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

The question is, Is it the sense of the Senate that debate on the nomination of Leslie Southwick to be United States Circuit Judge for the Fifth Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''nay.''

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

The result was announced—yeas 62, nays 35, as follows:

[Rollcall Vote No. 392 Ex.]

YEAS—62

Akaka	DeMint	Lugar
Alexander	Dole	Martinez
Allard	Domenici	McCain
Barrasso	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Feinstein	Pryor
Bunning	Graham	Roberts
Burr	Grassley	Salazar
Byrd	Gregg	Sessions
Carper	Hagel	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Inouye	Stevens
Collins	Isakson	Sununu
Conrad	Johnson	Thune
Corker	Kyl	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	

NAYS—35

Baucus	Kerry	Obama
Bayh	Klobuchar	Reed
Biden	Kohl	Reid
Bingaman	Landrieu	Rockefeller
Brown	Lautenberg	Sanders
Cantwell	Leahy	Schumer
Cardin	Levin	Stabenow
Casey	McCaskill	Tester
Clinton	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murray	Wyden
Harkin	Nelson (FL)	

NOT VOTING—3

Boxer	Dodd	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 35. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the Senate advise and consent to the nomination of Leslie Southwick to be United States Circuit Judge for the Fifth Circuit.

Mr. REID. Mr. President, I ask for the yeas and nays.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''nay.''

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

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 393 Ex.]

YEAS—59

Akaka	DeMint	Lugar
Alexander	Dole	Martinez
Allard	Domenici	McCain
Barrasso	Dorgan	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brownback	Feinstein	Pryor
Bunning	Graham	Roberts
Burr	Grassley	Sessions
Byrd	Gregg	Shelby
Chambliss	Hagel	Smith
Coburn	Hatch	Snowe
Cochran	Hutchison	Specter
Coleman	Inhofe	Stevens
Collins	Isakson	Sununu
Conrad	Johnson	Thune
Corker	Kyl	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	

NAYS—38

Baucus	Inouye	Obama
Bayh	Kerry	Reed
Biden	Klobuchar	Reid
Bingaman	Kohl	Rockefeller
Brown	Landrieu	Salazar
Cantwell	Lautenberg	Sanders
Cardin	Leahy	Schumer
Carper	Levin	Stabenow
Casey	McCaskill	Tester
Clinton	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murray	Wyden
Harkin	Nelson (FL)	

NOT VOTING—3

Boxer	Dodd	Kennedy

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President is notified of the Senate's action.

Mrs. CLINTON. Mr. President, I opposed the nomination of Leslie Southwick to serve a lifetime appointment on the U.S. Court of Appeals for the Fifth Circuit. His tenure as a judge on the Mississippi Court of Appeals reveals a record that fails to honor the principles of equality and justice and demonstrates a disregard for civil rights.

The American people deserve Federal judges—regardless of who nominates them—who are dedicated to an even-handed and just application of our laws. In case after case, Judge Southwick has demonstrated a lack of respect and understanding for the civil rights of all Americans, and particular indifference towards the real and enduring evils of discrimination against African Americans and gay and lesbian Americans.

After reviewing his judicial opinions and examining his qualifications, I have concluded that Judge Southwick's regressive civil rights record should disqualify him from serving a lifetime appointment on the Court of Appeals for the Fifth Circuit. I urge the President to select judicial nominees who embrace the principle that all are equal under the law.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEVELOPMENT, RELIEF, AND EDUCATION FOR ALIEN MINORS ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. There will now be 20 minutes of debate equally divided before a cloture vote on a motion to proceed to S. 2205.

The majority leader.

Mr. REID. Mr. President, I am going to use my leader time so it does not interfere with the 20 minutes allocated.

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

Mr. REID. Mr. President, earlier this year, we had a chance at comprehensive immigration reform. I agree with the President of the United States that we should do comprehensive immigration reform. President Bush and I, I repeat, were in agreement. That effort brought people together from both sides of the aisle, from all parts of the political spectrum. We agreed our current immigration system works well for no one. That effort brought Democrats and Republicans together in pursuit of a common good.

Many of us then were profoundly disappointed when this issue was stopped, not because of the President, but by Republicans in the Senate and a few Democrats. It was a real disappointment to me. We had spent so much time on the floor trying to move forward on comprehensive immigration reform.

I continue to believe that tough, fair, practical and comprehensive reform is the only way to get control of our broken immigration system and restore the rule of law. I remain committed to enacting comprehensive legislation as soon as we can. But until we can once again look forward to comprehensive immigration reform, we should, at the very least, enact the DREAM Act. We tried to offer this crucial legislation as an amendment to the Defense authorization bill, but we were blocked from doing so by a small number of Republicans.

At that time, I committed to moving the DREAM Act for a vote before November 16. Today, that is where we are. We now turn to the DREAM Act as stand-alone legislation, and I once again rise to offer my strong support for this legislation. Anyone who believes as I do that education unlocks doors to limitless opportunity should join me in voting for this legislation.

We should vote for this legislation because the DREAM Act recognizes

that children should not be penalized for the actions of their parents. Many of the children this bill addresses came here when they were very young. Many don't even remember their home countries—in fact, most of them don't—or speak the language of their home countries. They are as loyal and devoted to our country as any American. Only children who came to the United States when they were 15 years old or younger and have been in the United States for at least 5 years and are now not yet 30 years old can apply. Those who are eligible must earn a high school diploma, demonstrate good moral character, and pass criminal and security clearances. They must also either go to college or serve in the military for 2 years.

I have met many star students in Nevada who qualify for the DREAM Act. With it, their futures are limitless. Without it, their hope is diminished greatly. What a waste it is to make it more difficult for children—children in our country—to go to college and get jobs or join the military when they can be making meaningful contributions to their communities and to our country. What good does it do anybody to prevent these young people from having a future? The answer is it does no good. It harms children who have done no wrong, and in the long run it greatly harms our country's economy.

I very much appreciate the hard work of Senator DURBIN and Senator HATCH to bring this legislation to the floor. They have worked tirelessly to ensure this important bipartisan bill does not go away. We must now invoke cloture and pass this bill. Vote cloture and move to this legislation. If we do, we will put the American dream within the reach of far more children in Nevada and across America who want nothing more than a fair chance at success. That will be an accomplishment of which we can all be proud.

A lot of what we do is based on personal experiences. My memory goes back many years to a small rural community in Nevada called Smith Valley. It is one of the few farming areas we have left in the State of Nevada. It is a beautiful place. I spoke to an assembly at a small school, and I could tell this young lady wanted to speak to me when I finished. She was embarrassed, of course. But I asked her if she wanted to talk to me, and she was embarrassed—clearly embarrassed. She said words to this effect: I am the smartest kid in my class. I am graduating from high school soon. I can't go to college. My parents are illegals.

I have thought about that so much. I don't know where she is today. Is she doing domestic work someplace? What is she doing? She should have been able to go to college. Not a free education—that isn't what this bill calls for—but an opportunity to go to college.

In Reno and in Las Vegas we have scores of gangs—many of them Hispanic gangs—doing illegal things much of the time. Not all the time but much of the time. There is no question—I have been told by police officers, by high school counselors—that this legislation would give children an alternative, an alternative to going into the gangs.

So I appreciate this legislation. It is all-American legislation, which is so important for what we want to accomplish in this country. I would hope my fellow Senators will allow this legislation to move forward by voting yea on the motion to proceed.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, every once in a while we disagree with the majority leader. In this case, I do. When he says the immigration bill brought us together, it didn't bring us together. Let us remember what happened, though. The immigration bill: We came in on a Monday and expected to vote on a bill that no one had seen until Saturday afternoon. Now, this is another sudden thing upon us, and let us keep in mind this is an amnesty bill. We are talking about people who came to this country illegally, regardless of age.

This says: If you have lived in the United States for more than 5 consecutive years, even though you came in illegally, and if you entered this country at age 16 or before—and you could have been here for as long as 14 years illegally, because they have the cutoff at age 30—then you will be getting a conditional, lawful permanent residence—a green card—for up to 6 years.

What can you do during that 6-year period? During that 6-year period you can actually bring in other members, parents and others, who were brought here illegally in the first place, so they can enjoy that same type of citizenship.

Now, I know I am prejudiced on this issue because I have had the honor of speaking at naturalization ceremonies. When you look at the people who have done it right, done it legally—they have learned the language and the history—this or any other type of an amnesty bill would be a slap in the face to all those who came here legally.

So I would ask the question: When do we learn? We went through this thing before. I know we try to fast-track these things so people will not catch on, but I can assure you, all of America is awake on this one and they know exactly what we are doing. This is another amnesty bill, and I believe we should not proceed to it.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish to commend Senator DURBIN and Senators HATCH, LUGAR, HAGEL, and MENENDEZ for their commitment to this bill. This legislation would allow young people who have grown up in the United States a chance at stability, and a chance to achieve the American dream by attending college or serving in our military.

I do not believe it is the American way to punish young people for the mistakes of their parents. When these young people have the opportunity to reach their potential by service in our Armed Forces or through higher education, we all win. Opening the door to opportunity, not squandering the potential of young people, is part of what America is all about.

So let us take a first step toward sensible immigration policy and move beyond the rhetoric and give these people a chance of fulfilling the American dream.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in today's New York Times.

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

[From the New York Times, Oct. 24, 2007]

A CHANCE TO DREAM

The Senate has a chance today to pluck a small gem from the ashes of the immigration debate. A critical procedural vote is scheduled on the Dream Act, a bill to open opportunities for college and military service to the children of undocumented immigrants.

Roughly 65,000 children graduate each year from high school into a constrained future because they cannot work legally or qualify for most college aid. These are the overlooked bystanders to the ferocious bickering over immigration. They did not ask to be brought here, have worked hard in school and could, given the chance, hone their talents and become members of the homegrown, high-skilled American work force.

The bill is one of the least controversial immigration proposals that have been offered in the last five years. But that doesn't mean much. Like everything else not directly involving border barricades and punishment, it has been branded as ''amnesty,'' and has languished.

But this bill is different, starting with its broad, bipartisan support, from its original sponsor, the Utah Republican Orrin Hatch, to its current champion, Richard Durbin, Democrat of Illinois. Repeated defeats have forced Mr. Durbin to pare away at the bill's ambitions. It focuses now on a narrow sliver of a worthy group: children who entered the country before age 16, lived here continuously for at least five years and can show good moral character and a high school diploma. They would receive conditional legal status for six years, during which they could work, go to college and serve in the military. If they completed at least two years of college or military service, they would be eligible for legalization.

These young people—their numbers are estimated at anywhere from a million to fewer than 100,000—are in many ways fully American, but their immigration status puts a lock on their potential right after high school. They face the prospect of living in the shadows as their parents do, fearing deportation to countries they do not know, yearning to educate themselves in a country that ignores their aspirations.

The Dream Act rejects that unacceptable waste of young talent. The opportunity is there, provided the votes are there in the Senate.

Mr. LEAHY. I yield the floor, and I yield the remainder of my time to Senator DURBIN.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, many speeches are made on the floor, many amendments are offered, many bills, and many resolutions. Very few of them cause a ripple. A handful of people may follow them closely, a handful of people may care. The DREAM Act is a different thing. The DREAM Act is a bill which I thought about and introduced years ago, and it has finally reached this moment of truth where it comes to the floor of the Senate. The reason why this bill will be noticed is that literally thousands of young people across America know that their fate and future will be determined by this vote.

Yesterday, I had a press conference with three of these young people. A Congressman from the State of Colorado sent out a press release arguing that these three young people should be arrested in the Capitol. Of course, he didn't take the time to determine that they are all here now with the understanding of and disclosure to the Department of Homeland Security. But his press release is an indication of how badly this debate is going in America. To turn on these children and treat them as criminals is an indication of the level of emotion and, in some cases, bigotry and hatred that is involved in this debate.

America is better than that. America is a better nation than what we hear from the likes of that Congressman. What crime did these children commit? They committed the crime of obeying their parents; following their parents to this country. Do you think there was a vote in the household about their future? I don't think so. Mom and dad said: We are leaving. And the kids packed their suitcases and followed. That is their crime. That is the only crime you can point to. What did they do after they got here? To qualify under the DREAM Act, they had to make certain they didn't commit a crime while living in America; they had to have good moral character and beat the odds and graduate from high school. That is the only way they can qualify for this.

Then what do we say? Not enough. If you want to be legal in America, you have to do one of two things: Volunteer to serve in our military, to risk your life for America, and then we will give you a chance to be citizens. But even that is not good enough for some. Some argue, no, we don't want them in our military. We don't need them. Well, the people involved in our military know better. They know these are the kind of bright, promising young people who can serve our country with distinction and they tell us that.

What else could they do? They can pursue their education to show they are serious about making something out of their lives. These are the only two ways they get a chance. That is what the DREAM Act is all about.

I could go for an hour or more with stories of these young people whom I have met. They are hopeful and heartbreaking at the same time. They are hopeful stories because these are young people who have the same dreams my children have, the same dreams every American child has: to have a good life, a good family, and do something important in their lives. That is all they want.

The young woman from India I met in Chicago wants to be a dentist. The young man from Mexico, who is now pursuing his graduate degree in biomedical science, wants to go into research. A young girl from Texas is a graduate of nursing school but can't find a job because she is a person without a country. Tomorrow's teachers and engineers and scientists. All they are asking for is a chance. That is the hopeful side of it.

The heartbreaking side of it is these are kids without a country. They have nowhere to turn. Tam Tran, who is with us today and who joined me yesterday, has been through an arduous journey, starting in Vietnam, going to Germany, then coming to the United States. Her family can't return to Vietnam and face persecution, and Germany would not have her. She doesn't even speak German. Yet our government tells her: Leave. She graduated from UCLA. She wants to pursue a degree and be a professor.

Leave. We don't want you. Is that the message? If it is, it is the wrong message. Because time and again we are told we need talent in America to be a successful and prosperous nation. We are told we need to bring in talent from overseas with our H–1B visas and the H–2B visas. Well, how can we, on one side of the argument, say we need more talent and then turn these children away, turn these young people away? Give them a chance. Give them hope. Give them a chance to prove themselves in this country.

This bill puts them through a long process. It will not be easy. Some will not make it. Most will not make it. But those who do will make this a better Nation. Isn't that what we should be about?

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

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I would like to be recognized for 2 minutes, and if you can announce when that time has expired.

The PRESIDING OFFICER. The Senator will be notified.

Mr. VITTER. Mr. President, I think there are millions of Americans all around the country who wish no ill will on these minors whom we are talking about but are sitting at home following this debate, following this procedure, and scratching their heads and saying: Haven't these Members of Congress heard us? Don't they get it? Don't they understand what we have been saying loudly and clearly? Apparently, we don't.

I don't think the message could have been clearer from millions of Americans across the country this summer. They said during our debate on the overall so-called comprehensive immigration bill: No, you got it wrong. The enforcement in that bill is inadequate. It has not been accomplished. It is not done. We want that done first. And no, you got it wrong. We do not want amnesty.

Yet, even after that clear, compelling message from the American people, a message so overwhelming it shut down the Senate phone system the morning of the last vote which killed that bill, apparently a whole bunch of folks here still do not get it. They still are not listening. Because this is a bill which has no enforcement but does have clear amnesty.

The American people have no ill will toward these minors we are talking about. But they do have complete confusion with regard to what we are doing—not fixing the problem, making it worse. Inadequate enforcement plus amnesty, that is a recipe for disaster. They know that out of innate common sense. We do nothing to stop the magnet that attracts illegal aliens here because we have little or no workplace enforcement, in particular. Yet we continue with amnesty and other programs.

Please vote no, my colleagues, on proceeding to the DREAM Act.

Mr. GRASSLEY. Mr. President, I am voting against the motion to proceed to the DREAM Act today. Even though I support the end goal of this legislation; that is, to provide children with an education, I do not think the bill is perfect. I would like to see changes made. The bill didn't go through the proper channels and was not approved by the Judiciary Committee. Moreover, the majority leader has indicated that he will fill the tree and prevent the minority from offering amendments to the bill. ''Filling the tree'' by the majority leader is what this process is called and it freezes me out of offering amendments to improve the DREAM Act. For these reasons, I will oppose proceeding to the bill today.

Mr. FEINGOLD. Mr. President, I strongly support the DREAM Act. This bill would give promising children, who played no part in their parents' decision to come to this country illegally, the chance to earn legal status through college attendance or military service.

Some of my colleagues have suggested that this bill constitutes amnesty. But the term ''amnesty'' implies that these children did something wrong and are being absolved of the consequences of their actions. It is difficult to imagine how these children can be blamed for actions that their parents took when the children were too young to have any say. The United States does not visit the sins of parents on their children in other contexts and should not do so here. Furthermore, to call the bill ''amnesty'' ignores the fact that these children would be required to earn their legal status through academic achievement or military service.

The children who would be granted legal status under the DREAM Act are those who have shown through their actions that they can make an important contribution to our country. At a time when our economy and our military are in need, turning these children away squanders a valuable resource. It also leaves these children in a permanent limbo, as many of them have little or no knowledge of the country from which their parents came and have known no home other than the United States.

It serves neither justice nor our national interest to deprive these children of a future and to deprive ourselves of their potential contributions. That is why I support the DREAM Act, and I urge my colleagues to support it as well.

Mr. HAGEL. Mr. President, today, I rise in support of the DREAM Act, introduced by Senators DURBIN, LUGAR, and myself. Each year, thousands of hard-working students who graduate from American high schools are unable to attend college or serve in the military because of their illegal immigration status.

These young people were brought to the United States by adults who were breaking the law. In America, we have never held children responsible for their parents' sins. It is not the habit of the United States to punish children for the actions of their parents. Let's not start now.

Many have been in our country nearly their entire lives, and most have received their primary education here. They contribute to their communities and our country by earning higher education or serving in the Armed Forces. It is in our national interest that they be given the opportunity to do so. These young people were forced into an unfortunate position, which have made them outcasts in our society, yet they have proven their potential and ambition by meeting the several requirements necessary to be eligible under the DREAM Act for legal status. We need more young people to contribute to our country, not less.

The DREAM Act would make it possible to bring these young people out of shadows and give them the opportunity to contribute, work, and pay taxes—giving back to the communities in which they were raised.

The DREAM Act is not amnesty. It is a narrowly tailored piece of legislation that would help only a limited, select group of young people earn legal status. This is not an incentive for more illegal immigrants to enter our country. To be eligible for legal status under the DREAM Act, you must have good moral character, have graduated from an American high school, entered the country under the age of 15, and have been in the United States for at least 5 years. There is an end date to the DREAM Act.

The current system punishes children for the mistakes of their parents. The DREAM Act will provide a legal path for undocumented students to pursue the American dream based on their own accomplishments and hard work.

Immigration is a very complicated and difficult issue, for many reasons. Partly because we have deferred this issue for years. We have refused to take a responsible position on all the different aspects of immigration reform—incl1uding the DREAM Act.

Obviously border security is the core, the beginning of immigration reform. I am not aware of any Senator who has questioned or contested that point. In July, the Senate approved $3 billion in funding for border security and immigration enforcement—totaling $40.6 billion in overall funding for homeland security. From fiscal year 1993 to fiscal year 2006, the budget for the Border Patrol has tripled from $362 million to $1.6 billion.

That is not the debate. The debate, of course, resides around the difficult issues, the 11 to 12 million illegals now in this country. The debate elicits great and deep emotions and passion—and it should. We were sent here to deal with the great challenges of our time, to resolve the issues, find solutions, not go halfway. That is leadership.

Currently, we have provided no leadership for the American people. We have not had the courage to deal with it because it is political, because it is emotional, because it cuts across every sector and every line of our society. It is about national security. It is about autonomy and our future. It is about our society, our schools, our hospitals. That is difficult.

Who are we helping with the current situation that we have today? People stay in the shadows, we don't collect taxes, we don't have the complete involvement in communities that we have always had from our immigrants. There is a national security element to this. There is a law enforcement element to it, and there is certainly an economic element to it. Are we really winning? No, we are losing. We are losing everywhere.

You can take pieces of each and pick and choose which might make you more comfortable politically, but it doesn't work that way. It is all wrapped into the same enigma. It is woven into the same fabric. That is what we are dealing with.

It is leadership to take on the tough issues. Immigration is one of those issues which tests and defines a society. It tests and defines a country. And the precious glue that has been indispensable in holding this country together for over 200 years has been common interests and mutual respect. I don't know of an issue that is facing our country today that is more important, that is framed in that precious glue concept more precisely than this issue. Crafting something for the future, for our history, for our children, and for our society—that is what it is about.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I don't know whether I am in control of time or not, but how much time is left on this side?

The PRESIDING OFFICER. The Republican side has 5 minutes 47 seconds.

Mrs. HUTCHISON. Mr. President, parliamentary inquiry: How much time is left on the other side?

The PRESIDING OFFICER. The majority side has 3 minutes 3 seconds.

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I want to proceed on my leader time and preserve the remainder of time on this side for Senator SESSIONS.

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

Mr. MCCONNELL. Mr. President, earlier this year, a bipartisan group of Senators took up the issue of illegal immigration. It was clear from the debate that ensued that there are deeply held beliefs on both sides. It was also apparent that this is not a problem with a simple solution; it is one that requires time and consideration.

And to live up to the expectation of our constituents, it seemed clear to me that Congress must take steps to secure our borders and provide for our national security first. The Senate seemed to get the message, because it voted overwhelmingly in July to dedicate $3 billion in emergency spending to help promote our border and interior security.

I am disappointed my colleagues on the other side of the aisle are not continuing on the bipartisan path of enhancing our security. Instead, they are bringing up a controversial issue with the DREAM Act. This bill is an attempt to put illegal immigrants who graduate from a U.S. high school or obtain their GED on a special path to citizenship.

Though I recognize and appreciate the tremendous contributions to our country made by generations of immigrants, I do not believe we should reward illegal behavior. It is our duty to promote respect for America's immigration laws and fairness for U.S. citizens and lawful immigrants.

The DREAM Act fails that test and I will oppose it.

This is not an issue that can be solved in one day, and there are pressing matters which we must address.

Here we are, 4 weeks into the new fiscal year and we have yet to send a single appropriations bill to the President's desk. We should be focused on funding our troops in the field, ensuring our intelligence forces have the tools they need to find and catch terrorists, and holding the line on budget-busting spending bills.

The Internet tax moratorium expires in exactly 1 week. Unless we act soon, Internet users across the country will be hit with yet another tax.

And we still have yet to see any plan for addressing the looming middle class tax hike known as the alternative minimum tax. Secretary Paulson told Congress that we must act by early November if we don't want to see 50 million taxpayers ensnared in a confused

filing season next year. This deadline, too, is just around the corner.

We still have an enormous amount of work to complete, and we are running out of time.

I urge my colleagues to oppose this attempt to bring up a divisive issue, further delaying the essential, unfinished, business of the Congress.

The Senate has more than enough to do without also tackling issues that divide both this body and the Nation.

Mr. President, I wish to extend my time just 1 more minute.

It has been made clear to me in discussions that this will not be an open amendment process if we get on the bill. It is my understanding that the tree will be filled up, which, of course, would put the majority in control of deciding what amendments, if any, are offered. So this is not going to be an open debate, as far as I can tell.

Maybe the majority would decide to bless some amendment on this side and allow a vote on it. I guess that is possible. But for the balance of the people on this side of the aisle, on my side of the aisle, the Republican side, I want them to understand that even if we get cloture on the motion to proceed, there is certainly no guarantee that this will be an open process that will allow a broad array of amendments.

I yield the floor.

Mr. CORNYN. Will the Senator yield for a question?

Mr. MCCONNELL. I yield to the Senator from Texas.

Mr. CORNYN. Mr. President, I appreciate the comments made by the distinguished Republican leader with regard to the process we can anticipate and the fact that the majority leader has indicated he will fill the amendment tree, blocking any ability of any Senator, both on this side of the aisle and the other side of the aisle, to offer amendments to improve the bill or perhaps add other provisions that cry out for some remedy.

I ask the distinguished Republican leader whether the types of amendments or suggestions that have been discussed informally would include things like adding a requirement of securing the borders and having an enforceable system at the worksite, or a trigger, before any other provisions like the DREAM Act would be considered or implemented; whether it would also consider—for example, we know that in the agricultural sector there is a lot of concern about a shortage of workers—whether there would be an ability to provide an amendment which would allow for not a path to citizenship but for a temporary workforce to satisfy that need in the agricultural sector; or, for example, in places like Texas that are fast growing States, whether there may be an opportunity to offer any amendments that would provide for a temporary worker program—not a path to citizenship—that would satisfy the legitimate needs of American business? Are those going to be precluded under the plan by the majority leader?

Mr. MCCONNELL. Mr. President, I say to my friend from Texas, I don't know for sure, but the way the process will work—we have seen it before under majorities of both parties—is the majority leader has the ability to fill up the tree and then deny any amendments or pick amendments. Only the majority leader would be able to answer the question whether an amendment dealing with workplace enforcement or an amendment dealing with border security or, in the case of this Senator, an amendment dealing with the H–2A agricultural worker program, which is important to my State—all of that would be within the sole authority of the majority leader, who would pick and choose if any amendments were allowed, pick and choose which ones were given a chance to have a vote.

I say to my colleagues here on the minority side, we will have little or no control—or none, no control at all over what amendments would be allowed. It would be entirely controlled by the majority leader.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. How much time do we have on this side?

The PRESIDING OFFICER. The Republicans have 5 minutes 45 seconds.

Mr. MCCONNELL. I know Senator SESSIONS is seeking time. Is Senator HUTCHISON trying to get some of the time on our side as well?

Mrs. HUTCHISON. Mr. President, I was really trying to have an opportunity to ask Senator DURBIN a question and have a colloquy. I don't want to take from your time on that. I ask if I could have a colloquy with Senator DURBIN on his time?

Mr. DURBIN. Mr. President, there has been some conversation here about procedure. If you would be kind enough—if the minority side will allow me 2 minutes for a colloquy with Senator HUTCHISON, and I would offer the same 2 minutes——

Mr. MCCONNELL. Would that be off the time of the Senator from Illinois?

Mr. DURBIN. No, no. I asked consent for an additional 2 minutes. I have 3 minutes remaining, so it would be a total of 5 minutes, 2 minutes for a colloquy with Senator HUTCHISON and myself, and I would extend 2 minutes to the time of the minority side.

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

Mr. DURBIN. Unless the Senator from Alabama or Pennsylvania wants to speak, I would enter into a colloquy with Senator HUTCHISON at this point?

Mr. SESSIONS. Mr. President, I have no objection to that. I assume it is a colloquy—but I would not want to concede that rather small amount of time remaining on this side.

Mr. MCCONNELL. We would lose no time, as I understand it. We would end up, actually, with more time, 7 minutes, which will allow the Senator from Alabama to have 5 and the Senator from Pennsylvania to have the remaining 2.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, during the course of preparing this bill for the floor, I have been working on both sides of the aisle. I hope the vote in a few minutes will evidence that. I have had a constructive conversation with Senator HUTCHISON of Texas and Senator MARTINEZ of Florida and others about modifications of the DREAM Act. I believe the proposals they have made in principle are positive proposals that move us toward our goal.

I say to the Senator from Texas, and I certainly am going to open this to her comments when I finish, it is my intention to offer a substitute amendment as the first amendment that is brought forward by the majority, a bipartisan amendment with Senator HUTCHISON which will achieve our mutual goals. I hope we can reach that agreement in the next 30 hours, after this motion prevails. Failing that agreement, the minority is protected because it will require another cloture vote, another 60-vote margin before this bill moves forward.

So they have my word to work in good faith on the substitute bipartisan amendment. Failing that, their protection is a cloture vote which they could join in defeating.

I yield to my colleague from Texas if she has any comment or question.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate what the Senator from Illinois has said because I do believe there is a compromise approach to the DREAM Act that could have bipartisan support. As has been mentioned on the floor, there is no opportunity that has been laid out for a substitute to be considered. But the Senator from Illinois has given me his word. I have been working on something that I think would take us on the right path. This is such an important piece of legislation, and I do think this is isolated from the entire immigration issue because there——

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for 1 additional minute on both sides.

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

Mrs. HUTCHISON. Mr. President, there are young people who have been brought to this country as minors, not of their own doing, who have gone to American high schools, graduated, and who want to go to American colleges. They are in a limbo situation. I believe we should deal with this issue. We should do it in a way that helps assimilate these young people with a college education into our country. They have lived here most of their lives. If we sent them home, they wouldn't know what home is. There is a compassionate reason for us to try to work this out. But I will say, if we cannot work on a bipartisan amendment, we

will have another vote, as has been promised. I will vote against the Durbin bill. But if we can work on a bipartisan solution, we should try.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, how much time is left on this side?

The PRESIDING OFFICER. The Republicans now have 8 minutes 47 seconds.

Mr. SESSIONS. Mr. President, I yield 4 minutes to Senator SPECTER, please.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I believe that the DREAM Act is a good act, and I believe that its purposes are beneficial. I think it ought to be enacted. But I have grave reservations about seeing a part of comprehensive immigration reform go forward because it weakens our position to get a comprehensive bill.

Right now, we are witnessing a national disaster, a governmental disaster, as States and counties and cities and townships and boroughs and municipalities—every level of government—are legislating on immigration because the Congress of the United States is derelict in its duty to proceed.

We passed an immigration bill out of both Houses last year. It was not conferenced. It was a disgrace that we couldn't get the people's business done. We were unsuccessful in June in trying to pass an immigration bill. I think we ought to be going back to it. I have discussed it with my colleagues.

I had proposed a modification to the bill defeated in June, which, much as I dislike it, would not have granted citizenship as part of the bill, but would have removed fugitive status only. That means someone could not be arrested if the only violation was being in the country illegally. That would eliminate the opportunity for unscrupulous employers to blackmail employees with squalid living conditions and low wages, and it would enable people to come out of the shadows, to register within a year.

We cannot support 12 to 20 million undocumented immigrants, but we could deport the criminal element if we could segregate those who would be granted amnesty only.

I believe we ought to proceed with hearings in the Judiciary Committee. We ought to set up legislation. If we cannot act this year because of the appropriations logjam, we will have time in late January. But as reluctant as I am to oppose this excellent idea of the Senator from Illinois, I do not think we ought to cherry-pick. It would take the pressure off of comprehensive immigration reform, which is the responsibility of the Federal Government. We ought to act on it, and we ought to act on it now.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SESSIONS. Mr. President, I yield myself 4 minutes. I yield Senator DEMINT the remaining time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. SESSIONS. The Executive Office of the President of the United States, OMB, has issued a veto threat on this bill and said they will veto it because they believe it is not part of comprehensive reform, as Senator SPECTER said. They also go forward to note a number of specific problems with it.

They note that we:

[M]ust be careful not to provide incentives for recurrence of the illegal conduct that has brought the Nation to this point. By creating a special path to citizenship that is unavailable to other prospective immigrants—including young people whose parents respected our Nation's laws—S. 2205 falls short.

They go on to note:

This path to citizenship is unavailable to any other alien, no matter how much promise he or she may have, no matter how much he or she may contribute to American society.

They note that it would:

[A]llow illegal aliens to obtain a green card before many individuals who are currently lawfully waiting in line.

They note that they can:

[P]etition almost instantly to bring family members into the country.

By the way, it would be 1.3 million people admitted under this program, according to the Migration Policy Institute, a fair and objective—certainly not a conservative group, I will say it that way.

They go on to note that the persons would be ''eligible for welfare benefits within 5 years.'' The bill would be indiscriminate in who it would make eligible for the program through certain loopholes:

Certain aliens convicted of multiple misdemeanors and even felonies.

They note that it would be vetoed. So that is President Bush who has been strongly favoring immigration reform. I have disagreed with him consistently on many of his ideas.

Let me make mention of a couple of things that are fundamentally important. Most importantly, individuals are not going to take the military route. I would estimate at least 90 percent would take the option of just 2 years of college without any requirement to have to attain a degree.

I submit this will strike a dagger, most importantly, in the heart of the decided will of the American people which is to create a lawful system of immigration. It would put illegals ahead of legals. It will make clear that even after our national debate and vote a few weeks ago, the Congress still does not get it; that the Congress is still determined to stiff the will of the decent majority of American citizens; that the Senate will move forward with an amnesty bill that puts 1.3 million people on a swift and guaranteed path to citizenship, ahead of millions who applied and are waiting in line lawfully, to give them every right of citizenship this country has to offer.

That is what I think amnesty is, giving every single right that we have to offer to someone as a result of illegal conduct. So before—and this is important—before we make any real progress toward a lawful system of immigration, we have less than 100 miles of the 700 miles of fencing this Congress called for. There is no workplace enforcement. A modest attempt to do something like that has been blocked by the courts, and nothing has been followed up. There has been little or no—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent for an additional 30 seconds?

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. SESSIONS. I will just conclude by saying, this would be the wrong direction. This would be to signal that, once again, we are focused on rewarding illegality rather than taking the steps necessary to create a lawful system, and at that point we can more fairly go to the American people and ask them to consider what to do in a compassionate way for those here illegally.

I yield the remainder of the time to Senator DEMINT.

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute.

Mr. DEMINT. I appreciate the motives of those who sponsored the bill. It is true that by us not enforcing our laws over many years we have created a lot of tragic circumstances. But the solution is not to reward lawbreaking and create incentives for more illegal immigration in the future.

America has asked us to secure our borders, create a worker ID system, and an immigration system that works. If we do this, if we build that foundation, then the possibility of comprehensive reform becomes a reality.

I would encourage my colleagues not to chip away in the way of trying to provide compassion through amnesty, but let's fix the system like we promised and revisit this next year. Then, hopefully, we can achieve the comprehensive reforms that my colleagues have talked about. I urge my colleagues to vote against proceeding to this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. How much time remains?

The PRESIDING OFFICER. There is 3 minutes 8 seconds remaining.

Mr. DURBIN. Mr. President, what are we talking about? We are talking about children. We are talking about children who are brought to this country by their parents. Since when in America do we visit the sins and crimes of parents on children?

If a parent commits a crime, does that mean the child goes to prison? If a parent disqualifies himself or herself from American citizenship, does that mean the child can never have a chance? Is that what America has come

to amidst the confusion and distortion and vitriol on this debate on immigration, children such as Marie Gonzalez? She was brought to this country from Costa Rica by her parents at the age of 5. Her parents have been deported as illegals. Because I have made a special request, she has been allowed to continue to finish her college education at Westminister College in Missouri. Her goal is to be an American and to give to the only country she has ever known. Costa Rica is not her country; America is her country.

What we are talking about is turning these children out. And what sin, what crime did they commit? They obeyed their parents; they followed their parents. And for some, that is going to be a mark of Cain on their head forever in America. Is that what we are all about? Give these kids a chance. Meet them. Take time to see these children. Many of us have.

And what you will see in their eyes is the same kind of hope for this country we want to see in our own children's eyes, to be doctors and nurses and teachers, engineers, to find cures for diseases, start businesses, the things that make America grow.

Give these kids a chance. Do not take your anger out on illegal immigration on children who have nothing to say about this. They were brought to this country, they have lived a good life, they have proven themselves, they have beaten the odds. We need them.

Do not turn around and tell me tomorrow that you need H1–B visas to bring in talented people to America because we do not have enough. Do not tell me you need H2–B, H2–A, and all of the rest of them if you are going to turn away these children, if you are going to say: America doesn't need you, go about your business, find someplace in the world. Do not come back to me and tell me that we need a bigger labor pool and more talent in America.

How can we say no to hope? How can we say no to these kids when all they want is a piece of the American dream? Please, vote to proceed to the DREAM Act. I will work with Senator HUTCHISON on a bipartisan amendment. We will do our best. I think we can come up with something. Give us a chance. Give these kids a chance.

I yield the floor.

Mr. SESSIONS. Mr. President, I need to correct one statement I made previously. I said the President had issued a veto threat. He does not normally do that on a motion for cloture situation. It was a statement of objection for the bill without an explicit threat of veto.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 431, S. 2205, DREAM Act.

Richard J. Durbin, Robert Menendez, Daniel K. Inouye, Robert P. Casey, Jr., Joe Lieberman, Patty Murray, Jeff Bingaman, Jack Reed, Patrick Leahy, Charles Schumer, Daniel K. Akaka, Frank R. Lautenberg, Benjamin L. Cardin, John Kerry, S. Whitehouse, Barbara Boxer, Harry Reid.

The PRESIDING OFFICER. The questions is, Is it the sense of the Senate that debate on the motion to proceed to S. 2205, a bill to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote ''yea.''

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—52

Akaka	Hagel	Mikulski
Bayh	Harkin	Murray
Bennett	Hatch	Nelson (FL)
Biden	Hutchison	Nelson (NE)
Bingaman	Inouye	Obama
Brown	Johnson	Reed
Brownback	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Salazar
Carper	Lautenberg	Sanders
Casey	Leahy	Schumer
Clinton	Levin	Snowe
Coleman	Lieberman	Stabenow
Collins	Lincoln	Webb
Craig	Lott	Whitehouse
Durbin	Lugar	Wyden
Feingold	Martinez	
Feinstein	Menendez	

NAYS—44

Alexander	DeMint	Murkowski
Allard	Dole	Pryor
Barrasso	Domenici	Roberts
Baucus	Dorgan	Sessions
Bond	Ensign	Shelby
Bunning	Enzi	Smith
Burr	Graham	Specter
Byrd	Grassley	Stevens
Chambliss	Gregg	Sununu
Coburn	Inhofe	Tester
Cochran	Isakson	Thune
Conrad	Kyl	Vitter
Corker	Landrieu	Voinovich
Cornyn	McCaskill	Warner
Crapo	McConnell	

NOT VOTING—4

Boxer	Kennedy
Dodd	McCain

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I now tell all Members, I have had a conversation with the distinguished Republican leader, and we are going to make a decision in the next hour or so as to what we are going to go to next. We were planning, of course, to go to this legislation. Cloture on the motion to proceed was not invoked. We have a number of things we are talking about, and we will make that decision this afternoon.

Mr. President, I now ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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.

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

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

CALIFORNIA WILDFIRES

Mrs. FEINSTEIN. Mr. President, either my colleague Senator BOXER or I have updated the Senate each day on the California wildfire situation. Senator BOXER is in California now, and I believe the President is as well. I wish to give a brief update to the Senate.

So far, this is the largest evacuation of people in California history. It is the largest evacuation in the United States since Katrina. San Diego remains the worst of the burning regions.

As of this morning, the President has approved individual assistance programs that will allow FEMA, the Federal Emergency Management Agency, to make payments for rental assistance, home repair, and pay for some home replacement costs.

As soon as the fires die down and the wind in places is easing, FEMA will set up centers. I urge Californians, who have been evacuated from their homes, who have had their homes partially