportation of people across the border who are coming across illegally, terrible things are happening. We have the coyotes who mistreat them, the coyotes who sometimes hold them captive and demand more and more money. There are shootouts on our freeways in Arizona. No State in America understands how terrible this issue is more than the citizens of my State because over half of the people crossing the border illegally are coming across the Arizona Sonora Desert. It is terrible what is going on. The exploitation and the mistreatment of these people who are honest, who are God's children, is terrible. If we could have a viable guest worker program, one that we could enforce, then you would lose this incredible attraction that draws people illegally into our country and, of course, all of the associated bad aspects of it that the citizens of my State of Arizona are so intimately familiar with.

Of course, it frustrates citizens. Of course, it frustrates the citizens of my State to have so many hundreds of millions of dollars in uncompensated health care costs, to have law enforcement requirements and expenses go up, to have all of the problems associated with illegal immigration. But to say somehow that we are not going to satisfy what is clearly, primarily economic immigration—by the way, the Border Patrol statistics say 99 percent of those attempting to cross our Nation's border illegally are "economic immigrants"—then we are going to be faced with a problem. No wall, no barrier, no sensor, no barbed wire will ever stop people from trying to do what is a basic yearning of human beings all over the world, and that is to have better lives for themselves and their families.

I hope and believe we will reject the Dorgan amendment. As the Senator from Alabama said, he wants to go back and start over. There are a number of us who have invested years in this issue.

I thank my colleague from Massachusetts for his continued leadership.

By the way, all of us are very grateful that he survived a very serious aircraft emergency recently. We are glad that he is well and with us.

I hope we will reject the amendment. I hope we will then move on to other amendments and within a relatively short period of time resolve most of the controversial aspects of this legislation.

Finally, I thank the President of the United States for what was greeted, as we know from the overnight polls, very favorably by the American people, his support of a comprehensive resolution of this terrible issue that afflicts our Nation, that of illegal immigration.

I yield the floor.

Mr. KENNEDY. Would the Senator be willing to yield 10 minutes?

Mr. SPECTER. Mr. President, I am delighted to yield 10 minutes to the Senator from Massachusetts. But before doing so, I urge other Senators to come to the floor to offer amendments. It is thought that if we focus on the guest worker provisions, we can finish them up this afternoon. Senator KYL and Senator CORNYN actually have precedence, but if they would be willing to yield to the other Senators on guest worker, I think we would finish this entire category. And perhaps we can find a way to work out Kyl-Cornyn in the interim. We will be looking for an amendment from Senator BINGAMAN who wants to reduce the number of guest workers. We have an amendment by Senator OBAMA which is on a related issue, I am told, on labor protections. And we have an amendment by Senator FEINSTEIN on having some sunset provisions. Then it is hoped we can get agreement on Senator KERRY's amendment and be able to accept that. If we could finish this grouping, we would be well on our way.

So if those Senators can come to the floor, we can work out time agreements and proceed in an expeditious manner. Meanwhile, Senator KENNEDY has requested 10 minutes.

Mr. KENNEDY. Mr. President, I thank the Senator from Pennsylvania. I want to thank my friend and colleague and the principal sponsor of the major comprehensive legislation.

In addition, I ask the Senator from Arizona, is it not true that you have the advertising for a worker in the United States where there is not an American worker and a willing worker who comes from outside of the country, that they have some important labor protections—protections with regard to the minimum wage, with regard to Davis-Bacon, with regard to service contracts, protections against exploitation of contractors, which were the source of great abuses at the time we had the Bracero issue and question. Is it not true that we have some protections for those individuals and, therefore, the idea that there is going to be a continuation of the exploitation of these workers working in a substandard way is fundamentally addressed? And is it also not true we have

some 2,000 inspectors that are included in the underlying legislation that are going to be charged with the enforcement of this provision, which we have never had?

I listened to so many people talk about 1986 and the amnesty. Part of that provision was to have employer enforcement, and it didn't take place—not under Republicans or Democrats. But we have addressed that issue in the McCain-Kennedy proposal. We have 2,000 individuals whose sole responsibility is going to be in terms of the adequate enforcement of the labor protections. Is it also not true—it is true—that we have had important economists who have been before our Judiciary Committee who say that this will have an important, positive impact in terms of wages, working conditions, and treatment of American workers?

I know there are several items that are included in this question, but I want to make sure that we include and add on to what was the excellent presentation of the Senator from Arizona. We have talked about having a comprehensive approach. We hoped to have a comprehensive approach earlier this morning, and we have a comprehensive approach by recognizing what the Senator from Arizona has said and is so obvious—that is, if you are going to have the demand in this country and desperate people in the others, it makes a good deal more sense to try to develop a legal process by which that can be controlled, rather than think that we are going to be able to build fences high enough, long enough, along the 1,800-mile border and prohibit tunnels deep enough to keep people out.

Mr. MCCAIN. Mr. President, in response to my friend from Massachusetts, the Kennedy-McCain bill was a subject of long negotiations. And for more than a year, many of these issues were discussed with us and others. We felt that one of the most important aspects of this legislation was the protection of workers. One of the reasons why illegal immigration is so evil—one aspect you don't hear so much about is the terrible treatment and exploitation by cruel people of innocent people. A year ago last August, I believe, a policeman in Phoenix opened the door of a horse trailer and 73 people were packed inside, and one was a 4-month-old child.

Often, the Senator from Massachusetts and I have discussed what it is like to die in the desert. Every year, every summer more people die. They are not coming—99 percent of them, according to the Border Patrol—to do evil things but to work. Why are there jobs? Because there are jobs that Americans will not fill.

My response to the Senator from Massachusetts is that no one should be under the misunderstanding that this is another Bracero Program. The Bracero Program died because of the abuses associated with it. This gives them a status not of citizenship but of equal protection under the law. Any

human being who resides in the United States should not be subject to exploitation and cruelty. That is the nature of America. We don't say in America that only citizens have the protections of our laws. We say anyone who comes to our country does, too.

So, finally, I want to say to my friend from Massachusetts that this is a fundamental part of this legislation, as he knows. If you take this out, you will then be face with the exact same economic pressures that we have been experiencing in the past. And as much as I believe in technology and as much as I think walls are important and UAVs and all that, there has never been a case in history where you have been able to stop people from doing something that has to do with their very existence. That is the way many people feel who come here.

Mr. KENNEDY. One final question. The Senator is addressing the issue of real security, national security. But we are committed to trying to have a secure border. We have gone through the measures which we have included in our legislation, many of which were enhanced during the course of the markup and have been expanded in the supplemental. But a key aspect of that security and in controlling the border is to stop the flow of people climbing fences, going into tunnels, and circumventing the border. A key aspect of this is to develop an orderly process by which people in the limited numbers that we have outlined in the bill would be able to come.

Would the Senator not agree that this is a security issue, border security issue, as well as a worker issue?

Mr. MCCAIN. I agree with the Senator. Interestingly enough, if I can mention again, the President of the United States, having served as Governor of the State of Texas, understands this issue very well. He made a very important point last night because all elements of this problem must be addressed together or none of them will be solved at all. The President is exactly right. None of these problems can be solved unless we have a comprehensive approach to this legislation.

Again, Mr. President, I say to my friend from Massachusetts, briefly, that we still have a terrible problem of drugs flowing across our border. If we had the guest worker program that we have talked about in this legislation, then there would be people who are coming for jobs, and we could focus our effort and attention on the drug dealers who are now corrupting America's youth. I thank the Senator and, again, I hope my colleagues realize the implication of this vote because if we did take it out, then obviously—at least in the view of most experts that I know—the rest of the reforms would not be either applicable or enforceable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am going to make a few comments briefly



in rebuttal. Then I understand Senator DORGAN is prepared to yield back time and so will I. The other Senators whom we had talked about, when they come to the floor, will be ready for their amendments momentarily—Senators BINGAMAN, OBAMA, and FEINSTEIN. If they are not here, Senator VITTER can be recognized or Senator KYL and Senator CORNYN.

Mr. DORGAN. If the Senator will yield, I intend to use my remaining time at the conclusion of the comments of the Senator from Pennsylvania.

Mr. SPECTER. Fair enough. My information was incorrect then. By way of brief rebuttal on the question of impact of guest workers on the American workers, I ask unanimous consent that the testimony of Dan Siciliano, from the Stanford Law School, be printed in the RECORD at the conclusion of my comments.

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

(See Exhibit 1.)

Mr. SPECTER. The key statement of Mr. Siciliano is:

Some claim that immigration reduces employment levels and wages among native-born workers. This is generally not true.

The text of his statement amplifies on that. I ask unanimous consent that the statement of Professor Harry Holzer from Georgetown University be printed in the RECORD at the conclusion of my comments.

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

(See Exhibit 2.)

Mr. SPECTER. The essence is a statement that:

There seems little doubt, then, that any negative effects of immigration on earnings are modest in magnitude and mostly short-term in nature.

I ask unanimous consent that the statement of Professor Richard Freeman, Harvard University, be printed in the RECORD at the conclusion of my statement.

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

(See Exhibit 3.)

Mr. SPECTER. His conclusion was:

The gains to native complements exceed the losses to native substitutes, so that immigration—like trade and capital flows—are a net boon for the economy.

The Senator from California had made the argument that American employees are disadvantaged by cheaper costs from immigrant employees, and that is not so under the express terms of the statute.

The bill, S. 2611, does protect U.S. workers and eliminates incentives for employers to hire foreign workers, unless no U.S. worker is available. The bill provides that employers must at least pay the higher of the actual wage paid to other employees with the same skill so that immigrant workers are paid the same or, the prevailing wage for that job. Employers must provide the same working conditions and benefits that are normal to similar jobs,

and employers must provide insurance if State workers' compensation doesn't cover all the workers. So that under the pending legislation, an employer has the same cost to hire a foreign worker as a U.S. worker.

How much time remains on my side? The PRESIDING OFFICER. Eleven minutes.

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

#### EXHIBIT 1

Senator KENNEDY. Let me get to this point that the Chairman has made, Dan, with your analysis. You gave us some projections. You talked about the limitations in terms of productivity, the numbers in the labor force, retirement issues, and then the job growth. And you talked about GDP, 14 percent and 11 percent. You talked about legal and the illegal. Maybe you could just flesh those figures out a little bit. What you appear to be saying is that if you consider the numbers of both legal and illegal, you get a certain rate of growth, and without them you get another different rate of growth. And that is what I would be interested in.

Maybe we cannot parse between the legal numbers the Chairman talked about, whether that is 500,000 or we are looking at just the general range of numbers now. Could you expand on that?

Mr. SICILIANO. Sure. Thank you, Senator Kennedy. I think this also answers Chairman Specter's question in part, which is: What is the true net economic contribution and where does it come from and why? And so from my viewpoint, and in light of the demographic numbers, it appears that our economy is on the trend growth rate, we hope, at 3 percent or better. Now, that growth rate of GDP is reliant on many factors. One of the key factors is available workers to fill the jobs that are created. So even while at the high-skill level you have Nobel Prize winners and other people inventing companies, somebody needs to build the buildings, clean the buildings, you know, service the lavatories in which these people are operating. And this is a part of the capacity for GDP to grow.

So to put a finer point on it, if you look at the fiscal economic impact, which is the Government coffers impact, it might be true that lower-skilled workers, just like all of us on average, actually, at the moment because of deficit spending, have a negative impact on the fiscal bottom line. But that should not be confused—and this would be a mistake to confuse this. That should not be confused with the economic impact. It is a little like my younger sister who recently said, "I am earning more, but look at all the taxes I am paying. I am paying more taxes." I said, "Yes, but you are earning more."

And so we may have a modest net negative fiscal impact for all low-wage workers in the United States, not just immigrants. That is not unique to immigrants, documented or undocumented, but what we do know is it helps us achieve a higher rate of growth and national income goes up, which benefits everybody. It becomes your challenge, I think to talk about how to, you know, work that out at who shares and how at the pie level. But it is clear that this divide between available workers and the demand for workers will slow down economic growth if we do not manage it appropriately.

Senator KENNEDY. Let me just get to the high skilled/low-skilled. I think most of us would like to believe that we are going to train our own people to be able to take these high-skilled jobs. And we have under our current programs training resources that are paid into the fund to try to continue to upgrade skills for Americans. But we are not able to get quite there at the present time.

Other countries, industrial countries, have required training programs. They pay—what is it?—in European countries a percent and a half, other countries, so that they have required training programs, which we do not have, continuing training programs which we do not have.

So how are we going to adjust? What is your sense about how we are going to—we have seen a significant—actually, we are getting the skills, but where people that are going to into these high-skilled programs, but how are we going to get Americans up to speed so that those Nobel laureates are going to be the sons of native workers rather than foreign workers? What can you comment on that?

Mr. SICILIANO. I think there are two issues. One, you know, the expanded H-1B program with the continued diversion of monies into special training programs is a good start, so we need the talent in the first place. We need that high-skilled talent to maintain our competitive edge, which gives us some runway into which to develop and train native talent. It cannot happen overnight. So the first question is: What do we do to make sure over the next 20 years we still get the world's absolute bet and brightest, lure them to our best universities, have them pay for that education, make them enamored of the United States, and then they stay here and then have children.

Now, you divert that money and you direct it into targeted training, and that is a bigger issue, I think, to entice U.S.-born workers into the difficult and long-term training that will prepare them for a modern, very knowledge-based economy. But the start is to make sure we keep the industries here because we lure the right talent here, and then we do something over the next 20 years so that the 5-year-olds right now do end up getting the double Ph.D., electrical engineering and applied physics, and go on to win the Nobel Prize. But you are talking about the 5-year-olds, not the 25-year-olds. We need the 25-year-old to get an H-1B, have their own Government pay to go to Stanford University, get that Ph.D. there, and then work at Google, stay here. Good deal for us.

Senator Feinstein. Let me mention another point. I happen to believe that the weakest part of the bills that I have supported is the guest worker program. From a California perspective, it is impossible to say to somebody you can come here for at least six years by renewing your guest worker permit, but at the end of six years you have to go home. The experience we have had is quite simply people do not go home. Therefore, it seems to me that the H-2A program, where you bring someone for a limited period of time, has a much better opportunity to work because then they do go back and forth across the border.

What do you believe is the optimum amount of time that an individual will come as a guest worker and then actually go home at the end of that period of time?

Mr. SICILIANO. Senator Feinstein, I think one thing to consider is that by limiting the amount of time that an employer may utilize a guest worker, it alters their behavior in terms of their incentives to invest even in a low-skilled guest worker. So even a low-skilled worker will require a certain amount of training and investment, and the shorter the duration of that opportunity for employment, the less investment there is, which is bad for everyone.

I think one of the possible alternative views here is to recognize some of the limitations that occur if you create a temporary guest worker program and then instead try to identify those lesser-skilled individuals who, in the long run—if you created boundaries of wage and hour rules, allowable behavior on the part of businesses, and then

screened up front for who you would allow to enter on that basis and create some path, assuming continuing employment, and a very high bar for behavior and civic behavior, then perhaps you can solve both problems, because I believe the evidence demonstrates and I think a lot of the arguments assume that the economy will work it out. If there are no opportunities, people will go back.

Senator FEINSTEIN. But that is difficult to do. Therefore, if you take the 10 to 12 million people that are here already that work in agriculture, construction, landscaping, house-keeping, et cetera, and provide a steady stream of employment and enable them to have a pathway to legalization, are you not really doing the best thing possible economically to see that there is economic upward mobility?

Mr. SICILIANO. I see. With that subset, yes, I would argue that that is the right path, and then on the other question I would defer. I am sorry that I don't have a solution. . . .

Chairman SPECTER. Thank you, Senator Feinstein.

Senator Kyl.

Senator KYL. Thank you, Mr. Chairman. Thank you, panel. One of the arguments for not being as tough in enforcing the law especially at the border is that in the years past there was a lot of circular migration especially from Mexico and Central America, people who came here, worked for a while and then went back home. It wasn't hard for them to continue that process, but once we began strong border enforcement, then they were stuck and stayed.

I don't know that there is any evidence to support that or refute it, but it has been the basis for a lot of people talking about this concept of circularity, and I want to get back to that concept and also ask you this question in view of the fact that at least a couple of you are very skeptical that a temporary worker program really ends up being temporary because people don't want to go home. I mean, what I just said may to some extent refute that, but clearly there are people that probably fall into both categories.

What we haven't talked about here is the differentiation between a time like today when we are at very high employment and a time when in the future we will have a recession and we will have high unemployment. And let me stipulate for a moment, even though there is a little bit of argument about mechanization, and so on, that in the lettuce fields of Yuma County, it has always been hard to get Americans to do that work. It has been traditionally work done, by the way, by people who live in Mexico and come across everyday and go back home by and large, although there are some that stay longer.

In Arizona, we can't find enough people to build houses today. Under the bill that Senator Cornyn and I have, we would be issuing lots of temporary visas right now. But we have also seen many economic downturns when you can't get a job in construction, no matter how skilled an American citizen you are. In that case, under our bill we wouldn't be issuing temporary visas. We would let the ones that are here expire; we wouldn't issue any more.

I am troubled by the fact that all of you seem to be so skeptical that people would return. One concept was that, well, when there is not work, they will return. But isn't it just as likely that what they will do is under-bid Americans for those same jobs?

I have gone through enough political times when we were in that high employment situation where Americans were looking for work. It is not a pleasant thing. So I am concerned about a program that lets people come in under today's circumstances, but who may not have a job, or at least there

won't be enough jobs for everybody in tomorrow's circumstances.

Given that fact, doesn't it make sense to consider the economic realities in how many permits you issue, and especially if you are saying folks won't go home, to be very careful about the number of visas that you issue for these low-skilled workers because you have to consider tomorrow's lack of employment opportunity as well as today's full employment opportunity?

I have sort of posited several different thoughts and questions inferred there. If you could just each give me your general take on what I have said.

Mr. SICILIANO. Let me throw in one item, as well, to clarify. For all we know about business cycles, we still don't know a lot. One of the things, I think, to observe is that as we go into a down business cycle, we make macro adjustments to the cost of capital as a way of spurring the economy potentially and creating jobs and creating businesses through capital formation.

It is worth thinking about—and I don't think it is a conclusive answer for you, but it is worth thinking about the fact that available labor supplies during a downturn is its own form of self-corrective mechanism. And I would fear second-guessing at a micro level the small and medium-size businesses who might be reformulating strategies to alter their response to global competition and need the liquidity that is provided by available workforce. And we do suffer through a terrible time which is short and hence has changed, but it might be akin to cost of capital.

Labor is one of the critical inputs to all of economic development and we tinker with it at a micro level, we might inadvertently prevent ourselves from emerging as quickly as we might otherwise have from a recession.

Senator KYL. I appreciate that. In view of the fact that there is only one more to question, might I just offer a comment? All of that there is fine in economic theory. As I said, I have had to stand in town hall meetings with 3 or 400 Americans that don't have jobs.

Senator SESSIONS. I am not sure who to ask this question to, but if anybody would speak up and give me a thought on it, I would appreciate it. Is there a difference economically in the effect of a temporary or a permanent worker? Does anybody have any thought about that?

Mr. SICILIANO. Senator Sessions, I will address one small part so that others can comment, and that is I think we know intuitively that renters and owners treat their properties differently. Renting to own may be a compromise, but I would say that we have recent evidence citing Giovanni Peri's paper out of UC-Davis in November that we know that the entrepreneurial behavior of those immigrants who feel that they have some possibility of being here in the long term is increased because they are more likely to invest their capital here in the United States to engage in skill-building that resonates better in the United States and they get better returns on.

So my one comment would be we know we sometimes get very efficient and good behaviors for our national interest from immigrants of all skill levels if the think they may have a long-term role to play here both about themselves and their children.

Senator SESSIONS. Would it be in our interest, therefore, to attempt to identify the people that bring the most skill sets and the most ability to the country when we allow whatever limited number we have to come here legally?

Mr. SICILIANO. Mr. Chairman, I am familiar with the the [Center for Immigration] study. I can answer the specific question, if I may.

Chairman SPECTER. Go ahead, Professor Siciliano.

Mr. SICILIANO. Thank you. That particular study has two types of expenditures—direct payments to immigrants and immigrant households, so it includes sometimes U.S. citizen children, and indirect attributive costs which are the general expenses by the government divided by the number of households in the United States.

The study is actually dominated by the general government expenditures component of those costs. So, in other words, you take the government expenditures, you divide it by the number of households, and then you take that number. And that number is a large number right now because we have high levels of expenditures relative to tax collections.

That is why it is driven by our fiscal state as a Federal Government, as opposed to simply the behavior of the immigrants. The direct payments are an important component, but they are actually dominated by and outweighed by the general expenditures share, which is interesting, but I think it overstates the interest of that particular number that you have cited. It is not irrelevant.

Chairman SPECTER. The President of the Dominican Republic was very interested in the money coming back to the Dominican Republic. The estimates are the immigrants in the United States send home about \$39 billion a year in remittances. So on one hand, there is a concern about what that does to our economy. That purchasing power is not being used in the United States.

The other aspect is that our foreign relations are very complicated. We heard a great deal about the difficulties with Venezuela and President Chavez. A vote of the Andean countries on protecting property rights was three-to-two, with the United States winning. We have trade there to try to strengthen our foreign relations. We heard a lot of talk about their recognizing the leaders of the foreign governments, recognizing our rights to control our borders, but also looking for a humanitarian approach that we have.

How big an impact is it, Professor Siciliano, if \$39 billion is remitted from the United States to the home countries?

Mr. SICILIANO. Well, as a component of the overall economy, I actually think it is a fairly small number, but it obviously has tremendous impact for the countries who receive the remittances.

Two points. One, the transmission of that money actually generates substantial revenue and profits for U.S.-based business, primarily financial institutions who serve as the intermediaries to make that happen. I don't think we want to forget that.

The second issue is that the money lands in the hands of individuals who are nationals of obviously that country and some of it recycles as demand for our goods and services, hence jump-starting, we hope, the ongoing trade relations which may mitigate some of the foreign national risks you have identified. So I think it is a small piece in a big global economy and one that shouldn't dominate the thinking about how we decide to move forward on the immigration debate. . . .

Chairman SPECTER. Professor Siciliano, do you have a brief comment?

Mr. SICILIANO. Yes, two key points. I think anecdote in the hands of the economist is a dangerous weapon, so let me just give two kinds of actual points of data. First, in the 1960s we know that roughly half of the U.S. workforce lacked a high school diploma, and now about 12 percent of the native-born workforce lacks a high school diploma.

This skill set difference is driving the comment that I think is true, which is it is not

the case that immigrant labor is displacing by and large U.S. labor or depressing wages, and there are two key points to highlight that. Nevada and Kentucky, arguably similar in cost of living in many ways—7.5 percent of the population of Nevada right now is estimated to be undocumented. The average high school drop-out wage is \$10 per hour. In Kentucky, less than 1 percent of the population is estimated to be undocumented, and yet the high school drop-out wage is \$8.73 per hour.

It can't be simplified into simply saying immigrant labor shows up and it hurts U.S.-born labor. It is much more complex than that. I think, net, it clearly benefits U.S. labor . . .

#### EXHIBIT 2

##### DOES IMMIGRATION HELP OR HURT LESS-EDUCATED AMERICANS?

TESTIMONY OF HARRY J. HOLZER, JUDICIARY COMMITTEE, U.S. SENATE, APRIL 25, 2006

The vast majority of economists in the U.S. believe that, on average, immigration is good for the U.S. economy. By helping reduce the costs of producing certain goods and services, it adds to our national output, and makes consumers better off. Business owners also profit very clearly from immigration.

At the same time, it is possible that some native-born Americans—especially the less-educated Americans who might have to compete with immigrants for jobs—might be made worse off. Certain costs—especially for public education and services to the poor—might rise. And there are various noneconomic considerations, both positive and negative.

On these various issues, what does the evidence show? And what does the evidence imply for immigration policy?

##### EFFECTS ON EARNINGS OF NATIVE-BORN AMERICANS

For many years, most studies of the U.S. labor market have shown little or no negative effects of immigration on the wages or employment of native-born workers—including minorities and those with little education. More recently, another few studies that use different statistical methods from the earlier ones find somewhat stronger negative effects. According to these more recent studies, immigration during the period 1980–2000 might have reduced the earnings of native-born high school dropouts by as much as 8 percent, and those of other workers by 2–4 percent.

However, some strong statistical assumptions are required to achieve these results. And, even in these latter studies, the long run negative effects of immigration (i.e., after capital flows have adjusted across sectors to the presence of immigrants) are reduced to only 4–5% for dropouts and virtually disappear for labor overall.

There seems little doubt, then, that any negative effects of immigration on earnings are modest in magnitude and mostly short-term in nature. To the extent that high school graduates as well as dropouts in the U.S. have fared poorly in the labor market in recent years—especially among men—other factors are much more likely responsible (such as new technologies in the workplace, international trade, and disappearing unionization).

Native-born minority and especially African-American men face many labor market problems besides immigration—such as poor education, discrimination, and the disappearance of jobs from central-cities. In recent years, their high rates of crime and incarceration, as well as child support obligations for non-custodial fathers, have worsened their situation.

Does immigration also worsen their plight? There are certain sectors—like construction, for example—where direct competition from immigrants might reduce employment opportunities for black men.<sup>2</sup> But in many other occupational categories (e.g., agriculture, gardening, janitorial work) such competition is more limited or nonexistent, as the native-born men show little interest in such employment at current wage levels. In the absence of immigration, it is possible that wages would rise and maybe entice some native-born men to seek these jobs that they consider dirty and menial; but the wage increases needed would likely never materialize in many cases, as employers would either replace these jobs with capital equipment or enter other kinds of business as wages rose.

Two additional points are important here. First, the potential competition to less-educated American workers from immigrants depends in part on the overall health of the economy. Immigration rates have been fairly constant to the U.S. over the past few decades. In the very strong labor markets of the late 1990's, these rates of immigration did not prevent us from achieving extremely low unemployment rates and real earnings growth, even among the least-educated Americans. In the more sluggish labor markets since 2001, the same rate of immigration generates more concern about job competition. But, even in this latter period, the very weak earnings growth of most American workers cannot possibly be attributed to the arrival of a million or so new immigrants annually.

Second, the illegal status of perhaps one-third of immigrants might well magnify any competitive pressures they generate for less-educated native-born workers. The reduced wages and benefits associated with their illegal status offer employers one more incentive for hiring them instead of native-born workers, who might be interested in some of these jobs and might be more appealing to employers at equal wages.

##### OTHER ECONOMIC EFFECTS

There is virtually no doubt that immigration reduces the prices paid by consumers on many goods and services. There remains much uncertainty about the magnitudes of these effects, and on exactly who benefits the most. For instance, higher-income Americans might benefit the most from child care and other private household services, gardening, and food preparation services in restaurants. But lower-income Americans likely \* \* \* disproportionately from lower prices on food, housing and even some medical services that are associated with immigrant labor in agriculture, construction and health support occupations respectively.

Over the next few decades the contributions of immigrant labor to certain key sectors will likely grow more important. For example, the scientists and engineers needed to keep our nation competitive in scientific innovation and new product development will depend to a growing extent on foreign graduate students who choose to remain here after finishing their schooling, even though their presence might reduce the incentives of some native-born students from entering these fields. In other sectors, the retirements of "Baby Boomers" may also generate stronger labor demand. A variety of labor market adjustments (such as delayed retirements, new technologies, greater foreign "offshoring" of work, etc.) will likely mitigate the impacts of these retirements in the aggregate. But in certain key sectors—especially health care and elder care—these adjustments are less likely to meet the necessary demand, and the need for immigrant (and other) labor may remain quite strong.

Perhaps the most serious economic costs imposed by immigrants on native-born Americans—at least in those few states that serve as the primary "ports of entry" to immigrants—are those associated with public education, health care and other income transfers to the poor. While these costs are no doubt significant in those states, they have been reduced by legal changes in the welfare system that reduced immigrant eligibility for such transfers. Over time, immigration might modestly improve the fiscal status of Social Security and Medicare, as it helps replenish the falling ratios of workers to retirees.

By far the greatest benefits of immigration to the U.S. accrue to the immigrants themselves, whose earnings here are often vastly higher than they would be in their home countries. Both foreign policy and humanitarian considerations might lead us to approve of this, even though the direct economic benefits to native-born Americans are more limited.

##### POLICY IMPLICATIONS

If immigration is largely good for the overall U.S. economy, should we simply "open the floodgates" and remove all legal restrictions on it? Most Americans would be reluctant to do so, especially since there are some significant costs to immigration, and at least some workers who are made worse off. The noneconomic implications of such a move (e.g., for the national character and makeup of our communities) might also be troubling to many people.

But, if our ability to restrict immigration legally is imperfect, what shall we do? Efforts to improve the enforcement of existing laws in humane ways (e.g., without creating felonies for illegal immigrants and those who hire or assist them, or building costly fences along the Mexican border) may be worth trying, though their effectiveness may be limited. On the other hand, generating pathways by which illegal immigrants in the U.S. can achieve full citizenship (by paying fines, back taxes etc.) makes a lot of sense, given that their illegal status imposes hardships on them and their children while likely exacerbating the competition they pose to native-born Americans. It seems unlikely that any such move would dramatically raise the incentives that illegal immigrants currently have to enter the country given the gains in their standards of living that occur even when they enter illegally.

Guest worker programs have some major limitations, particularly in terms of enforcing legal rights for these workers and ensuring that they maintain some bargaining power relative to their employers. Since most guest workers stay permanently, the benefits of such an approach seem dubious. But some legal changes that encourage greater immigration of highly educated workers over time would likely generate greater benefits to the U.S. economy.

Finally, if we really want to improve opportunities for less-educated Americans in the labor market, there are a variety of approaches (such as improvements in education and training, expansion of public supports like health insurance and child care, and supporting protective institutions such as minimum wage laws and unions) that would likely be more effective than restricting immigration.

#### EXHIBIT 3

##### THE NEW IMMIGRATION AND THE NEW U.S. ECONOMY

(Richard B. Freeman, Harvard University and NBER, April 25, 2006)

STATEMENT BEFORE THE SENATE JUDICIARY COMMITTEE

I have organized my comments around eight points.

(1) Immigration is part of globalization. It is intimately connected to increased trade, free mobility of capital, and transmission of knowledge across national lines. Ideally, immigration and these other flows allow the U.S. and the world to make better use of available resources and to raise national and world output. A worker who comes to the U.S. increases the American labor supply, which means the country can produce more. If that worker does not immigrate, he or she may make the same or similar good in their native country and export that good to the U.S. Or a U.S. or other multinational may invest in that worker's country to produce the good. In other situations, the immigrant may bring capital, particularly human capital, with them, so that both capital and labor move together. The message for thinking about immigration in the global economy is: view immigration as related to trade and capital flows; policies that affect trade and capital will alter immigration and conversely.

(2) Immigration is the least developed part of globalization. Immigrants make up about 3 percent of the global workforce; whereas international trade's share of world output is around 13 percent; and foreign equities in investors' equity portfolio are on the order of 15 percent, as of the early 2000s. Consistent with this, the range of pay for workers with nominally similar skills is far greater than the range of prices for goods around the world or the returns to capital: The ratios of wages in the same occupation in high paying countries relative to low paying countries are on the order of ten to one measured in exchange rates and are on the order of four to five to one measured in purchasing power parity prices. The comparable ratio for prices of Big Macs is less than 2 to 1 and the comparable ratio for the cost of capital is 1.4 to 1. Thus, there is a huge incentive for workers to immigrate from developing countries to developing countries. Given this gap in incomes, the incentive to immigrate will remain huge for the next 40-50 years at least.

(3) In the simplest economic model of globalization, the flow of people, goods, and capital are substitute ways to raise production and economic well-being. During the NAFTA A debate, the Clinton Administration argued that the treaty would reduce illegal Mexican immigration to the U.S. on the notion that increased trade with Mexico would create more jobs there and lower the incentive to migrate to the U.S. This turned out to be incorrect. The U.S. attracts capital flows and unskilled immigrants and skilled immigrants while running a huge trade deficit. One reason is that the U.S. has a technological edge and a business climate edge over most other countries, particularly poor countries.

(4) Economic analysis predicts that immigrants reduce earnings of substitute factors and raise the earnings of complementary factors, where complements include capital and other types of native-born labor. The gains to native complements exceed the losses to native substitutes, so that immigration—like trade and capital flows—are a net boon for the economy. Most immigration studies estimate the adverse effect of immigrants on native earnings or employment, but the logic of the analysis establishes a direct link between the losses to native substitutes and the larger gains to native complements. Studies that compare wages/employment in cities with lots of immigrants with wages/employment in cities with few immigrants find little adverse effect of immigration on native workers. But this also means that there is little native gain from immigration (save when immigrants do things that no native can or will do at any reasonable wage). Studies that compare wages/employment

among groups over time find that immigrants depress the wages/employment of natives, with a larger impact among more highly educated workers. Even so, the gains and losses to natives from immigration are dwarfed by the gains that immigrants themselves make. An unskilled Mexican can earn 6 to 8 times as much in the U.S. as in rural Mexico. The main beneficiaries from immigration to the U.S. are immigrants; this is why so many are willing to enter illegally when they can—from Mexico or Central America or the Caribbean.

(5) The huge difference in the earnings of low skilled immigrants, in particular, in their native land and in the U.S. creates a powerful economic force for continued immigrant flows and makes it very difficult to control the U.S. borders. At the same time, however, it suggests that many current illegal immigrants or potential immigrants would be willing to pay for legal status in the country. To change immigration flows from illegal to legal and to control the flows requires redistributing some of the huge gains to immigrants to natives.

(6) At the other end of the skill distribution, the U.S. relies extensively on highly skilled immigrants to maintain our comparative advantage in science and technology. The United States imports science and engineering specialists, who help the country maintain its position at the technological frontier. During the 1990s boom, the United States greatly increased the proportion of foreign-born workers among scientists and engineers. In 2000 over half of the country's Ph.D. scientists and engineers were born overseas! Sixty percent of the growth of S&E workers over this decade came from the foreign born. Without this flow of immigrants, U.S. labs, including government labs such as those of NIH, would have to cut their workload in half. Highly skilled immigrants add to the ability of our economy to maintain predominance in high-tech industries with good jobs and growth potential. The desire of highly educated immigrants to come to the U.S. is a major competitive advantage to the U.S.

(7) But having a huge flow of highly skilled immigrants invariably reduces the incentives for American students to go on in science and engineering. The 1990s increase in science and engineering employment occurred without great increases in pay for these workers, in part because of the large supply of foreign born specialists desirous of coming to the U.S. Without gains in earnings and quality of work life, many outstanding American students, particularly men, shunned science and engineering in favor of business, law, and other disciplines. This does not however mean that the U.S. must limit foreign flows to attract more Americans into these fields. It can attract more Americans with more and increased graduate fellowships and undergraduate scholarships. To maintain the U.S. as the lead scientific and technological country, the U.S. should develop policies to attract more able students from our native born population without seeking to reduce immigrant flows.

(8) Multinational firms today source highly skilled labor globally. They seek the best workers they can get regardless of country of origin. As the number of university graduates is increasing throughout the world, the competition facing educated American workers has risen. Is it better for native born and resident Americans to compete with educated foreigners from developing countries who come as immigrants in the U.S., where wages and working conditions are reasonably high, or to compete with them when they are working overseas, where wages and working conditions are generally lower? Is it better to have U.S. firms offshore jobs or bring in

more immigrants? While there is no definitive analysis of these questions, my guess is that it is better to have the top foreign talent in the U.S.; and to do what we can to get them to become citizens and remain here than to have them compete with U.S. workers from lower wage settings overseas. Because trade and capital and immigration flows are intimately connected, however, there are some economic factors operating in the other direction.

In sum, we should think about the economics of immigration in two parts. Taking unskilled and often illegal immigration first, the main beneficiaries of low skill immigration are the immigrants, who have a huge economic incentive to come to the U.S. when they can. The vast improvement they can make in their lives and the lives of their children by coming to our country speaks well for our society, even if few of those benefits accrue to current citizens and residents. With respect to the highly educated immigrants, they add to the country's strength in the sectors that we need to prosper in the global economy. We should compete actively in the global market for the top students and workers in science and engineering and other technical fields, but also provide incentives for more Americans to enter these fields.

Mr. GREGG. Will the Senator yield me 3 minutes?

Mr. SPECTER. Yes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 3 minutes.

Mr. GREGG. Mr. President, I rise in opposition to this amendment and support Senator SPECTER and Senator KENNEDY's and Senator MCCAIN's position. I think, relative to the effort in this Congress and in the Senate, nobody has put more time into the issue of how we secure our borders relative to the actual physical activity on our borders than I have because I find myself in the jurisdiction of the Appropriations Committee that covers the border security issues.

I have come to this conclusion: We can secure our borders. But you cannot do it with just people and money on the border. There has to be a policy in place that creates an atmosphere that lessens the pressure for people to come across the border illegally. The essence of doing that is this guest worker concept. Yes, you have to do everything we can to tighten up the borders in the area of boots on the ground, technology being used, and making sure we have a strong Coast Guard, a strong immigration force, and strong border security force. That type of commitment has been a primary effort of the Senate and myself. We put \$1.9 billion into the supplemental that went through here to try to upgrade the capital for the aircraft and cars and unmanned vehicles and the necessary facilities for the Coast Guard, recognizing that border security has to be significantly beefed up.

The President made this point last night very well. But that cannot stop the issue—that doesn't resolve the issue of how you secure the border because as long as you have human nature guiding people's actions, and as long as you have the role of supply and demand in play, you are going to have

people who are willing to take the risks to come across the border illegally, no matter how many people you have there. If you are paying \$5 a day in Mexico and \$50 a day in the United States for a job, and you have a family and you are trying to better yourself, you are going to want to seek that job in America.

The question is, Isn't there a way to set this process up so that a job seeker can come here, do the job, which the employer also needs them to do because they can't otherwise fill that position—and this bill protects to make sure that is the case, that it is not taking jobs from Americans—isn't there some way to set this up so that a person can come into this country, work a reasonable amount of time, and then return to their country, or be here as a guest worker in a guest worker status?

That is what this bill attempts to address. It is one of the three elements of the formula for getting control over our borders. The first element is, of course, strong physical capability on the borders to control the borders.

The second element is to make sure we have in place a program where when people come into this country to work, they can come in legally.

The third element, of course, is enforcement at the workplace to make sure people who are working have that legal status of a guest worker.

That is the essence of this bill, in part, along with the border security elements. I strongly support it and hope we will reject the amendment as proposed.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from Pennsylvania is not on the floor of the Senate. My understanding was when his side was finished, he was going to yield back his time. I will proceed on the assumption that his time is done, and I have the right to close. How much time remains?

The PRESIDING OFFICER. The Senator has 23 minutes.

Mr. DORGAN. Mr. President, this is an interesting discussion and interesting debate. A couple of points have come to mind.

I have heard now three or four people come to the floor of the Senate and say: We have worked a long time and we put together a comprehensive proposal—in fact, they credited the President for saying the proposal needs to be comprehensive—and you can't take any part of this and change it. It is like pulling a loose string on a cheap suit: pull the string, the arm falls off. You destroy the bill if you do anything that alters it.

Then they come to the floor and say this is a three-legged stool, and if you cut off one of the legs, the stool falls over. Maybe they ought to bring a four-legged stool to the floor of the Senate. If you have a bad leg, you better have another leg to balance on.

The fact is, this is not a three-legged stool or a cheap suit. It is bad policy, just bad policy.

I want to answer some of the offers made by the other side. First, this issue of guests, temporary workers. We have a guest bedroom in our home. We call it the guest bedroom because it is not used much. But when someone uses the guest bedroom, you expect they are going to be there for a short period and leave. They are friends who come and stay. If somebody were to come and stay forever in that room, I guess I wouldn't call them a guest. Yet this so-called guest provision they have stuck in this bill by saying we are going to declare illegal immigration legal for up to 3.8 million people in the next 6 years—that is the way we will deal with illegal immigration. We will just call it legal. The so-called guest provision is people who come here, then apply for a green card, and then stay. There is nothing temporary about that. Don't call them guests. Guests, future flow—what soft-sounding words. Maybe tourists, guest tourists, future flow. But we know why they are coming. My colleagues described why they are coming. They want to work in this country.

The problem is, in all this discussion, I don't hear anybody talking about the American worker. What is the impact on the American worker?

I didn't know all of the economists just cited by my friend from Pennsylvania. They are probably very distinguished economists, probably extraordinarily well-educated economists, probably economists whose names I should know and, if so, I apologize.

Let me read this name, Paul Samuelson. I studied his textbook on economics. I actually taught his textbook in college. Professor Paul Samuelson. If you didn't learn this in Economics 101, then you should have failed. He says:

Let us underline this basic principle: An increase in the labor supply will, other things being equal, tend to depress wage rates.

That is exactly what has happened in this country. Now we say there are 11 to 12 million people who have come to this country illegally. I said earlier that I don't want to diminish the worth or dignity of anyone who is in this country legally or illegally. I am not interested in trying to diminish their worth or dignity. Somebody has been here 25 years, didn't come legally 25 years ago, has a child here, or two, perhaps a grandchild, they worked here, paid taxes here, I am not interested in rounding them up and moving them out of this country.

I understand some of the urges of people who have written some of this legislation. What I don't understand is this: There is no discussion about its impact on the American worker when they say: Oh, by the way, let's solve all these issues and let's, on top of all of this, add one more big arm that sticks out, and that is the so-called guest workers where we allow 3.8 million peo-

ple in the next 6 years who are not here now, not working in America now, living outside of our country now, to come in and take American jobs.

What on Earth are we thinking? Can't there be some modicum of discussion about the effect on American workers?

I put this chart up earlier, and I will put it up again because this discussion relates exactly to a string of failures. I am told we are all complimenting the President for his speech last night. I don't compliment the President for his trade strategy. We have the highest trade deficit in the history of this country: every single day, 7 days a week, \$2 billion in trade deficit—every single day. That means Americans jobs are going overseas. We are choking on debt.

What is the status of this trade? It is a green light for big companies to export jobs, and they are going wholesale, 3 to 4 million jobs just in the last few years. They are leaving.

By the way, Alan Blinder, a mainstream economist, former Vice Chairman of the Federal Reserve Board, said in his recent piece: I believe in "Foreign Affairs," that there are now 42 to 54 million American jobs that are potentially subject to being exported to other parts of the world because now we have 1 billion to 1.5 billion people in the rest of the world willing to work for pennies. So 42 to 54 million American jobs are subject to that kind of influence.

He says they won't all be exported, but even those who remain here will see lower wages and downward pressure on wages and benefits, health care, and retirement. That is the future on that side. Exporting good jobs.

The world is flat, we are told. The book shines from the bookstores, "The World is Flat." We look with rose-colored glasses at all the American jobs now in Bangalore, now in Xinhong, China. We say: Isn't that something?

I will tell you what is something. Those jobs used to be here supporting families. There is no social program this Senate works on that is more important than a good job that pays benefits and allows people to take care of their family. There is no social program as good as that.

We are talking about exporting good jobs, and exactly the same influence that resulted in this provision being put in this bill wants there to be imported cheap labor through the back door. That is what this guest worker provision is all about: importing cheap labor.

We are told the reason the 1986 law that was trumpeted 20 years ago, immigration reform, sanctions against employers who hire illegal immigrants didn't work is because there was no guest worker program. That is unbelievable to me. That is not the case at all.

This proposition is to say: You know how we will stop illegal immigration? We will just define them all as legal.

At least 325,000 plus 20 percent, that is 3.8 million in 6 years. We will define them as legal. We won't have a problem, we will just change the definition.

Let me show a couple of charts. These are people living in extraordinarily primitive conditions. They are undocumented workers. We can see where they are bunking. They were brought in, by the way, by a company to help repair in the aftermath of Katrina, a Government contract, mind you, with undocumented workers.

Let me tell you whose jobs they took. That contractor hired these folks, and all the electricians, including one Sam Smith whose house was completely destroyed in the Ninth Ward after Katrina slammed into that coast. He returned to the city because of the promise of \$22-an-hour wages for qualified, experienced, long-term electricians. He and 75 people were guaranteed work for a year at that naval institution.

He was quickly disappointed. He lost his job within 3 weeks because the other contracting company brought in undocumented workers who were unqualified and were willing to work for pennies.

I am the one who exposed this situation, and not long after I exposed it, there were inspectors who went on that base. I don't know the result of it all. All I am telling you is this is going on all across this country. This is a guy who lost his home and had a job and was displaced by someone coming through the back door willing to work for pennies. It wasn't just that person, it was the employer who decided they wanted to fatten their profits by hiring, in this case, illegals.

The way to solve that is not to say: Let's make them legal. The way to solve that is to say that job ought to go to Sam who lost his home, who is a qualified electrician. He is the person who needed that job. Yet contractors bring in these undocumented workers or, in this case, they perhaps bring in workers under the so-called guest worker provisions. Actually, they are not really guest workers, they are low-wage replacement workers. We should call them what they are.

We were told in the discussion earlier that we should accept this because we can't stop it. It is going to happen whether we like it or not, so let's just declare them legal. I don't understand that at all.

I mentioned earlier that this planet we live on, to the extent we know it, is the only place in the universe where we know life exists and we move around the Sun. On this planet of ours, we were blessed to be born in this country, live in this country, or come to this country and be a part of this great place called the United States. We built a standard of living unparalleled in the world. We did that through great sacrifice and through great debates. Now we are told none of that matters very much because it is a flat world, it is a global economy; by the way, we

can move jobs overseas, and we can bring cheap labor through the back door.

Just once—and I guess it won't happen this afternoon—just once I would like to hear a real debate about jobs in this country, about American workers and, yes, that includes Hispanic, African-American, Asian-American workers—our entire workforce. Just once I want to hear a discussion about what this means to American workers. Yet almost none of that has been heard on the floor of the Senate any time during this discussion.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. SESSIONS. I have the opportunity to serve on the Senate Judiciary Committee. We had one hearing that dealt with these issues and dealt with some of the issues the Senator has been talking about specifically. Professor Richard Freeman—and these were pretty pro-immigration panels, but I think they all agree with Senator DORGAN—Richard Freeman holds the Herbert Asherman Chair, professor of economics at Harvard University. This was his quote just a few weeks ago at a hearing:

One of the concerns when immigrants come in that way, they may take some jobs from some Americans and drive down the wages of some Americans and, obviously, if there is a large number of immigrants coming in and if they are coming in at a bad economic time, that's likely to happen.

Is that consistent with the Senator's views and that of Professor Samuelson?

Mr. DORGAN. That is exactly the case, although this is Professor Freeman. I have never known an economist to lose his or her job to a bad trade agreement. They sit around thumping their suspenders. They occasionally smoke a pipe, wear their little corduroy coat with their leather arm pads. They pontificate about these issues. The fact is, half of them can't remember their telephone numbers, and they are telling us what is going to happen 5 years in the future.

I understand, and I think most people understand, what is happening in this country today. What is happening today is the export of good jobs and the import of cheap labor and depressing the conditions of employment in America. That is what is happening, and nobody seems to care very much.

The inequality grows. The wealthy get wealthier, the people at the bottom are stuck—they haven't had an increase in the minimum wage in 9 years, mind you, so they are stuck and they are losing ground.

The question is, Who is going to stand for them and speak for them?

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator has 10 minutes 15 seconds remaining.

Mr. DORGAN. Mr. President, I mentioned earlier—and I think it fits ex-

actly with the debate—the export of jobs and import of cheap labor. I mentioned about the dancing grapes. All of us have seen when Fruit of the Loom advertises their underwear, they do it with people called dancing grapes. Somebody is dressed in red grapes and somebody else is dressed in green grapes. We have all seen them. What kind of adult would wear a grape suit and sing? Nonetheless, we are all entertained by dancing grapes.

The dancing grapes represent Fruit of the Loom underwear, T-shirts, shorts, so on. They were made in this country, just as Levis and other products were made in this country. The dancing grapes danced right out of our country. All those jobs to make those underwear, gone. This country doesn't make one pair of Levis anymore. Not one pair of Levis is made in the United States.

Anyway, the dancing grapes leave our country, and those jobs are elsewhere. Why are they gone from this country? Because they went in search of cheap labor.

So to the extent that companies can move these jobs out of this country to find cheap labor, they will. They still want to sell back into this country. They still need the American consumer, the American consumer who has just lost his or her job. One question is, then, where is the income going to come from?

In any event, even as they move these jobs out of this country, there are some that will remain in this country. In this new global economy, there are some jobs you can't move. And some of the same economic interests that want to move the jobs they can't want to displace the jobs they can't with cheap labor.

How do they do that with cheap labor? What they do is they attract people to come into this country from areas around the world—and one-half of the people in this world live on less than \$2 a day—they attract people to come in the back door. At the moment, it is illegal, so we gather on the floor of the Senate to talk about illegal immigration. What is one of the approaches to solve this? Let's just get a stamp and stamp it legal. That way we can say we don't have illegal immigration. So it appears to me what we are going to have is up to 3.8 million people in the next 6 years, who will come into this country and take American jobs, who otherwise would be declared illegal. By the way, that is on top of the 11 million or 12 million people the underlying bill will describe as legal. They say we are going to allow them to come in, take American jobs, but they will not be illegal because we have decided in the Senate we are going to put a different stamp there. It is going to be fine.

So nobody on the Senate floor is standing up and saying: What about the tradeoff here of an American family? We hear a lot about other families. One of my colleagues just described



economic immigrants. Man, the world is full of them. If the world has one-half of its population making less than \$2 a day, are there economic immigrants willing to come from many corners of this globe to this country? The answer is, of course. But we have immigration laws and quotas because if we were flooded with tens and tens of millions of people searching for opportunities in our country, we would diminish opportunities for Americans who live here and work here and built this country. So that is why we have immigration quotas.

One final point, if I might, on this issue of employer sanctions. That is a matter of will. You know there are no employer sanctions. The law says there are employer sanctions. Last year, I am told—I need to check this for sure, but I am told that there was one enforcement effort against one employer that hired illegal immigrants. The year before, there were three in the entire United States—three. That is a matter of lack of will. That is a matter of looking the other way when businesses want to hire cheap labor through the back door. Only when they are pressed will authorities finally go down and take a look at the folks living in these conditions who have taken jobs of people who lost their homes in Hurricane Katrina. Only when they are forced will someone show up, knock on the door, and say: You know something, this isn't legal.

This is a very important debate. In some ways, I regret that we have as short a time as we do. I probably should not have agreed to a time agreement, there is so much to say about it. Yet we will have a vote this afternoon.

My colleagues have spoken here with great authority. We all come here and wear white shirts and dark suits and all sound authoritative. Some are right, and some are wrong. It is hard to tell the difference. So we will have a vote on this. At the end of this vote, I suppose this will move right ahead because we are told, if this vote prevails, if my amendment prevails, as I said earlier, it is like pulling a loose thread on a cheap suit—the whole arm falls off and the whole suit is worthless. I don't understand why they construct legislation that way, but every time somebody brings a proposal to the floor of the Senate which is the result of negotiations, they say you can't interrupt anything because, after all, when we shut the door and negotiated this, we all did that in good faith, so don't be messing with our product. If you pull one piece of it out, you ruin what we have done. I have heard that a million times on the floor of the Senate.

I think the Senate ought to just mess with this piece and say to those folks who constructed it, with respect: You are wrong about this. This piece is the price for the Chamber of Commerce to support this legislation. This piece is the price for the Chamber of Commerce to say: Allow us to bring 3.8 million people through the back door, cheap

labor, and we will support the legislation, the substantial immigration reform.

I just happen to disagree with that. I happen to stand here in support of and concerned about—immigrant families, yes, but in support especially of American workers, in support of workers who do not seem to have much of a voice on the floor of this Senate.

The next trade bill that comes up, once again we will see their jobs further traded overseas. It is bizarre. There is no minimum wage increase for 9 years. Every trade agreement that comes along is pulling the rug out from under American workers, God bless them. See you, so long.

That is the way it goes around here. Maybe we ought to call this what it is. Maybe we ought to stop at this. Maybe the stop sign on behalf of American workers ought to be to say it is time for this Senate to stand up for American jobs. After all, this country's middle class, which we built over the last couple of centuries, especially the last century, that middle class is what supported the highest standard of living in the world. But that standard of living will not long exist if we export good jobs to low wage countries and then import cheap labor to perform those subpar-wage duties here in this country. That is not, in my judgment, what works for our country's best economic future.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes 25 seconds.

Mr. DORGAN. Mr. President, the Senator, I believe, wanted to ask if I would yield for a question. I am happy to do that.

Mr. SESSIONS. I would, briefly. I think it sort of confirms what you are saying. We had a subcommittee hearing on this, and the second professor, Dr. Barry Chiswick, the head and research professor at the Department of Economics at the University of Illinois in Chicago, said:

[T]here is a competition in the labor market. And the large increase in low-skilled immigration that we've seen over the last 20 years has had a substantial negative effect on the employment and earning opportunities of low-skilled Americans. . . . [The] large increase in low-skilled immigration has had the effect of decreasing the wages and employment opportunities of low-skilled workers who are currently resident in the United States.

Does that comport with the theme of the remarks of the Senator?

Mr. DORGAN. The Senator is absolutely correct. It seems to me this is not at issue, the question of what this means to American workers. It just is not.

Mr. SESSIONS. Here is Professor Harry Holzer at the same committee hearing, three out of five witnesses, most of them pro-immigration witnesses. He is an associate dean and professor of public policy at Georgetown. He says:

Now, absent the immigrants, employers might need to raise those wages and improve

those conditions of work to entice native born workers into those [construction, agriculture, janitorial, food preparation . . . ] jobs.

I believe when immigrants are illegal they do more to undercut the level of wages of native born workers.

So I think he also would agree with the Senator from North Dakota.

Mr. DORGAN. Mr. President, let me say that this economic strategy isn't working. This doesn't work. Fig Newton cookies moved to Mexico, and the Chinese just bought WHAM-O, Hula Hoop, Slip 'N Slide, and Frisbee. To the extent this bill will make illegal workers come in stamped as legal, we know they are not going to make Fig Newtons and Frisbees because those jobs are gone, but we know there is a reason for a guest worker provision, and the reason is there are interests that support this bill only on the condition that they continue to allow low wage workers to come in the back door even as major American corporations are exporting good American jobs out the front door. I think that is a construct that 5, 10, and 20 years from now is dangerous to this country and restricts opportunity rather than expands it for the American people.

I do not support this provision. I hope my colleagues will support my amendment and strike this guest worker, future flow, or low wage replacement worker provision, as I call it, in the underlying piece of legislation.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I will yield back. Is all time consumed by Senator DORGAN?

Mr. DORGAN. I yield back my time.

Mr. SPECTER. I yield my time. I move to table the Dorgan amendment and ask for the yeas and nays.

The PRESIDING OFFICER. 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 assistant legislative clerk called the roll.

MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The result was announced—yeas 69, nays 28, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—69

Akaka	Carper	Feingold
Alexander	Chafee	Frist
Allard	Chambliss	Graham
Allen	Coleman	Grassley
Bennett	Collins	Gregg
Biden	Cornyn	Hagel
Bingaman	Craig	Hatch
Bond	Crapo	Hutchison
Brownback	DeMint	Isakson
Bunning	DeWine	Jeffords
Burns	Domenici	Johnson
Burr	Ensign	Kennedy
Cantwell	Enzi	Kerry

Kohl	McConnell	Shelby
Kyl	Menendez	Smith
Landrieu	Mikulski	Snowe
Lautenberg	Murkowski	Specter
Leahy	Murray	Stevens
Lieberman	Nelson (FL)	Sununu
Lincoln	Pryor	Thomas
Lugar	Reid	Thune
Martinez	Salazar	Voinovich
McCain	Santorum	Warner

## NAYS—28

Baucus	Dorgan	Roberts
Bayh	Durbin	Sarbanes
Boxer	Feinstein	Schumer
Byrd	Harkin	Sessions
Clinton	Inhofe	Stabenow
Coburn	Inouye	Talent
Conrad	Levin	Vitter
Dayton	Nelson (NE)	Wyden
Dodd	Obama	
Dole	Reed	

## NOT VOTING—3

Cochran	Lott	Rockefeller
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The motion was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, we have the amendment from Senator KYL and Senator CORNYN next in sequence. They have a right to go next. If they are willing to wait until the morning, we will proceed with another amendment.

Mr. KYL. Mr. President, Chairman SPECTER, it is my understanding that if I defer to the Senator from New Mexico, we can actually get an amendment of the Senator from New Mexico voted on and perhaps another amendment considered by Senator KERRY, so they would be disposed of, whereas it may take a bit longer if our amendment is put down.

Mr. SPECTER. The Senator from Arizona is correct.

Mr. KYL. If we start tomorrow morning with our amendment, the Kyl-Cornyn et al. amendment, perhaps we could conclude more business if we follow in that process.

Mr. SPECTER. Mr. President, I appreciate the gracious comment by Senator KYL. We will proceed with Kyl-Cornyn first thing tomorrow morning.

Now we will proceed with the Bingaman amendment under a unanimous consent agreement of 1 hour equally divided, with no second-degree amendments in order, with the time evenly divided.

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

Mr. SPECTER. I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

## AMENDMENT NO. 3981

Mr. BINGAMAN. Mr. President, I thank my colleague from Pennsylvania, the chairman, for yielding to me.

I ask consent to bring up Senate amendment 3981.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3981.

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

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

The amendment is as follows:

(Purpose: To reduce the number of H-2C non-immigrants to 200,000 during any fiscal year)

Beginning on page 292, strike line 18 and all that follows through page 295, line 4, and insert the following:

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following: “(C) under section 101(a)(15)(H)(ii)(c) may not exceed 200,000.”

Mr. BINGAMAN. Mr. President, as we all know, the immigration bill creates a new temporary guest worker program aimed at providing an equal and orderly process for individuals to come to this country and to work in sectors of our economy where there is a shortage of available workers.

We had good debate in connection with the Dorgan amendment with regard to that guest worker program. Everyone who listened to that debate understands this is a new program which is being added to our immigration laws, one which is not available today for anyone to use.

Specifically, the bill pending before the Senate allocates 325,000 temporary visas for the first fiscal year, and in each subsequent year the numerical limit is flexible.

If the cap is reached—that is, the full 325,000—the number of available visas would increase. It could increase by 10 percent, it could increase by 15 percent, it could increase by 20 percent in the next fiscal year, depending upon how quickly those visas were used or taken.

In essence, what the bill provides—the bill pending before us—is for an open-ended automatic-increase mechanism that has the potential to significantly increase the number of visas we are making available. When I say an automatic-increase mechanism, we have all heard about compound interest. Everyone who has a checking account knows the power of compounding interest. What we have here is not compounding interest, it is compounding immigration, because the 20-percent increase over the previous year’s level continues indefinitely into the future. You start with 325,000, plus 20 percent; then you take the new figure, plus 20 percent; then you take the new figure, plus 20 percent; and it goes on and on.

My amendment, which Senator FEINSTEIN is cosponsoring, would simply put in place, instead of that, a hard cap of 200,000 on the number of visas available each year under this program. Of

course, in addition to this program, we all understand there are many other programs that people can use to gain legal access into our country.

Let me show a chart. This chart: guest worker visas issued under S. 2611. Now, the olive-colored wedge down at the bottom represents the number of visas that would be issued over the next 6 years under my amendment. That is 200,000 per year, each year, for 6 years, or a total of 1.2 million visas under the guest worker program.

If the Senate were to defeat the amendment I am offering and just go with the bill as it currently pends before the Senate, then it could take any of a number of courses. If there is a 10-percent increase, because of the speed with which people apply for these visas, it would go up to 2.725 million visas by the end of 6 years. If it is a 15-percent increase, it gets you to 3.222 million visas by the end of 6 years. And if, in fact, there are enough applicants for these visas to get you a full 20-percent increase, then you get to 3.8 million immigrant visas issued over this 6 years.

Now, why did I stop this chart at 6 years? The truth is, this legislation has no sunset. This legislation continues indefinitely until Congress changes the law again. So this chart could just as easily have been for 10 years or 15 years or 20 years. And if you really want to see the power of compound immigration, just like the power of compound interest, we should have developed a chart that takes us out 10 or 15 or 20 years. So the chart exemplifies how the number of guest workers may increase over this 6-year period under these different scenarios. The chart could have been made for a longer period.

If the 325,000-person cap is reached within the first 3 months of the fiscal year, we will have added almost 4 million guest workers over this 6-year period. If the cap is reached in the second quarter of the fiscal year, we will have added just over 3 million. And if the cap is hit in the third quarter of the year, we will have added a little under 3 million workers under this particular program.

In addition, it is important to note that although these visas are issued only for up to 6 years, these workers have the right to petition to become legal permanent residents within 1 year if the employer files for them or within 4 years if they self-petition.

Frankly, I believe we need to be a little more judicious with respect to the number of visas we are allocating under this program. This is a brandnew program. Under my amendment, which sets the numerical limit for such visas at 200,000, there would be no more than 1.2 million guest workers admitted over these first 6 years.

We need to recognize that guest worker programs, if they are not properly implemented, can impact on American workers. Senator DORGAN made the case, I believe very eloquently, that many economists have

spoken about the downward pressure on wages that results when you increase the labor supply. We need to recognize that our success with regard to the temporary worker program we have now, such as with regard to agricultural workers, has been mixed. We should not make a mistake here by erring on the side of extravagance in allocating these visas or authorizing the issuance of these visas until we know how this program is going to impact American workers.

I did not vote for Senator DORGAN's amendment to eliminate the guest worker program, but I do believe we need to be judicious about the extent of the guest worker program that we authorize. We definitely should not be signing on to some kind of automatic compounding of the number of workers eligible for legal entry into this country under that program. There are a variety of jobs that may be filled by these guest workers—from construction jobs to hotel service jobs—but we should not be placing American workers in these sectors of our economy in the position of competing with virtually an unlimited number of guest workers, which is what I fear we are putting in the law if we leave the law the way it now pends in this pending legislation.

The underlying bill does create a temporary guest worker task force. This task force is charged with assessing the impact of the guest worker program on wages and on labor conditions and the employment of American workers and with then making recommendations about whether the numerical cap should be lowered or raised. But then you go on with the legislation, and the increase mechanism is not in any way tied to the recommendations of the task force. The overall number of visas could significantly increase automatically, regardless of whether the program is determined, by this temporary guest worker task force, to be hurting American workers.

So if Congress wants to raise the caps, we have the authority to do that every year. We meet here every year. We can raise the cap. But we should not provide for an automatic increase in the number of temporary visas irrespective of how that increase is affecting American workers.

Just to be clear, reducing the number of guest worker visas to 200,000 a year is not a drastic measure that undercuts the bill's goal of providing a more realistic framework for immigrants to legally come into this country. According to the Congressional Research Service, under this overall bill, we will at least be doubling—here is a chart that shows what is going to happen to the projections for employment-based legal permanent residents coming into this country under this legislation. We will at least be doubling the flow of legal permanent immigration under the bill in the first year. We increase family- and employment-based numer-

ical limits, and we exempt categories of individuals from these caps.

Overall, the bill does provide for many legal avenues for individuals to legally come into the United States and to work. For example, as this chart shows—this is a chart based on the Congressional Research Service report—we are significantly increasing the number of employment-based legal permanent residents under the bill.

I strongly believe the amendment I am offering with Senator FEINSTEIN is a reasonable approach. It ensures that an unlimited number of guest workers are not admitted under this program. I hope my colleagues will agree with me that this is a good change. This amendment would improve the legislation, would allow us to maintain a guest worker program, which the President has strongly endorsed maintaining, but would improve the program by limiting it to a level we can understand and manage in these first few years.

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

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be equally divided between the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator has 17½ minutes.

Mr. BINGAMAN. Seventeen and a half?

The PRESIDING OFFICER. Yes.

Mr. BINGAMAN. Mr. President, I yield 12 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New Mexico.

Mr. President, I would like to speak as a member of the Judiciary Committee. I think one of the things we really need to understand about this bill is that it is a very large bill. It is 640 pages long. It contains a multitude of programs. And it—through the visa programs, the nonimmigrant visas—brings in large numbers of people.

I think when we were in Judiciary we did not realize the extent to which large numbers of people are brought in on some of these visas. We were working to a march. We had to get the bill done. And it is my understanding that studies of the bill now on the floor have shown that this bill could allow up to 193 million new legal immigrants. That is a number greater than 60 percent of the current U.S. population in the next 20 years. Now, that is a way-

out figure—20 years—but I think we have to begin to look at each of the visa increases over at least the next 10-year period to determine how many people would come in, particularly the guest worker program.

I am happy to cosponsor this amendment with Senator BINGAMAN. The amendment does two things: it lowers the annual numerical cap from 325,000 of H-2C guest worker visas—and there are a myriad of guest worker visas, but this one is H-2C—to 200,000, and it eliminates the annual escalator.

In my view, all annual escalators in this bill should be eliminated because they bring in too many people over a relatively short period of time. This bill has the potential, as I said, to bring in millions of guest workers over the years. This means that over 6 years—the length of an alien's stay in the United States in this one temporary visa category—there could be 1.2 million workers in the United States.

Under the current proposal, let's say you start at 325,000 guest workers in the first year, and you add the 10-percent escalator. The 10-percent escalator would yield, over 6 years, 2.7 million people. The 15-percent escalator would take it to, over 6 years, 3.2 million people. And if you had the 20-percent escalator, it would take it up to, over 6 years, 3,807,000 people. It is simply too many. So the current bill doubles and even triples the number of foreign guest workers who could enter the United States over the 6 years of our amendment.

I hope this amendment will pass. I would hope that we could eliminate the escalators in these visa programs. The H-1B visa escalator would have a total of 3.67 million people over the next 10 years coming in under an H-1B visa. We increase the H-1B from 56,000 to 115,000, and then we put in a 20-percent escalator each year. If the number of visas reached the 115,000—and it will—therefore, the next year you add 20 percent. Then if that is reached, you add another 20 percent. And it compounds in this manner to the tune of a total of 3.6 million.

I am very concerned about this. I hope the Bingaman amendment will be successful. Again, it does two things. It reduces the base amount from 325,000 to 200,000, and it eliminates the escalator. Two hundred thousand guest workers a year are ample because this is just one part of the bill. There are other visa programs. There is AgJOBS. There is earned adjustment. It all adds up to millions and millions of people.

I strongly support the Bingaman amendment. I urge my colleagues to vote yes.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Mexico.

Mr. BINGAMAN. First, I thank the Senator from California for her strong support for my amendment. Particularly because of her role in the development of the legislation in the Judiciary

Committee, she pointed out very well the reasons this amendment is meritorious. I hope people, even some Members on the Judiciary Committee with Senator FEINSTEIN, will look at this favorably and consider it an improvement to the bill.

I ask unanimous consent that Senator ALEXANDER from Tennessee be added as a cosponsor of the amendment.

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

Mr. BINGAMAN. I know we have one other Senator who has indicated a desire to speak in favor of the amendment. Let me point out to my colleagues that both myself and Senator ALEXANDER are Members who voted against the Dorgan amendment that was just tabled. I cannot speak for Senator ALEXANDER, but from my perspective, I am persuaded that there is value in having a viable guest worker program. I support that part of the legislation. My concern is with the magnitude of it, particularly since it is a new program.

For us to start it at 325,000 per year and then have an automatic escalator in the law and have no sunset on it at all, so that we all understand that this is permanent law, unless Congress comes back and changes the law 10 years from now, we will still be taking the previous year's total and be able to increase it by 20 percent. That gets to a point where American workers are going to have a very legitimate complaint. I favor allowing an opportunity for people to come here and take jobs that Americans don't want. But I do not favor allowing people to come here to bid down the price of labor to such a point that Americans are unwilling to take jobs for the very meager salaries that employers are able to pay.

It is a straightforward amendment. I hope my colleagues will support it. I know we do have one more speaker. I believe the Senator from California would like 2 minutes. I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I thank my colleague from New Mexico. As anyone watching the debate saw, I was in support of what Senator DORGAN was trying to do which was to strip the guest worker program from this bill, a bill that has a lot of good to it. I do support strengthening the border, and I do support giving 11 or 12 million hard-working people who have paid their dues, who will come forward and learn English and who will pay the fines, who have a clean record, a path to legality. I strongly support that, and I strongly support the AgJOBS provision of this bill. But I predict that this guest worker program, which the Senate has now ratified, is going to come back to haunt people because, as Senator BINGAMAN has shown us, the way this bill is structured, the workers will grow exponentially in this guest worker program to the point where, accord-

ing to some estimates, we are talking about tens of millions of guest workers over the next 20 years.

What Senator BINGAMAN is trying to do is to put a cap on this, a real cap, not the phony cap that is in the bill that says it will escalate up to 20 percent every year. You figure out the math. It is kind of amazing.

What Senator BINGAMAN is doing is making this a better bill. I strongly support the cap he is proposing. I thank him for the opportunity to speak on behalf of his amendment. As usual, he has brought commonsense to the Senate. I hope the Senate will strongly support the Bingham amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it is always difficult to make a determination as to what is the right figure. The committee came to the figure of 325,000, after a great deal of analysis and thought. It is the result of a compromise that was worked out, with some figures being substantially higher than that, some lower. But that is the figure the committee came to. The amendment offered by Senator BINGAMAN and Senator FEINSTEIN would also eliminate the fluctuation which is to allow for a 20-percent increase if we hit the top. What we are trying to do in this legislation is to accommodate the market, if there is demand for these guest workers. So the fluctuating cap is perhaps even more important than the difference between 325,000 and 200,000.

When we considered the Dorgan amendment, we were debating the issue as to the way the guest worker program fits into overall comprehensive reform so that if we were able to accommodate the needs of the American economy with these guest workers, then we fill the jobs. They are not open. We do not create a vacuum on jobs so that immigrants who are in this country illegally would be available to take the jobs. This is a regulatory approach which accommodates for the needs of the economy and is the figure that we best calculate to accommodate them. I think if we had come in at 200,000, we would be looking at an amendment for 125,000 or at some other figure. There is an obvious give and take as to whatever figure we have. Somebody has a different figure to make it lower.

I have great respect for those who say we ought to protect American jobs and that we ought not to have guest workers who are going to take those jobs or lower the compensation for the people who hold American jobs. We put into the RECORD on the Dorgan amendment testimony from three expert witnesses. I will not repeat it and put it into the RECORD again. But the essential conclusion was that there would be minimal impact on taking American jobs and minimal impact on compensation.

The statute is carefully constructed to protect American workers, taking

away any incentives for employers to hire foreign workers. For example, the employees must be paid the higher of what is the actual wage paid to other employees with the same skill or the prevailing wage rate for that job. So the law requires the employer to pay the immigrants the same as they would pay somebody else. And the employers must provide the same working conditions and benefits that are available for similar jobs. You don't have a class of immigrant workers who are being taken advantage of. The employers must provide insurance if the State workers compensation doesn't cover all of these workers. So you have a situation where there are no incentives to lose American jobs. We think this figure is a fair figure and a realistic figure arrived at by the committee after very long deliberation and after a compromise. We think this figure should stay.

In the absence of any other Senator seeking recognition, I would inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator has 24 minutes remaining, and the Senator from New Mexico has 7 minutes. Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. May I ask my colleague, is it his intent that I should close my argument now and then we would have a vote?

Mr. SPECTER. Mr. President, yes.

Mr. BINGAMAN. Mr. President, I thank my colleague for that concise answer.

Let me say that I have great respect for the chairman and his efforts to put together a bill that he believes makes sense. As he says, it accommodates the market. That is an interesting concept, accommodating the market. The amendment I am offering, along with Senator FEINSTEIN and Senator ALEXANDER, is an amendment that would say that we need to go at this in a prudent fashion and limit the number of people who are going to be able to come into the country and apply through this new program that we are defining for the first time in law as part of this bill.

Some of the arguments I have heard in favor of the guest worker program relate to the workers themselves, the workers who are trying to get into this country to make a better life for themselves. I have empathy for those workers as well. But, quite frankly, there is a virtually unlimited supply of people who would like to come here and work and improve their life by doing so. We need to make judgments about how large a group we are going to allow in each year. That is why I am proposing the amendment.

As far as employers are concerned, there are a lot of employers who, given the option of signing a contract to bring in workers from another country who they know will be in many respects less likely to complain about working conditions, less likely to raise

any concerns about their employment situation, would find that attractive. And accordingly, you could see a great demand by some employers to go ahead and meet their employment needs through this device.

As I said before, I favor a guest worker program. It makes sense to have a guest worker program.

But I think it also makes sense for us to do it in a more reasonable way than the bill currently calls for and not to build in some kind of automatic escalator that will occur regardless of what we determine the impact is going to be on American workers. I think we can come back and raise the cap again if we decide in 2 years or 5 years, or whatever, that we want to do that. But we should not build into this legislation an automatic escalator that will make it extremely likely that the number of workers will substantially increase in coming years by virtue of this legal provision that we put in the law.

Mr. President, I urge the support of my amendment, and I hope my colleagues will see this as a way to improve the legislation rather than an undermining provision of the legislation.

I yield the floor.

Mr. SPECTER. Mr. President, I move to table the amendment and ask for the yeas and nays. I put my colleagues on notice that this is going to be a strict 20-minute vote because we have Members who have planes to catch.

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The result was announced—yeas 18, nays 79, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—18

Bond	Hagel	Murkowski
Brownback	Kennedy	Salazar
Chafee	Lieberman	Shelby
DeWine	Lugar	Smith
Graham	Martinez	Specter
Gregg	McCain	Stevens

NAYS—79

Akaka	Burr	Crapo
Alexander	Byrd	Dayton
Allard	Cantwell	DeMint
Allen	Carper	Dodd
Baucus	Chambliss	Dole
Bayh	Clinton	Domenici
Bennett	Coburn	Dorgan
Biden	Coleman	Durbin
Bingaman	Collins	Ensign
Boxer	Conrad	Enzi
Bunning	Cornyn	Feingold
Burns	Craig	Feinstein

Frist	Leahy	Sarbanes
Grassley	Levin	Schumer
Harkin	Lincoln	Sessions
Hatch	McConnell	Snowe
Hutchison	Menendez	Stabenow
Inhofe	Mikulski	Sununu
Inouye	Murray	Talent
Isakson	Nelson (FL)	Thomas
Jeffords	Nelson (NE)	Thune
Johnson	Obama	Vitter
Kerry	Pryor	Voinovich
Kohl	Reed	Warner
Kyl	Reid	Wyden
Landrieu	Roberts	
Lautenberg	Santorum	

NOT VOTING—3

Cochran	Lott	Rockefeller
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The motion was rejected.

Mr. REID. 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.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3981) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we have been engaged in extensive discussions to try to move the schedule along. What we plan to do is to take Senator KERRY's amendment and accept it, with 15 minutes to Senator KERRY. He says he will try not to use all of it.

Tomorrow morning we will go to Kyl-Cornyn, and since people are still looking at it, we do not have a time agreement. Senator KENNEDY says he will make a good-faith effort to limit debate to 30 minutes tomorrow.

Then we will go to the amendment of Senator OBAMA, and once we have had a chance to analyze it, we will see if we can accept it. Then we will go to Senator SESSIONS. The majority leader has authorized me to say that there will be no further votes tonight.

Mr. KYL. Mr. President, might I ask the chairman to yield?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. It is my understanding that following Senator KERRY this evening we will lay down the Kyl-Cornyn-Graham-Allen-McCain-Frist-Brownback-Martinez amendment so all can see what it is and we can start some debate this evening and then finish the debate tomorrow. Is that correct?

Mr. SPECTER. Mr. President, the Senator from Arizona is correct.

I now yield to the Senator from Massachusetts, Mr. KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 3999

Mr. KERRY. Mr. President, I call up amendment No. 3999.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 3999.

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

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

The amendment is as follows:

(Purpose: To improve the capacity of the United States Border Patrol to rapidly respond to threats to border security)

On page 63, between lines 9 and 10, insert the following:

Subtitle F—Rapid Response Measures

SEC. 161. DEPLOYMENT OF BORDER PATROL AGENTS.

(a) EMERGENCY DEPLOYMENT OF BORDER PATROL AGENTS.—

(1) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents (referred to in this subtitle as "agents") from the Secretary, the Secretary, subject to paragraphs (1) and (2), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) CONSULTATION.—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will not significantly impair the Department's ability to provide border security for any other State.

(3) COLLECTIVE BARGAINING.—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations.

(b) ELIMINATION OF FIXED DEPLOYMENT OF BORDER PATROL AGENTS.—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

(c) INCREASE IN FULL-TIME BORDER PATROL AGENTS.—Section 5202(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), I as amended by section 101(b)(2), is further amended by striking "2,000" and inserting "3,000".

SEC. 162. BORDER PATROL MAJOR ASSETS.

(a) CONTROL OF BORDER PATROL ASSETS.—The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, air, craft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) HELICOPTERS AND POWER BOATS.—

(1) HELICOPTERS.—The Secretary shall increase, by not less than 100, the number of helicopters under the control of the United States Border Patrol. The Secretary shall ensure that appropriate types of helicopters are procured for the various missions being performed.

(2) POWER BOATS.—The Secretary shall increase, by not less than 250, the number of power boats under the control of the United States Border Patrol. The Secretary shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(3) USE AND TRAINING.—The Secretary shall—

(A) establish an overall policy on how the helicopters and power boats procured under this subsection will be used; and

(B) implement training programs for the agents who use such assets, including safe operating procedures and rescue operations.

(C) MOTOR VEHICLES.—

(1) QUANTITY.—The Secretary shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 3 agents. These police-type vehicles shall be replaced not less than every 3 years. The Secretary shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol.

(2) FEATURES.—All motor vehicles purchased for the United States Border Patrol shall—

(A) be appropriate for the mission of the United States Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

**SEC. 163. ELECTRONIC EQUIPMENT.**

(a) PORTABLE COMPUTERS.—The Secretary shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

(b) RADIO COMMUNICATIONS.—The Secretary shall augment the existing radio communications system so that all law enforcement personnel working in each area where United States Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

(c) HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.—The Secretary shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

(d) NIGHT VISION EQUIPMENT.—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

**SEC. 164. PERSONAL EQUIPMENT.**

(a) BORDER ARMOR.—The Secretary shall ensure that every agent is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Each agent shall be permitted to select from among a variety of approved brands and styles. Agents shall be strongly encouraged, but not required, to wear such body armor whenever practicable. All body armor shall be replaced not less than every 5 years.

(b) WEAPONS.—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face.

(c) UNIFORMS.—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they

become worn, unserviceable, or no longer fit properly.

**SEC. 165. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subtitle.

Mr. KERRY. Mr. President, I also ask unanimous consent that Senator BINGAMAN be added as a cosponsor of this amendment.

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

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, obviously this is an issue that has touched a lot of nerves all across the country. We all understand the volatility and the tension within it. We have an enormous task to try to find a fair, orderly, humane, and secure process for protecting our border. That is what we are trying to do.

Last night, President Bush spoke to the Nation about the challenge we face. I have strong reservations about some of the President's immigration proposals. But I believe on balance the President gave a thoughtful and compelling address that laid out why we have to act urgently. I think he particularly talked about the importance of acting comprehensively in solving the immigration puzzle.

I say to my colleagues, I think most of us have found as we have been wrestling with this issue, it is like a balloon. If you push in one place, it expands in another place, so you have to come at it in a comprehensive way. Each component of this reform is dependent on the other component in order to make the overall reform successful. We are not going to be successful if we don't create an effective employer verification system because workers will find a way to keep coming if we don't. By the same token, securing the border doesn't address the 11 million undocumented workers currently in the country.

We need the President's leadership so that this bill or this approach does not turn into one of those unfunded mandates or neglected opportunities like No Child Left Behind or even the Medicare prescription drug law.

Last night, the President announced his intention to dispatch 6,000 National Guard troops to the southern border. All of us agree we need to strengthen the southern border. But I disagree with President Bush about how we ought to get there and how fast we can get there. Yes, we need more strength and more personnel at the border. We need better enforcement of our immigration laws. But, particularly in a post-9/11 world, when you look at the recommendations of the 9/11 Commission, we need to do a better job of preventing the flood of immigrants who are crossing the borders every day.

But the bottom line is, what you need to do that job is not a makeshift force of already overextended National Guardsmen to militarize the border but

rather specialized agents who are trained to do the police work, to track down individuals who make an illegal crossing, and to ensure that the borders are not easy avenues for those crossings.

I remind my colleagues that in the late 1980s and early 1990s, when our cities and our communities were facing a crime epidemic, we didn't send the National Guard in to do the job. We hired more police officers and invested in community policing. The COPS Program put 100,000 skilled and trained law enforcement officers on the streets of the communities of our country and crime dropped.

After 9/11, the mission of the Border Patrol changed. No longer are they charged with simply securing the border. They are now patrolling one of the greatest vulnerabilities in the war on terror. As their mission changed, their numbers increased, but they have never increased enough to do the job.

Each year for the past 10 years between 700,000 and 800,000 illegal immigrants arrived in this country. Despite more than doubling the number of Border Patrol agents between 1995 and 2005, Federal enforcement of our immigration laws has decreased significantly. The number of border apprehensions has declined by 31 percent, from an average of 1.5 million apprehensions a year between 1996 and 2000, to an average of 1.05 million between 2001 and 2004.

At the same time, the number of illegal immigrants apprehended within the interior of the country has plummeted by 36 percent, from an average of 40,193 between 1996 and 2000, to an average of 25,901 between 2001 and 2004.

As much as the strength of the Border Patrol has grown in the last years, actual performance demonstrates that we have to close a gap by almost twice or three times as much. The current Border Patrol agents protect more than 8,000 miles of international border and they detect and prevent smuggling, unlawful entry, undocumented immigrants, they apprehend persons violating the immigration laws, and they interdict contraband such as narcotics. They work under difficult circumstances for long periods and in all kinds of weather.

Currently, we have fewer than 12,000 Border Patrol agents. Those agents are responsible for patrolling 8,000 miles of land and seacoast, and because of the need to provide continuous coverage, no more than 25 percent of those agents are securing our borders at any given moment. That means there are only 4,000 agents patrolling 8,000 miles of land and our borders. So, if instead of spreading them out as we do today you put them all along the border, with just Texas alone, you would then have roughly two Border Patrol agents per mile. It is physically impossible to protect the borders of the United States under those circumstances.

There are additional numbers put into this legislation, but I have heard



that, in fact, by joining the Federal Law Enforcement Training Center together with the National Training Center in Artesia, NM, which has recently increased its training capacity, we could do more. It is not rocket science, it is about capacity. If you don't have the capacity, then you build the capacity to meet the demand.

If we have the will to make this happen, we can make it happen.

So we already know this is a stopgap measure with the military to cover up what is already a failed immigration policy and a failed border policy. The 9/11 Commission warned us, several years ago now, that we needed to have additional personnel. Those calls have never been heeded. We need to heed them now. My amendment will increase the number by an additional 1,000 this year and that will be above the increase of 2,000 agents contained in the underlying bill.

Frankly, I think we ought to be trying to do more than that, but that is the reasonable level that we seem to be able to accept and also train at the same time under the current circumstances.

In addition, my amendment would give border State Governors the ability to request up to 1,000 more Border Patrol agents in the Department of Homeland Security in times of international border emergencies. In deciding whether to grant the Governor's request, the Secretary would have to consider the effect any shuffling of Border Patrol agents would have on overall border security.

Last year, a survey by Peter D. Hart found that just 34 percent of the front-line Border Patrol agents said they were satisfied with the "tools, training, and support" they received to protect our borders. That should be 100 percent. What we need to do is guarantee that we take the steps in order to make it so.

In addition, my amendment increases the number of helicopters and power boats available for Border Patrol, and it provides Border Patrol agents with the training they need to use those tools. We guarantee a ratio of one patrol vehicle for every three agents and ensure that each of those vehicles is equipped with a portable computer. That also provides every agent with clear and encrypted two-way radios, night vision equipment, GPS devices, high-quality body armor, and reliable and effective weapons. It makes each and every agent certain that they have the necessary equipment and uniforms for the kind of climate in which they are working.

I am glad that the Senator from Pennsylvania is prepared to accept this amendment. I thank my colleagues for their support of it.

As I said, if we don't have a sufficient training capacity, it is clear that the expertise needed is real. I heard of Border Patrol agents who have had to go through survival training and different kinds of training that is highly special-

ized. These individuals are engaged in law enforcement and police work. I think everybody in this country would like to see our National Guard, which is already stretched thin, minimally involved to the degree possible. The best way to do that is to get more Border Patrol agents trained faster.

I thank the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I think it is a good amendment to increase the number of Border Patrol agents. We accept the amendment.

The PRESIDING OFFICER (Mr. CHAMBLISS). The question is on agreeing to the amendment.

The amendment (No. 3999) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I now yield to Senator KYL for the Kyl-Cornyn amendment. I ask unanimous consent that it be the first amendment pending tomorrow morning.

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

The Senator from Arizona is recognized.

#### AMENDMENT NO. 4027

Mr. KYL. Mr. President, there is an amendment at the desk which I would like to have considered at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] for himself and Mr. CORNYN, Mr. GRAHAM, Mr. ALLEN, Mr. MCCAIN, Mr. FRIST, Mr. BROWNBACK, and Mr. MARTINEZ, proposes an amendment numbered 4027.

Mr. KYL. 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:

On page 358, line 3, insert "(other than subparagraph (C)(i)(II))" after "(9)".

On page 359, after line 12, insert the following:

"(6) INELIGIBILITY.—

"(A) IN GENERAL.—An alien is ineligible for adjustment to lawful permanent resident status under this section if—

"(i) the alien has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iii) the alien is subject to section 241(a)(5);

"(iv) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to

the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(v) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien was ordered removed on the basis that the alien (i) entered without inspection, (ii) failed to maintain status, or (iii) was ordered removed under 212(a)(6)(C)(i) prior to April 7, 2006, and—

"(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

"(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

"(iii) the alien's departure from the U.S. now would result in extreme hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

On page 376, strike lines 13 through 20 and insert the following:

"(4) INELIGIBILITY.—

"(A) IN GENERAL.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

"(i) has been ordered removed from the United States—

"(I) for overstaying the period of authorized admission under section 217;

"(II) under section 235 or 238; or

"(III) pursuant to a final order of removal under section 240;

"(iii) the alien is subject to section 241(a)(5);

"(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

"(iv) the Secretary of Homeland Security determines that—

"(I) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

"(II) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

"(III) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(v) the alien has been convicted of a felony or 3 or more misdemeanors.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

"(i) entry into the United States without inspection;

"(ii) remaining in the United States beyond the period of authorized admission; or

"(iii) failure to maintain legal status while in the United States.

"(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion,

waive the application of subparagraph (A) if the alien was ordered removed on the basis that the alien entered without inspection, failed to maintain status, or (iii) was ordered removed under 212(a)(6)(C)(1) prior to April 7, 2006, and—

“(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

“(ii) establishes that the alien’s failure to appear was due to exceptional circumstances beyond the control of the alien, or

“(iii) the alien’s departure from the U.S. now would result in extreme hardship to the alien’s spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.”

Mr. KYL. Mr. President, let me briefly explain this amendment. It is a somewhat different version from what was introduced a couple of weeks ago and was pending at the time this legislation was laid aside for other business.

This amendment has the primary purpose of ensuring that people who have committed serious crimes or have absconded after on order for their removal has been issued would not be entitled to the benefits of the legislation.

Specifically, in the bill as written, there were certain crimes which were included, and if you had committed one of those crimes, you couldn’t participate in the program—certain crimes of moral turpitude, for example.

What we found was that list was not all-inclusive and there were other serious crimes, including felonies, that were not included and therefore we felt should be added so that nobody who had committed a serious crime would be able to participate in the program.

Among the crimes that courts have said did not involve moral turpitude and therefore needed to be included in this legislation are the following: alien smuggling, conspiracy to commit offenses against the United States, simple assault and battery, involuntary manslaughter, simple kidnapping, weapons possession—for example, one of the cases dealt with possession of a sawed-off shot gun—burglary, money laundering, and there are others as well.

The point is, we want to be sure this legislation denies the benefits of legal status, including potential citizenship, to anyone who has committed a serious crime of this type. Therefore, the statute provides that if you have been convicted of a felony or three misdemeanors or have been convicted of a serious crime or there are reasonable grounds to believe the alien has committed a serious crime outside of the United States prior to arrival, and there are reasonable grounds for regarding the alien as a danger to the security of the United States, then in those events the individual would not be able to participate in the benefits of the law.

In addition to that, there are several categories of individuals who for various reasons have been ordered removed from the United States and have adjudicated their case and a final order of removal has been issued, either by

an immigration judge or another judge or immigration official. Here, too, given the fact that we want the benefits of this legislation to apply to people who are willing to comply with the law, even where there has been a court adjudication of this statute, if they do not like the results and decide they are not going to leave even though the judge ordered them to leave, then we should not allow the benefits of this legislation to apply to them.

One of the things which is inherent in most of the bills—I think in all of the bills, including the bill that is on the floor—is the concept that you are not permitted to be in the United States unless certain things happen. If you commit a crime, for example, then you can’t stay here. That relies to some extent on the individual complying with the court order to leave.

This part of the amendment says that when you have been ordered to leave by a judge, you have to do that. If you have demonstrated that you are not willing to do that, then you shouldn’t be able to participate in the benefits of this law.

One of the things we have done—and as a result, there have been several co-sponsors added to the legislation—is provided some opportunities to have this provision waived if people can make certain arguments. For example, if an individual who has been ordered to be removed can demonstrate they did not receive notice of removal proceedings, under that condition, this provision could be waived.

In addition, the alien could argue that his failure to appear and be removed was due to exceptional circumstances beyond the control of the alien or that the alien’s departure from the United States would result in extreme hardship to the alien’s spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

There is one other factor that has been added relative to coming into this country based upon fraudulent documents. In those situations, the alien could argue that there was a reason this provision should be waived and the alien should still be permitted to participate in the benefits of the legislation.

We think we have drafted something that is fair, that ensures that people who should not be citizens of the United States or granted other legal status under the bill will not be granted the status, but that if there is some reason they can argue that there should be an exception, they will have every right to do so. In that sense, we think this is a firm but fair provision.

I hope our colleagues on the other side of the aisle and colleagues who support the underlying legislation would consider this not an unfriendly amendment but an amendment that is truly designed to ensure that a key principle is upheld. The principle is already built into the underlying bill in one respect. The object of this amend-

ment is to make sure it is complete and covers all of the kinds of crimes one might want to cover. As a result, we would hope this would receive an overwhelming response and could be supported by a large number of our colleagues, both on the Democratic and Republican side.

Let me conclude by saying that this vote will not occur until tomorrow, but it is an important vote. I think it will demonstrate our willingness to continue to move this legislation forward.

I appreciate the consideration of this amendment and ask my colleagues to support it tomorrow.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senators KYL and CORNYN for this amendment. I thank them for the intense discussions and negotiations for which we have been able to get widespread support for this amendment; also, the Senator from Massachusetts, Senator KENNEDY, on the other side of the aisle.

Senator CORNYN and Senator KYL have focused attention very appropriately on one who is convicted of a crime, who would more likely, obviously, commit another crime. That is not what this bill is all about. I think these efforts bear fruit in this amendment, and they seek to bar the potentially dangerous criminal alien from taking advantage of this program.

The amendment specifically addresses individuals who have been convicted of one felony or three misdemeanors. It also addresses those who have just ignored our laws and thumbed their nose at our judicial system. But thanks to these negotiations, we allow individuals who may have been caught up in an unjust and unfair system to apply for a waiver and possibly have their cases reconsidered.

I believe that ultimately this amendment makes the bill better and our country safer.

I wish to again thank Senators KYL and CORNYN for their willingness to negotiate some questions that we had about a very small aspect of this bill. I think it preserves the very important intent of the Kyl-Cornyn amendment—that we will never allow people who have committed felonies or crimes to be eligible for citizenship in this country. I thank them for their efforts in this direction. I hope our friends on the other side of the aisle will have a chance to examine this amendment overnight, and perhaps we could dispense with it early in the morning.

There are a number of amendments on our side. I am told there are a number of amendments on the other side. I think we have made good progress today in addressing some of the major issues, but obviously we need to move forward. I hope my friends on the other side of the aisle will see fit to have a vote as quickly as possible so we can move on to other amendments.

I yield the floor.

Mr. KYL. Mr. President, I appreciate the comments of my colleague and

thank him, Senator GRAHAM, and Senator KENNEDY for their work in helping us to negotiate provisions of this amendment.

I join my colleague from Arizona in expressing the view that we should not take very long tomorrow to conclude the debate, and I hope we will receive substantial support for the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, for the record, I would like to compliment our staff because most of the hard work in this place goes on in some back room with our staff people trying to work through the problems of the bill. They have done a great job for Senators KYL, CORNYN, and MCCAIN. I am proud of what my staff has done, and particularly Senator KENNEDY's staff. We have all gotten good staff support on this issue.

Very clearly, succinctly, to the point, if you are a criminal, if you have committed a felony, if you have committed a crime or three misdemeanors, you don't get a second shot. Off you go. That, to me, is important.

Under the bill, we are trying to give people a pathway to citizenship that would be earned and that would add value to our country. Senators KYL and CORNYN have made this a better bill because the one thing we should all be able to agree on here is you are not adding value to the country when you openly admit people who are criminals, who are mean and hateful, and who keep breaking the law.

There is another group of people who are subject to deportation on the civil side. I think it is very fair that in a limited class of cases, we will allow people on the civil side subject to deportation a chance to make their case anew in terms of being eligible for a future guest worker program that may become our Nation's law based on the base bill.

Who are these people? If you are in a civil deportation hearing and you can demonstrate that you never received the order to leave, then we are going to give you a second shot. It is hard to comply with something you don't know about. That happens on occasion.

Second, we are going to allow you, on the civil side receiving a deportation order, to make an argument about how it would affect your family and take the human condition into consideration.

There is a unique group of people who come to this country—not by illegally crossing the border and overstaying their visa—who are one step ahead of a death squad in some foreign land. It could be Haiti or other places, it could be Cuba, with an oppressive Communist regime, and the only way they can get out of that country to come here is it make up a story that would keep them from being killed. What we are saying is, if you come into our country through an inspection system and you have to save your family from

an oppressive government or ahead of a death squad, we will let you tell us about that. We will sit down and figure out if it makes sense to make you part of this program.

There are not that many people, but we don't want to leave anybody behind that has a meritorious case to be made on the civil side. If you are a criminal, forget it. You have had your chance, and you have blown it. This, to me, makes the bill better, whether it is the underlying bill or not. This is a concept that is uniquely American.

If you believe in playing by the rules, as Americans do, and you hurt people, you are not going to get a second shot at hurting people again in our country. If you got caught up in a legal system that sometimes is complicated and you have a meritorious argument to be made and you have never hurt anyone, we are going to listen to what you have to say.

I am proud to be part of it. Senator KENNEDY has been very helpful. I hope we can get close to 100 votes. This is something that should bring us together. Senators KYL and CORNYN demonstrated the best of this body, reaching out, even though Members may not agree with the base bill, to try to find a way to make this part of the bill better.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, let me express my appreciation to the Senator from Arizona, the senior Senator, the Senator from South Carolina, for working with Senator KYL and myself on this amendment.

This whole subject is complicated and has so many different moving parts. What I mean by "subject," I mean comprehensive immigration reform. Sometimes I think people start with a deep skepticism about what other Senators are actually trying to do.

I hope as this amendment is accepted when we vote tomorrow, showing the alliance that has been created around this amendment, that our colleagues understand, even though there may be some who disagree with some aspects of the bill in the Senate, we are deeply committed to comprehensive immigration reform. We understand it is important we have border security, interior enforcement, worksite enforcement, a temporary worker program, and that we deal in a humane and compassionate fashion with the 12 million people who now live in our country in violation of our immigration laws.

Certainly, there are improvements that can be made to this underlying bill. This amendment is designed to do exactly that. It is ironic that it was first introduced well over a month ago and then, unfortunately, we were unsuccessful in getting a vote on the amendment. It now looks as if, through hard work, discussion and cooperation, the intent behind the amendment is better understood. It has already been eloquently explained by Senators KYL, GRAHAM, and MCCAIN.

Let me say the whole purpose of this amendment was to make sure that those who have already had access to our criminal justice system and our civil litigation system, and lost, cannot come back and get another second bite at the apple. This amendment clarifies whether certain convicted criminals are eligible for the benefits of the legalization program contained in the underlying bill.

To be clear, the underlying bill, without this amendment, would allow certain criminal aliens to get legal status. The underlying bill disqualifies aliens who are ineligible to obtain a visa because of certain criminal convictions. But this only means crimes that are defined as crimes involving moral turpitude or drug-related crimes.

Under the current bill, without this amendment, not all crimes—including some felonies—would bar an alien from obtaining legal status. Let me share quickly a few examples of crimes that do not automatically exclude an alien from getting a visa and therefore would not render an alien ineligible for legalization absent this amendment.

For example, someone who has been convicted of the crime of kidnapping; someone who has been convicted of the crime of weapons possession; for example, possession of a sawed-off shotgun. Another example would be alien smuggling. This amendment would make ineligible any alien who has been convicted of a felony or three misdemeanors.

Ironically, this provision, once this amendment is accepted, will bring this bill in the Senate up to par, basically, with the 1986 law which recognized that problem and excluded any alien that had been convicted of a felony or three misdemeanors. That is the basis upon which this amendment is offered.

I might also add, of course, those who have had an opportunity to have their cases adjudicated, to have their day in court, but simply thumb their nose at the law and have gone underground, those individuals who have already had a bite at the apple, have already had their day in court and lost and simply gone underground and defied their deportation order, they also would be excluded from the legalization benefits contained in the bill, subject to some of the exceptions and the extreme hardship provisions that Senator GRAHAM and others have discussed.

I very much appreciate my colleagues, including Senator KENNEDY, the manager of the bill on the minority side, indicating their positive response to this amendment. While there is no formal agreement, it is the sense that this amendment is likely to be accepted by overwhelming numbers.

It just goes to show if we continue to work together, talk to each other and try to work our way through our differences, we can make progress on the bill and actually improve it over the bill as proposed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, in view of some things that were said a couple weeks ago, let me close this out with a couple of brief comments.

At the time that Senator CORNYN and I first introduced this amendment, we speculated that it might ultimately result in 300,000, 400,000 500,000 people being denied the benefits of the legislation. However, there were those on the other side who said this was a poison pill, this was going to preclude everyone who came into the country illegally or overstayed a visa from getting the benefits of the legislation. We said: No, that is not true. It is cast narrowly by its terms. It talks about convicted felons, three misdemeanors, and the people who have avoided a court order or a judge's order that they leave the country. That is it.

Some on the other side said: We look at the language, and we think maybe this could apply to anyone who comes into the country illegally. By laying it down, you have created a poison bill. As a result, they would not permit a vote on the amendment. As a result, this legislation came to the end of the period of time, the end of the week, and the majority leader had to lay it aside so that the Senate could go on its recess.

Senator CORNYN and I never had an intention to bring the bill to a halt or to create some kind of a poison pill that would make it impossible for anyone to support the legislation if the amendment were agreed to. We simply were trying to point out that there was a deficiency in the bill. Serious criminals could become citizens of the United States. We felt that was wrong.

So we introduced the amendment and tried to explain at the time that was our sole motivation. Frankly, we could have dispensed with this amendment 3 weeks ago if our colleagues had simply gotten down to the debate, carefully read it, talked it out with us, and gotten a vote.

Because of a question that our colleagues raised that we referred to earlier this evening, we have made a couple of modifications to the amendment, demonstrating that we are perfectly willing to negotiate a provision if there is a sense that we should have done something a little bit differently, which we did.

I hope as we proceed to introduce other amendments to this legislation, that our colleagues on the other side will be willing to have votes. We wanted to have a vote on this earlier today or tonight or to lock in a time for a vote tomorrow. No, the other side said: No, we are not ready yet.

If we continue at this pace, we are not going to finish the bill by Memorial Day, as the majority leader has requested, as the President has requested, and as we are committed to do.

Our colleagues are going to have to do two things with respect to the rest of the debate on this bill: No. 1, to be willing to move with us to a quick con-

sideration of amendments, a reasonable time for debate, then a vote, and then move on to the next amendment. No. 2, instead of characterizing amendments in a way that is not correct and attributing political motives to those who are simply trying to point out deficiencies in the bill and correct them with these amendments, they ought to simply be willing to come to the Senate, have the debate, and then proceed to a vote on the amendment.

We are not in this to somehow try to stop the legislation as our repeated efforts to get a vote and move on have demonstrated.

I join my colleague from Texas in saying I appreciate the fact that, hopefully now, knock on wood, tomorrow morning, first thing, we will be able to have a vote on this amendment and not only vote on it but finally, having sat down and looked at it, our colleagues will say: This is an amendment we can support. It makes sense to deny citizenship to serious criminals.

If we can approach the other amendments in the same fashion we have finally gotten to with this amendment, we can actually finish this bill. I urge my colleagues to cooperate with us in that way.

Mr. CORNYN. Will the Senator yield?

Mr. KYL. I am happy to yield.

Mr. CORNYN. Mr. President, through the Chair, I inquire, isn't it a fact over the last few weeks on behalf of the Republican leadership, the Senator has tried to collect all of the potential pool of amendments and consolidate those amendments down into a reasonable number in a good-faith effort to try to move this process forward? We shared that list with our colleagues on the other side of the aisle. Does the Senator believe that demonstrates the good faith we have tried to demonstrate from the very start?

Mr. KYL. I thank the Senator from Texas.

Yes, we have tried to do that.

I see the distinguished minority leader is here, and I suggest the best way to get this bill quickly considered and finished is to lay down as many of the amendments as Members have ready and then have the minority and majority side work together to figure out the proper order of those amendments, to try to enter into time agreements. If we are able to do that, I don't have any doubt that working in good faith we can complete the work of this Senate before the Memorial Day recess on this important piece of legislation.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The distinguished Senator from Oklahoma has asked that I indicate that we have no objection to his being in the queue.

As has been announced by the distinguished manager of the bill, the Senator from Pennsylvania, we are going to take up the Kyl amendment, the Obama amendment, and then we are going to go to Sessions, then a Democrat, and as far as we are concerned on

our side, we have no objection whatever to Senator INHOFE being the next Republican amendment in order.

I have not checked with the majority leader, and if there is a problem, I can change it, but I ask consent that be the case.

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

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, I thank the minority leader for that quick response to my request. I know we are all anxious to get as many amendments up and taken care of as possible.

I know we cannot do this until probably tomorrow sometime, and it is our understanding there is now a unanimous consent for Senators KYL, OBAMA, SESSIONS, a Democrat, and then me. With that, if no others want to be heard on the amendments, I would like to visit about the amendment we will take up tomorrow.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, in his speech, the President endorsed the idea that people immigrating to this country should assimilate and learn English.

I will quote from his speech:

... We must honor the great American tradition of the melting pot, which has made us one nation out of many peoples. The success of our country depends upon helping newcomers assimilate into society, and embrace our common identity as Americans. Americans are bound together by our shared ideals, an appreciation for our history, respect for the flag we fly, and an ability to speak and write the English language. English is also the key to unlocking the opportunity of America. English allows newcomers to go from picking crops to opening a grocery ... from cleaning offices to running offices ... from a life of low-paying jobs to a diploma, a career, and a home of their own. When immigrants assimilate and advance in our society, they realize their dreams ... they renew our spirit ... and they add to the unity of Americans.

Last November, speaking to an audience in Davis-Monthan Air Force Base in Tucson, President Bush again stated his support for immigrants to learn English. He said:

Every new citizen of the United States has an obligation to learn our custom and our values, including liberty and civic responsibility, equality under God and tolerance for others, and the English language.

So this has been very specific. Ronald Reagan addressed it many times, certainly, in the State of the Union Message. I recall being here in 1999, when President Bill Clinton at that time said:

Our new immigrants ... have a responsibility to enter the mainstream of America. That means learning English.

It goes on and on and on. I think almost every Member has at one time or another talked in the Senate about the reasons it is necessary for the English language to be part of any kind of an immigration bill.

Today, once again, I am offering my English amendment, No. 3996, along

with my colleagues, Senators SESSIONS, COBURN, BURNS, BUNNING, and others. My amendment follows Congressman PETER KING's bill, H.R. 4408, as well as Senator SHELBY's bill, S. 323, from the 105th Congress, by making English the official language and requiring all official business of the United States to be conducted in English.

It also allows exceptions. This is very important because arguments have been made against it. But there are exceptions where our law specifically says something should be done in another language, such things as protecting someone's legal rights to make sure they understand what their privileges are, what their responsibilities are when they are served.

Also, recently, when we experienced Hurricane Katrina, where an evacuation order was issued, that order could be delivered by the Federal Government in necessary languages to get the message out.

So we have taken care of these problems.

I would suggest there are three main reasons to adopt this amendment. One is for unity and assimilation. To begin with, as the President has said numerous times, learning English is vital to achieving assimilation, assimilating yourself into society. So many people are looking at illegals who are coming over and getting jobs, but they do not stop and think about the fact that in order to become a citizen, you have to assimilate into society so you can enjoy the benefits. They do not come naturally. You have to make it happen.

President Theodore Roosevelt echoed this point at a luncheon for the National Americanization Committee on February 1, 1916. He said:

Let us say to the immigrant not that we hope he will learn English, but that he has got to learn it. . . . He has got to consider the interest of the United States or he should not stay here.

It goes all the way back for many years. Our leaders have reiterated this. Our country is made up of immigrants from all over the world, immigrants who have joined together under common ideas, common beliefs, and a common language to function as "one nation under God."

As we allow great numbers of immigrants, legal and illegal, into the country, we are overwhelming the assimilation process and creating what some have called "linguistic ghettos," segregating these immigrants into a massive underclass who are not able to obtain good-paying jobs and climb out of poverty and Government dependency.

By not requiring immigrants to assimilate and learn English, we are also undermining our unity and importing dangerous, deadly philosophies that go against our American ideals.

September 11 is an example of this, as Muslim extremists executed their jihadist philosophy against the United States and caused thousands of Americans to lose their lives.

The second thing to be considered is the cost. The Office of Management

and Budget estimates that it costs taxpayers between \$1 billion and \$2 billion to provide language assistance under President Clinton's Executive order that came out during his Presidency.

There are also enormous costs associated with the mandate that local governments provide multilingual ballots. For example, Los Angeles County taxpayers spent over \$1.1 million in 1996 to provide multilingual voting assistance in Spanish, Chinese, Vietnamese, Japanese, and Filipino, according to a GAO report.

In 2002, Los Angeles's multilingual election costs more than doubled to \$3.3 million, according to the Associated Press.

The third reason is, this is something the American people want. All the American people want it. I have never seen anything polled more consistently than this issue has been polled. Three national associations are dedicated solely to this amendment: U.S. English, English First, and Pro-English.

Senator SPECTER's Judiciary Committee invited this amendment in the Legislative Directors' meeting in the Republican Policy Committee by saying it "welcomed amendments on English" as a means to enhance "assimilation" of immigrants.

This issue has raised millions of dollars in direct mail over the years. These donors must include populists, given the huge levels of support. No other amendment has been more thoroughly vetted. This concept has been around for decades, indeed, for centuries. Historically, the legislation has been bipartisan.

In 1997, several of us joined Senator SHELBY in his official English bill. It was a bipartisan bill with 21 cosponsors, including Democrats Hollings and BYRD and many others. And over 150 current Members of the House of Representatives have cosponsored official English legislation.

Most of the States—27—have made English their official language. This is kind of interesting. The vast majority of the States, on their own, on a State basis, have made English the official language.

There are 51 nations around the world that have made English their official language, but we have not. Now, can you explain to me why Gambia, Ghana, Liberia, Nigeria, Sierra Leone, Uganda, Zambia, and Zimbabwe have made English their official language, yet the United States has not?

The pollsters, consistently over the last 20 years, have all shown positive results at levels in the 80s, the 80-percentile range. In 1988, G. Lawrence Research showed 87 percent favored English as the official language, with only 8 percent opposed and 5 percent not sure.

A 1996 national survey by Luntz Research asked: Do you think English should be made the official language of the United States? Eighty-six percent of Americans supported making

English the official language. Only 12 percent opposed it.

Eighty-one percent of first-generation immigrants, 83 percent of second-generation immigrants, and 87 percent of third- and fourth-generation immigrants supported making English the official language.

I think a lot of people have this misunderstanding that this is some kind of a protectionist issue. Yet the vast majority of Latinos, the vast majority of immigrants have supported this, also.

In 2000, Public Opinion Strategies showed 84 percent favored English as the official language, with only 12 percent opposing.

Ninety-two percent of Republicans, 76 percent of Democrats, and 76 percent of Independents favor making English the official language. That is according to a 2004 Zogby International poll.

Another Zogby International poll question on official English—this poll is a month old, conducted between March 14 and 16 of 2006—said: Five out of six likely voters support official English. When informed the United States has no official language, five out of six likely voters—84 percent—agree the country should make English the official language. The majority of Hispanic voters support official English. An overwhelming majority of likely Hispanic voters—71 percent—agree the country should make English the official language.

A bipartisan majority support official English. Official English is not an "extreme" position. Eighty-four percent of self-identified "moderate" voters support English as the official language.

Hispanics also agree learning English is important. So it is not just that it is the right thing to do, it is what they can do for themselves. The National Council of LaRaza, which opposes official English, commissioned a 2004 Zogby poll showing that Latinos believe in the importance of learning English. Over 97 percent strongly agreed that "the ability to speak English is important to succeed in this country."

In south Florida, Hispanics back English, according to a 2005 University of Miami School of Communications/Zogby International survey. "How important is it for Hispanics who immigrate to the United States to adopt American culture?" Seventy percent said it is very important. These are Hispanics who are responding.

The December 2002 Pew Hispanic Center/Henry J. Kaiser Family Foundation National Survey of Latinos asked:

Do you think adult Latino immigrants need to learn English to succeed in the United States or can they succeed even if they only speak Spanish?

About 9 in 10—89 percent—of Latinos indicate that they believe immigrants need to learn to speak English to succeed in the United States.

And this goes on and on and on. There should not be any question in anyone's mind that one of the most

popular notions out there is for us to adopt English as the official language.

Finally, according to ProEnglish, a group dedicated to making English the official language, one out of every five Americans speaks a language other than English at home.

Referring to immigrants speaking English in our country, Congressman STEVE KING of Iowa said:

I don't think the immigrants are the problem; I think it is the people at the border that are telling them that they don't have to learn English, should not have to and keep them in these cultural enclaves so that then allows them to control the immigrants and gives them political power.

I believe we are doing a great disservice if we do not recognize this as one of the true, great issues of our time. There is no more appropriate time than during the consideration of this immigration bill to bring this out and finally do something we have talked about doing now for over 100 years and getting it done and getting it done on this bill.

Mr. President, let me repeat how much I appreciate the minority leader allowing me to get into the queue. We look forward to having this debated and voted on tomorrow.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

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

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

#### 20TH ANNIVERSARY OF TOYOTA IN GEORGETOWN, KENTUCKY

Mr. MCCONNELL. Mr. President, 20 years ago I was pleased and proud to help welcome Toyota to Kentucky. I rise today, equally pleased and proud, to congratulate Toyota on its 20 years of success in the Commonwealth and to wish them much continued success for the future.

Toyota provides 7,000 jobs in the Georgetown, KY, plant that it opened 20 years ago, and the company's manufacturing operations in Kentucky produced half a million American-made cars last year alone. In fact, the Toyota Camry, which is manufactured in Kentucky, has been the most popular model on the American market for the last 4 years and eight times in the past 9 years. Beginning this fall, Toyota will bring the future of automotive technology to Kentucky with the pro-

duction of the environmentally friendly Camry Hybrid. The Georgetown plant will produce 4,000 models a month.

Since it arrived in Kentucky, Toyota has invested more than \$5 billion in its operations. This includes the manufacturing site in Georgetown; Toyota's North American Parts Center-Kentucky, the company's largest parts-distribution center in the world, in Hebron, KY; and its North American manufacturing headquarters in Erlanger, KY. Together, these businesses provide about \$500 million a year in paychecks to Kentucky workers. More significantly, Toyota has become an anchor for related suppliers and vendors that provide thousands more jobs for Kentuckians.

Toyota has provided an important economic lesson on the value of insourcing. Some have bemoaned the loss of American jobs to overseas firms. Well, we in Kentucky are proud to have nurtured one of the first and most successful efforts by an overseas manufacturer to bring jobs here. Toyota and Kentucky both have benefited greatly from this partnership over these last 20 years.

And Kentucky has gained more than just jobs—Toyota has proved to be a model member of the business community. It supports education, computer literacy in the workforce, the University of Kentucky Children's Hospital, and many other worthy causes across the Commonwealth. Many Kentuckians have benefited from Toyota's generosity, and we are all happy that Toyota chose Kentucky as its major center for U.S. operations two decades ago.

Mr. President, I ask my colleagues to join me in congratulating the thousands of Kentuckians who work for Toyota for their dedication to achievement and success, both on the job and in their communities. Kentucky is still reaping the rewards of its 20-year partnership with Toyota, and we hope to continue to do so for years to come.

#### HONORING OUR ARMED FORCES

STAFF SERGEANT LANCE M. CHASE

Mr. INHOFE. Mr. President, I rise today to remember a fallen son of Oklahoma who died while defending his Nation, SSG Lance M. Chase.

Staff Sergeant Chase grew up in Midwest City Oklahoma and graduated from Midwest City High School in 1991 after playing football there. He was also an avid fisherman and fan of NASCAR. Before joining the Army in 1995, Staff Sergeant Chase spent 20 months working for the Oklahoma City Sheriff's Office as a detention officer alongside his father who is a Reserve officer and member of the sheriff's bomb squad.

Staff Sergeant Chase was assigned to 1st Battalion, 12th Infantry Regiment, 4th Infantry Division at Fort Hood Texas. There he trained other soldiers on how to maintain and move M1A2 Abrams tanks and was an honored

marksman. After returning from his first tour of duty in Iraq, he got involved with efforts sending books and hygiene products to the Iraqi people. He told his wife Kristen that his biggest joy was seeing Iraqi children returning to their local schools.

Before Staff Sergeant Chase went to Iraq, he told his two sons—Brett, who is 11 years old, and Trevor, who is 9 years old, that he would rather fight this type of terrorist war on their soil than to fight it on our own soil where his children would be in danger. Staff Sergeant Chase was in his second tour of duty in Iraq on January 23, 2006, when his M1A2 Abrams tank was hit by an improvised explosive device in Baghdad, Iraq. He was 32 years old. SSG Chase clearly understood our mission in Iraq and felt that he had helped to make the lives of the Iraqi people better. Staff Sergeant Lance M. Chase deserves to be remembered for the fine soldier that he was and the sacrifice that he made for us.

STAFF SERGEANT JOHN G. DOLES

Mr. President, I wish to honor a brave soldier from Oklahoma who gave his life in service of this Nation. SSG John Doles of the U.S. Army embodies the spirit and values that have protected this country's freedom and continue to spread hope to the far corners of the world.

Sergeant Doles was an "all-American kid" he grew up in Chelsea, OK, riding horses and playing football. Sergeant Doles joined the Army in 2000 and attended Airborne School at Fort Benning, GA. He went on to become a Ranger and told his father that this was what he wanted to do with his life because he loved his country.

Sergeant Doles was also a devoted family man. He left behind a wife, Heather, and two children, Logan and Breanna. After his tour in Afghanistan, he planned to reenlist and become an instructor at the Army Ranger Camp at Fort Benning, GA, so he could be closer to his family.

Sergeant Doles was no stranger to the hazards of duty. He participated in one of the largest combat jumps since World War II. His unit parachuted into northern Iraq in March of 2003 with the "Red Devils." This major operation assisted in the swift liberation of Iraq. Sergeant Doles was a squad leader of about a dozen soldiers with the 1st Battalion, 508th Infantry Regiment, part of the 173rd Airborne Brigade. On Friday September 30, 2005, he was killed in an ambush in Shah Wali, Afghanistan. He was 29 years old.

Sergeant Doles gave his utmost to his family and his country. He has left behind many who saw firsthand what a true hero he was. As a son of Oklahoma and a fine example of what this country stands for, Staff Sergeant Doles deserves our honor and remembrance.

PRIVATE FIRST CLASS TRAVIS J. GRIGG

Mr. President, I rise today to honor the memory of a remarkable man. PFC Travis J. Grigg was an Oklahoman through-and-through: a hard worker,