

this issue to get it right. Hundreds of billions of dollars are at stake, and terrible consequences await American families and businesses as health care costs mount if we fail in our duty. While we still have the time before the economic, fiscal, and health consequences become too urgent for deliberate action, let us not fail in our duty. Let us grasp the controls of change.

I yield the floor.

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

#### ENERGY PRICES

Ms. CANTWELL. Mr. President, I rise this morning to talk about the high gas prices we are seeing all over America and certainly on the west coast, where Washington State is paying some of the highest gas prices in the Nation.

My point this morning is that we are approaching the Memorial Day weekend in which Americans will be remembering loved one and wanting to spend time with their families, but this Memorial Day might go on record as having the highest gas prices in our Nation's history. That means we in the Senate need to act on energy legislation that not only diversifies us off fossil fuels into more renewables and alternative fuels, as well as pass energy conservation measures, it also means we need to protect consumers with a strong bill that makes price gouging and market manipulation of energy markets illegal. We need to assure that there are tough Federal penalties on the books so that any kind of market manipulations will be met with fines and penalties.

I know many people think this is all just about supply and demand. It is pretty hard to tell the people of Washington State it is just about supply and demand when we have five refineries in the State of Washington and most of our oil comes from Alaska. And people say we are an isolated market. In fact, there are schools in our State that are feeling the brunt. One of the school districts in the Yakima Valley, where buses travel more than 2,200 miles each day, will have to spend about \$125,000 more this year on fuel. That is revenue which could go to books or hiring teachers or other needs for the school. In Spokane, the volunteers for Meals on Wheels, which usually delivers 350 meals a day to homebound elderly and disabled residents, are having to cut back on their routes. Another constituent called the office to say he was having trouble paying for gas he needed to make the 80-mile round trip to the Tri-Cities to get kidney dialysis for his wife. That loving husband said he was either going to have to quit his job or move closer to the facility so they could avoid paying high prices of gasoline. So while the pundits are talking about just supply and demand, my constituents and many constituents across this country are feeling the pain at the pump.

It is time that we act and pass the Cantwell-Smith bill, which we will have a chance to do when we return after the Memorial Day recess. This legislation is based on a New York law that has been held up in the courts and gives the Federal Trade Commission the ability to do the job that is needed to investigate potential market manipulation and price gouging. Many of the statutes that are on our books today are inadequate for looking at markets when there is a tight supply.

I heard a great deal about supply and demand during the Western energy crisis. For probably my entire first year in office, that is all we heard about from various people who wanted to say that the Enron problems were nothing more than supply and demand and the failure to build more capacity. In fact, when it came down to it, there was a lot more to this question than lack of supply in California. It turned out that there were elaborate schemes to manipulate energy markets, with names such as Death Star, Get Shorty, Fat Boy, schemes in which people deliberately took supply off line or manipulated it just to drive up prices by suppressing supply.

My colleagues have worked hard in the last several years to put into statute protections for consumers to make sure electricity and natural gas markets are not manipulated. This law is based on the same protections the Commodity Futures Trading Commission and the SEC use to make sure there is not manipulation in those markets. Why not have the same protection for consumers as it relates to oil and gasoline markets?

I hope that when we return, we will give great attention to this issue and not be swayed by those who think this is a simple market-demand issue. If we want to protect the consumers of this country, we will pass a strong law that gives the ability for Federal regulators to do their job. I believe there are real U.S. jobs, pensions, and businesses on the line if we do not act and act aggressively. The American people want to know that the Senate is going to stand up and do something about these record gas prices. They want to know that they are paying a fair and market-based rate for fuel and that they will continue to have the transparency in oil markets to make sure prices are reasonable and affordable, and they want to be sure we are empowering the right people to make sure an investigation takes place.

As I said, there is much that we need to do in the near term and the long term for our energy markets to diversify and to give consumers real choice at the pump, to make sure we are investing in conservation and fuel efficiency. But in the meantime, with tight energy markets, we need to make sure we are giving consumers the protection they need and to pass this legislation when we return after the recess.

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

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

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

#### IMMIGRATION

Mr. GRASSLEY. Mr. President, I am going to use time in morning business to discuss the very important bill that is before us that we will be going on in about 20 minutes, and that is the immigration bill. This sometimes is referred to as the "grand compromise."

It is no secret that I have had concern about the immigration issue, and now specifically this bill, and in my opinion it contains an amnesty program. I know around here those who are backing this "grand compromise" don't want us to use the word "amnesty," but I think if it walks like a duck and quacks like a duck, it is a duck. So I am going to refer to it as the amnesty program for illegal aliens already in the United States.

Not too many Senators today can say they voted for the 1986 amnesty bill. That was the Simpson-Mazzoli Act, the present law we are amending. I did vote for that amnesty bill, so, in a sense, I voted for amnesty. I am here to tell you that I felt at that time as though I were doing the right thing. I can also tell you that now, looking at history, it was the wrong thing to do. I thought then that taking care of 3 million people illegally in the country would solve the problem once and for all. I found out, however, if you reward illegality, you get more of it. Today, as everybody has generally agreed, we have 12 million people here illegally.

I did believe that bill would solve our problems, but it was not only short-sighted, the one we passed 20 years ago, it turned out to be unworkable. It was soft on enforcement and weak on legal reforms. We believed a legalization component was in the best interest of the country.

The American people, myself included, thought that illegal immigration would decline with an amnesty program. We were wrong. The 1986 legislation failed us, as well intended as it was. That was not a bill that went through very quickly. That bill was worked on over a period of 6 years, as we have been working on other immigration legislation at least over a 3- or 4-year period of time.

Today we are back as a body we call the Senate to put another bandaid on this issue. I don't blame the American people for being angry or rejecting the promises some are making that we will enforce our laws from now forward because I heard that same thing in 1986—from now forward. I think it is fair to say the people of this country are cynical on this issue. They don't have any

faith that the law is going to be enforced.

One specific aspect of this bill that is so concentrated on enforcement, first, before we do anything else, is called the trigger mechanism. I am going to talk about that trigger mechanism. Before I get to the amnesty program and trigger, I want to point out that the trigger that is included in this substitute, the trigger says the Y and the Z visa program would be subject to a trigger. I wish to point to the famous Trigger, Roy Rogers' Trigger. I think everybody knows about that Trigger. I point to that because I think, if Roy Rogers were here today—and he has been dead about 20 years—he would say: Boys, saddle up. There is going to be a rough ride ahead for us.

The "Trigger" is coming in handy today. He first galloped into this Chamber when I used "Trigger" during a budget resolution because there is a trigger in the budget resolution just adopted. Now "Trigger" is back for the immigration debate because there is a trigger mechanism in this bill.

You can see from the chart that Trigger is a very impressive-looking horse. He looks big and strong and probably can help do some of the chores around the farm. I am sure my grandkids would like to ride Trigger, if they knew he was safe to ride. This horse and its rider look very safe and confident. But I wish to make the point, in this bill, with a trigger mechanism, we can't trust the trigger in this bill. It is false and it is misleading and that is what I wish to point out.

I have heard Members of this body talk about how amnesty would not start until the trigger is pulled. It says on page 2, "with the exception of the probationary benefits," the Y and Z visa programs cannot start until certain actions and certain items are completed. So 12 million illegal aliens will apply and likely get a probationary card. This card gives the illegal alien a work authorization, a Social Security number, and protection from removal. That is problem No. 1. Amnesty is given away before we even get to the trigger.

I wish to talk about four of the key actions that the trigger requires. First, it requires the establishment of an electronic employer verification system. I am a champion for that concept—make the employer responsible for making sure the person is legally in the country. In fact, I wrote title III last year. It could be a very solid enforcement tool. But the trigger only says it needs to be established. It says nothing about requiring all businesses to use it. Under the compromise, employers would not be forced to use it until up to 3 years after the date of enactment.

Second, the trigger says that 18,000 Border Patrol agents have to be hired. According to the Department of Homeland Security, we already have 14,000 agents, so the trigger requires that 4,000 more are hired. Sure, we can hire

these agents. But the trigger doesn't require that the agents be trained and stationed and doing their job.

Third, the trigger says we have to construct 370 miles of real fence along the border. I understand this construction is currently underway. Congress authorized 700 miles of fencing in the Secure Fence Act of last year. We also provided billions of dollars for fencing and infrastructure last year. Why doesn't the trigger require that all 700 miles has to be constructed?

The trigger also says the Department of Homeland Security needs resources to detain up to 27,500 aliens per day on an annual basis. If they are caught, you have to have someplace to secure them. The problem is these spaces are full this very day.

How do these trigger actions, then, add to our present day enforcement? The impression is left by the author of the trigger—and I think it is the intent of that author and the "grand compromise"—that all these security provisions are going to be in place before any of the other provisions of the law, such as allowing legality of people here illegally—before those provisions can go into effect.

Fourth, the trigger requires the United States to end what we call the catch-and-release practice. Maybe it is late-breaking news to some around here, but we ended that practice already. Secretary Chertoff was on TV, telling the world on August 23, last year, that he ended catch and release.

However, further along in the bill it says—and it is referred to as OTMS, "other than Mexicans"—can be released into our community on a \$5,000 bond. The policy of catch and release will not end. This part of the trigger in my judgment is false and misleading.

There is a lot missing from the trigger. For example, title I of the compromise has border security requirements, but they are not in the trigger. The bill requires the Department to have a national border security strategy and surveillance plan. One would think a plan is necessary right away in order to secure the borders, not after the trigger is pulled.

The trigger does not include authorizations for a number of Homeland Security personnel. While the bill requires the Department to hire more investigators for alien smuggling and more interior enforcement personnel, these requirements are not part of the trigger.

I think, before an amnesty starts, we should require interior enforcement measures to be met. Our national security is not just a border issue.

Finally, I think the trigger should include something we have been trying to do since 1996, after the first attacks on the World Trade Center. Congress enacted a law that requires an entry and exit system to track all foreign travelers. That is known as the US-VISIT Program. We had to endure another attack in 2001 before people took the entry and exit system seriously.

We got it partly implemented, but the administration decided on their own that the exit portion was not worth the cost, so that 1996 mandate still remains ignored.

After 10 years, for us in Congress it is still like pulling teeth, trying to get an implementation schedule out of the agency bureaucrats. I think we should be ashamed that is not done yet. This trigger is not legitimate or worthy of the tradition of Roy Rogers. It is only a coverup for amnesty.

I wish to address the flaws that I found in title 6, the part of the bill that gives probationary status and Z visas to illegal aliens currently in the United States. I am simply going to list my top 15 flaws. I don't have time to go into them in great detail. I will be glad to supply more detail if people want it.

No. 1, probationary benefits are not subject to the trigger. Probationary benefits, including work authorization, protection from removal, and a Social Security number are granted to illegal aliens immediately, even if the alien's background check is not complete. I wish to emphasize that point—even if the alien's background check is not complete.

No. 2, many criminal provisions may be waived. Numerous criminal provisions are waived for eligibility purposes. For example, an alien who falsely claimed U.S. citizenship would be considered eligible for amnesty, even though it is a crime.

No. 3, background checks are taken too lightly. An illegal alien can apply for probationary status and a Z visa without thorough background checks. Immediately after the bill passes, the alien can apply for probationary legal status and receive a card, even if the alien's background check is not complete.

No. 4, illegal aliens are protected from removal. If an alien is in removal proceedings or being detained at the time of enactment, the alien can still apply for amnesty. Aliens who apply for amnesty cannot be detained or deported while their application is being processed, essentially giving them immunity from justice.

No. 5, terrorists and criminals can apply for amnesty. The Secretary of Homeland Security is allowed to waive the grounds of ineligibility for those who have an outstanding final administrative order of removal, deportation or exclusion. Currently, there are more than 637,000 alien absconders in the United States who have defied orders to leave.

No. 6, taxes. Illegal aliens are required to provide the Internal Revenue Service information about tax payments only when applying for legal permanent residence if that avenue is pursued. Illegal aliens can skirt the Federal, State and local tax laws because it is not a requirement to prove one has paid outstanding tax liabilities to get probationary or Z status.

No. 7 limits eligibility to illegal aliens. It creates a Z nonimmigrant

visa program for illegal aliens and illegal aliens only. No one else is eligible for this program, particularly those waiting their turn in line. Also, there is no cap on the number of eligible participants.

No. 8, indefinite renewal of the Z nonimmigration visas. Z nonimmigrant visas are valid for 4 years and may be renewed indefinitely. This is a disincentive for illegal aliens to pay the \$4,000 penalty, touch back to their own country, and prove that they paid their taxes or receive a very important medical exam.

No. 9, health standards are ignored. No medical exam or immunizations are needed to get a Z visa.

No. 10, there is no incentive to learn English. There is no English requirement to get a Z visa. Each Z nonimmigrant must only demonstrate "an attempt to gain an understanding of the English language" upon the first renewal of the Z visa. There are waivers even for that requirement.

No. 11, green card applicants are not required to return to their home country. Green card applicants, only for the principal alien, must be filed in person outside the United States but not necessarily in the alien's country of origin.

The alien can then reenter, likely on the same day, under a Z nonimmigrant visa because it serves as a valid travel document. Again, there are exceptions for the requirement.

No. 12: Fault with these provisions. Fines are, quite frankly, false and misleading. Not everyone is required to pay the \$5,000 penalty. The principal alien pays some fines and fees, and the dependents only have to pay a processing and State-impact fund fee. To get a green card, if an alien intends to pursue this route, a Z-1 nonimmigrant must pay a \$4,000 penalty. Z-2 and Z-3 aliens are only required to pay application fees.

No. 13: Fines will not adequately pay for the cost of amnesty. The bulk of the monetary fines are required at the end of the program. All fines may be paid in installments, and waivers are available in extraordinary circumstances.

No. 14: Impact on State and local government. State impact money will be granted to States to provide services for noncitizens only, instead of providing services to all citizens impacted by the large number of illegal immigrants. Examples would be school systems and health care services.

No. 15 and last: Revocations of terrorist visas. You know that visas revoked on terrorism grounds—I am talking about terrorists—if a visa is revoked on terrorism grounds, it would allow Z visa holders to remain in the United States and use the U.S. court system to appeal those terrorism charges.

The bill, including the amnesty program, does not address visa revocation for any visa holder.

I would like someone to tell me that this is the last time we will do an am-

nesty because I heard that 20 years ago. I will not hold my breath. Nobody is making any promises that this is the last amnesty, and that is because we all know amnesties will continue. We are on a path to make what I consider a mistake that I made in 1986. We ought to get it right and focus on the long-term solutions to this problem.

So I am going to be offering some amendments to fix some of these 15 flaws, but I am not sure it can be repaired at the end of the day. It is my plan, when we go into the bill, to offer an amendment, to lay an amendment before the body.

Madam President, I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. MCCASKILL.) Morning business is closed.

#### COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1348, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1348) to provide for comprehensive immigration reform and for other purposes.

Pending:

Reid (for Kennedy/Specter) amendment No. 1150, in the nature of a substitute.

AMENDMENT NO. 1166 TO AMENDMENT NO. 1150

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I have an amendment at the desk that I would like to call up.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, and Mr. DEMINT, proposes an amendment numbered 1166.

Mr. GRASSLEY. Madam 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 clarify that the revocation of an alien's visa or other documentation is not subject to judicial review)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . JUDICIAL REVIEW OF VISA REVOCATION.

(a) IN GENERAL.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking "There shall be no means of judicial review" and all that follows and inserting the following: "Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, a revocation under this subsection may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a revocation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to all visas issued before, on, or after such date.

Mr. GRASSLEY. Madam President, the amendment I have before you is dealing with an issue I just described in morning business as one of 15 flaws in a very important part of this legislation. This amendment is going to revise current law related to visa revocation for visa holders who are on U.S. soil.

Now, we have this situation which does not make sense. My amendment is meant to bring common sense to this. Under current law, visas approved or denied by a consular officer in some of our embassies overseas would be non-reviewable. In other words, what that consular office said would be final. That person being denied a visa to come to this country would not have access to courts because consular officers have the final say when it comes to granting visas and allowing people to enter a country. So if you are a consular officer and you believe somebody is a terrorist or a terrorist threat, you can deny the visa, no review.

However, if that person gets a visa and they come to this country and we find out later on that they are a potential terrorist and should not have come here in the first place and you want to get them out of the country as fast as you can—because that is surely what we would have done with the 19 pilots who created the terror we had on September 11—then that decision made when the person comes to this country, that decision by the consular officer is reviewable in the U.S. courts.

Now, everybody is going to say: Well, that just does not make sense. You know, the same person over in some foreign country wants to come here, and the consular officer says: We can't let that person come here because he is a potential terrorist threat. Well, then they do not get to come here and nobody can review that. But if that very same person came here and we decided they shouldn't have been here in the first place, then they have access to our court system before they can be removed. Thanks to a small provision inserted during conference negotiations on the Intelligence Reform and Terrorism Prevention Act of 2004, the visa holder at that point has more rights than he or she should have. I think that is very obvious.

Now, the ability to deport an alien on U.S. soil with a revoked visa is nearly impossible if the alien is given the opportunity to appeal the revocation. This section has made the visa revocation ineffective as an antiterrorism tool.

My amendment would treat visa revocations similar to visa denials because the right of that person to be in the United States is no longer valid. In other words, if it was not valid for him to come here in the first place and it