

[Rollcall Vote No. 230 Leg.]

YEAS—79

Akaka	Dodd	Martinez
Alexander	Domenici	Menendez
Allard	Durbin	Mikulski
Barrasso	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Obama
Bond	Graham	Reed
Boxer	Grassley	Reid
Brownback	Harkin	Roberts
Bunning	Hatch	Salazar
Burr	Hutchison	Sanders
Byrd	Inhofe	Schumer
Cantwell	Inouye	Shelby
Cardin	Isakson	Smith
Carper	Kennedy	Snowe
Casey	Kerry	Specter
Chambliss	Klobuchar	Stabenow
Coburn	Kohl	Stevens
Cochran	Kyl	Sununu
Coleman	Landrieu	Thune
Collins	Lautenberg	Voivovich
Conrad	Leahy	Warner
Corker	Levin	Whitehouse
Cornyn	Lieberman	Wyden
Craig	Lott	
Crapo	Lugar	

NAYS—18

Baucus	Gregg	Pryor
Bayh	Hagel	Rockefeller
Brown	Lincoln	Sessions
DeMint	McCaskill	Tester
Dole	McConnell	Vitter
Dorgan	Nelson (NE)	Webb

NOT VOTING—3

Clinton	Johnson	McCain
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The motion to table was agreed to.

Ms. KLOBUCHAR. 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.

MORNING BUSINESS

FIRST HIGHER EDUCATION EXTENSION ACT OF 2007

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1704, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1704) to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the bill be read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (S. 1704) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1704

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "First Higher Education Extension Act of 2007".

SEC. 2. EXTENSION OF PROGRAMS.

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109-81; 20 U.S.C. 1001 note) is amended by striking "June 30, 2007" and inserting "July 31, 2007".

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109-171) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.

Ms. KLOBUCHAR. 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. SESSIONS. 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. SESSIONS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from Alabama is recognized under the previous unanimous consent agreement until the time of 2:30 p.m. for the purpose of debate only.

IMMIGRATION

Mr. SESSIONS. Mr. President, I say to my colleagues, the process has not been a pretty one to date. It has been particularly ugly in the last few hours in that we had an amendment yesterday of nearly 400 pages. The people who wrote it apparently found that they made numerous errors which even they were not happy with. They filed another amendment which our Senators don't have a copy of, I don't think even to this moment. At least an hour ago, Senator DEMINT was asking for a copy of the amendment so people could see it and actually read what is to be voted on. It is not good, on a matter that almost every American is watching, a matter that is important to our country, to stumble and bumble into this process, and part of the reason, as my good friend and former chairman of the Judiciary Committee, ARLEN SPECTER, said, it would have been better probably had we gone through the committee process. When he was chairman of the committee, it did go through the committee process. It didn't do a lot of good, but at least it was looked at in some of the areas that are inevitably fixed when we go through that kind of process. So I am worried about this process.

The procedure the majority leader has chosen, and he says he has support of some kind from the Republican leadership side—I assume he does—he has chosen to utilize a procedure never before used in this Senate. That procedure will allow the majority leader, Senator REID, to have the power to approve every amendment that will be offered to this legislation. If it is not

part of his clay pigeon, you are not in. If some other amendment is offered and accepted, it is because he decided it is appropriate. He could well accept amendments that he knows are going to fail. He could well accept amendments that he doesn't mind passing. But he picks the amendments. That has never happened in the history of the Senate, never happened in this fashion before.

We must not allow that procedure to happen now. There will be opportunities for us, before this process is over, to execute votes that will demonstrate we don't accept this process, and it should be a big part of any Senator's vote as we go forward with this process.

Mr. President, I have to say to my colleagues, as I indicated to the majority leader earlier, what would Paul Wellstone say, that great liberal advocate, a Senator who enjoyed standing alone, or Senator Jesse Helms, that great conservative who enjoyed standing alone, both doing what they believed was right, something we take great pride in as an institution.

We do not have a lot of power here, but if you don't agree to unanimous consent requests and you are consistent in your advocacy of positions you deeply believe in, you can get a vote. Under this procedure you do not get a vote. I offered amendment after amendment before when this bill was before the Senate. As a result, the leadership on the other side objected. I could not get those amendments pending, and that leaves us unable to get a final vote postcloture.

I am not exaggerating. It has never been done before. It allows the majority leader, under the procedure that is being used today, to completely approve or disapprove of whether an amendment gets voted on. So I object to that process. It is not right. We should not be doing it, and we shouldn't be doing it on a bill that is 750 pages with a 300- or 400-page amendment that goes to some issues that are important to America.

Let me share with my colleagues my concerns about this legislation. I will try to summarize it and go right to the point.

Senator REID, the President, the President's Cabinet members, leaders of the coalition, this grand bargain group—I call them affectionately the masters of the universe—they all tell us this bill is going to fix illegality, and if we don't vote for this legislation, somehow legality will not happen. A group of us have written to the President asking him to utilize 13 special powers he already has under law that will dramatically reduce illegality in immigration. We have not heard from him.

We could do additional legislation that would help enforcement. I believe that is so. But the bill will not stop illegal immigration and, in fact, according to the Congressional Budget Office, June 4, they rendered their report and

they concluded that instead of 10 million people coming into the country illegally as they project under current law, 8.7 million people would be entering our country illegally.

What kind of legislation is this? We have been promised it is going to stop illegality and it only reduces illegality by 13 percent, a fundamental failure, a fundamental misrepresentation to the American people about what this bill will do. It is shocking.

This chart shows that situation. The blue, according to the CBO score over 20 years, the blue shows that 10 million people would be coming into our country at the current rate over the next 20 years. If we pass the bill, the red will occur, 8.7 million people.

Every Senator ought to know what our own Congressional Budget Office has reported. Every Senator who is aware of that cannot go home to their constituents and say: I voted for comprehensive immigration reform to make sure we create a legal system in the future. How can you do that? This can't be done. It is an important issue.

The legislation would double legal immigration. I don't think that is what the American people want or expect. The blue represents current law. The red represents the new bill—and it could be more—and the number of legal permanent resident statuses, the green cards, will double in the next 20 years under this legislation.

I think most people thought we were going to do something to get control of immigration and reduce illegality and reevaluate the numbers who come. Certainly, they don't think we are doubling legal immigration. We also know there are high costs involved. According to the Congressional Budget Office, our study we got back a couple weeks ago, in 10 years this legislation will cost the taxpayers of America in welfare and social benefits \$30 billion—this is their number; I didn't make this up—\$30 billion. They have been saying this is going to bring in more tax revenue, we are going to legalize people, and they are going to pay taxes. Wrong. It is not going to happen. It is not so. I wish it were so. I wish I could tell my colleagues that the numbers show when this amnesty occurs, everybody is going to pay a lot of taxes and it will help balance our budget. Wrong. It is not going to happen that way. It will cost \$30 billion in the first 10 years, and our own Congressional Budget Office says it will be dramatically greater in the next 10 years and increase as the years go by.

It is going to increase the cost to the Treasury and, in fact, let me share with you what the highly regarded Heritage Foundation study found. Robert Rector, a senior fellow at the Heritage Foundation, the architect of welfare reform for our country, has been alarmed at the cost of this bill. I am not talking about the cost of Border Patrol agents and barriers and those kinds of items. I am talking about the cost of providing all the social benefits

we give to American citizens, to people who came into our country illegally, what it will cost in terms of tax credits, Medicaid, welfare, food stamps and the like. If they are all made legal permanent residents, Z card holders, even the temporary visas, they will be entitled to virtually all of these programs.

According to Mr. Rector, over the lifetime retirement years of the 12 million who would be given amnesty under this provision, it will cost the taxpayers of America—hold your hat—\$2.6 trillion; over \$2 trillion. It is a stunning figure. It is a figure so large that we almost can't comprehend it or think about it. But anybody who tells you that somehow legalizing the people who are here illegally and providing them with every benefit we provide to American citizens is somehow going to add revenue to our Treasury cannot be correct. CBO says no. They say it will be even worse in the outyears. And the Heritage Foundation has calculated the outyears to be over \$2 trillion. This is a stunning figure.

I submit that by passing this law, we will provide a path to citizenship for people, for even those people who broke into our country last December 31, running past the National Guard the President called out. If you could get past the National Guard last December, you will be given amnesty under this bill and be placed on a full path to all these benefits and citizenship.

They have been saying we have to help people who have been here for years and have children and deep roots. I am willing to discuss that situation. I don't believe we can ask everybody to leave this country who came here years ago, who have children and roots and are dug in. I am not prepared to ask them to leave—I really am not—and I have said that publicly for some time. But Senator WEBB just had an amendment that said if you came here in the last 4 years after we had been talking about this issue, after we have called out the National Guard and made clear we want to do something about it, you don't get on this path, you haven't been here long enough to entitle you to be given amnesty. It was voted down by a substantial vote a few moments ago. His amendment was tabled. It is no longer on the agenda. It will not become law. The current law, what is in the bill, provides amnesty to people who came in last December.

I have talked about, and we have had hearings that I think demonstrate with absolute clarity, this incredibly large flow of immigration into America today is, in fact, depressing wages of American workers. Oh, yesterday, we had this great union debate that we are going to eliminate the secret ballot so people will be forced into unions. My Democratic colleagues had charts showing wages haven't gone up in the last few years. And I am inclined to agree because that is what the experts told us on the immigration question. They told us that wages have not gone up—not because of some oppressive

businessperson but because we have allowed millions of people to come into our country to take jobs at lower wages that Americans ought to be paid to do. Those are just the facts.

Professor Borjas of Harvard, himself a Cuban immigrant, at the Kennedy School—and I suggested Senator KENNEDY perhaps should walk over there to Harvard from his Boston home and talk to Professor Borjas. Professor Borjas concludes that for people in this country without certain education levels, their wages from 1980 to 2000 have been depressed 8.2 percent.

Anecdotally, I would just note that when I left the Chamber here last Friday, there was a gentleman out here on the street—had gray hair and a gray beard, with a little sign about jobs—and I talked to him. He said he was a master carpenter in Florida and he used to make as much as \$75,000 a year—which is not too much money for a master carpenter, in my opinion—but he can hardly make a living today because of an incredible influx of cheap labor that has pulled down the value of his labor.

When I raised this with Senator KENNEDY last year in our debate, he said: Well, we are going to raise the minimum wage. Well, how much are we going to raise it? We are going to raise it to \$7 an hour. That is not good enough. We want people to make \$15 an hour, \$20 an hour.

If you want to know why wages haven't gone up for working Americans, ask Professor Borjas at Harvard; Professor Chiswick at the University of Chicago; Alan Tonelson, an expert; and one of the other professors we had actually—I think he was with the Chamber of Commerce group, and he admitted it. The Secretary of Treasury just recently admitted he was concerned about the fact that wage earners were not keeping up with the growth in the economy. That is my opinion. If somebody wants to dispute it, so be it.

I don't think this legislation in any way provides for assimilation to the degree we would like to see it in accordance with our great American heritage of assimilation.

So I think the fundamental issue in this entire debate, the issue that goes to the heart of the question, is whether this Congress and this President really intend to keep the promises they are making. Isn't that the real question? Because in 1986, they spun a beautiful song: one-time amnesty, and we will have law enforcement next.

I ask: Does this bill do what the supporters claim it will? Fundamentally, will it work? Will it secure the border? Senator REID, just a few moments ago, said what the American people want—they want our borders secure. Well, will it do that? Will it enable us to enforce the law in an effective, diligent, and consistent way that breeds respect for law? Will it clearly reward right behavior and firmly penalize bad behavior? Will it encourage immigration by lawful means, a means that serves our

national interest and not special interests, or will it continue to encourage illegal immigration? Are we just drifting through, once again, a charade, a predictable cycle where every few decades amnesty is rewarded to lawbreakers and enforcement never follows? Would that not be a tragedy?

This Senator has no intention and will not vote for and will oppose in every way he can—and others share this view—a bill that is going to be like 1986, that will fail again. When this cycle occurs again, as I predict it will if this legislation passes, those who ignore our laws will be rewarded; those who dutifully comply will consider themselves to be chumps for going through that process.

In recent days, I have had three people who have entered our country legally, done it correctly, come to me and tell me: Senator, stand in there; we support you. We did it the right way. We don't appreciate these people doing it differently.

There was a good article in the Montgomery Advertiser about a lady named Singh—I assume she is of Indian ancestry—who spent several years, hired a good lawyer, spent \$4,250, and eventually got her citizenship, for which she was most proud. She was absolutely crystal clear that she did not appreciate it that other people came into our country illegally and would get the same privileges she got that she had to work hard for doing it the correct way. I think there is a moral order here that we need to respect. Repeated amnesties erode a moral approach to the law of this country.

In the past 2 months, we have heard other Senators and the President make promises that this is going to work. The political elite have all said to our top magazines and newspapers that they promise real enforcement will begin following the passage of this bill. They promise this bill will decrease illegal immigration, it will secure the border, and reform our legal immigration system to better serve the national interests. That is a great promise. If that is what this bill did, I would be for it. In fact, I was quoted in the paper several times this spring when I heard the masters of the universe, our friends who tried to write this bill, promise those very principles. I said that those are principles that are getting close to something I can support. I am really interested in it. But as I read it and studied it, I became more and more discouraged, and as independent critics and other experts examined it, they indicated the same.

So will the promises be fulfilled? That is a question I would like to discuss today. Remember this: Even in 1986, President Reagan was the President, and he was a law-and-order man, and when the bill passed in 1986, what did he emphasize? Did he emphasize the amnesty they granted? No, because people were dubious about that. He emphasized the future law enforcement—and this is so familiar today—and he said:

It is high time we regained control of our borders, and Senator Alan Simpson's bill will do this.

Well, President Reagan was wrong. We had 3 million people here illegally then. Now we are talking about providing amnesty to 12 million, maybe 20 million. It didn't work. Nobody had the Congressional Budget Office score at that time, our own Congressional Budget Office which tells us this bill won't work and we are going to have another 8.7 million people enter our country in the next 20 years.

At least we have been warned this time. Why shouldn't that cause us to pause? Why shouldn't that cause us to give a decent respect to the opinions of our own constituents who strongly oppose the bill and have great doubts about it? Why don't we pull back, rethink it, and begin to do what one of the pollsters suggested the American people are saying, which is take some smaller steps incrementally, emphasizing enforcement? That is what I would suggest we should do.

I would like to make this point. Even if President Bush—who has done some things in recent years that are better than we have had done in a number of years but still isn't using all the powers of his office—even if he kept the promises he is making, he is not going to be in the White House after another 18 months. Somebody else is going to be there. There will be a new Congress here. So the test is really going to be when these trigger events are met, and that will be in 2009 when we will have a new President in office.

Now, let's think about this: Some of the Democratic candidates already oppose the core components of the bill, such as the merit-based system, like Canada's. Governor Richardson and Senator OBAMA—if they win the Presidency, are we going to assume they will fulfill the promises made by this administration? It won't be their priority.

Let us talk in a little more detail about this No. 1 issue which is so critical: Will we secure the border, and is this legislation going to help?

The bill proponents all make the same claims—that without this bill, the border cannot be secured. But if we pass the bill, they say, we will secure the border. Essentially, they are claiming that enforcement can't be done unless we get amnesty and enforcement. They also claim to be adding 18,000 Border Patrol officers, increasing the detention bedspace, and expanding fencing. Now, you have heard that said. Of course, I want to remind everyone we passed a law which already requires that last year. In my view, that is not contingent on this bill being passed. And I will go into that in some detail.

In its first articulated principle about the immigration legislation, the White House PowerPoint that was shown to Senators this spring—and that was intriguing to those of us who have been concerned about creating a lawful system of immigration—the

PowerPoint promised “to secure U.S. borders” and “not to repeat the 1986 failure.”

Senator KENNEDY, at the famous press conference just about a month ago, said this:

The agreement we have reached is the best possible chance we will have in years to secure our borders.

Best chance in years.

In this legislation, we are doubling the border patrol, we are increasing detention space.

Senator MCCAIN said this:

This legislation will finally accomplish the extraordinary goal of security at our borders.

Another Senator:

I am delighted we are going to secure the border.

Another one:

It will make sure our borders become secure. We have had broken borders in this country for 20 years. It is time to get them fixed. This bill will do that.

Another:

What happens if we fail? Our borders continue to be broken at a time when we need to secure our country.

That is what they all said. Oh, gosh. Well, let's talk about it. They said: Well, we started out in this legislation with 18,000 additional Border Patrol officers; we will increase detention capacity to 27,500 beds; and another one—this is former Governor Jed Bush and Ken Melman—“It doubles the border patrol and expands the border fence.” That is what they said in their May 31 Wall Street Journal Open Borders editorial. It doubles the Border Patrol and expands the border fence.

Maybe these people think this. All right. Let's see if we can get this straight. Before we address whether this bill actually will secure the border, it is important to clarify for the record that the bill does not require a doubling of the Border Patrol, it does not require more bed space than required by current law, and it does not require more fence than current law requires. If anybody doesn't agree with that, come on down and show me that I am wrong. This is a promotion.

What about agents? The bill does not add 18,000 Border Patrol agents, Senators. When these statements were made, the trigger only required that a total of 18,000 Border Patrol agents be hired.

Since then, Senator JUDD GREGG got the number up to 20,000. I think we have that. So we are close to that number now. We are close to 18,000 now and are already on track to have that number hired by the end of 2008, so no more Border Patrol agents are required to be hired under this bill's enforcement trigger than current law requires. Those of you who want to see enforcement are not being given anything on Border Patrol officers.

What the bill does do for agents outside the trigger is add 6,000 to the total authorized level by requiring 2,400 agents to be hired in 2011, and again in

2012, and increasing the numbers that are supposed to be hired in 2008, 2009, 2010, from 2,000 to 2,400 per year. In other words, we are already projected to hire 2,000; they say we will add 2,400 a year.

Current law authorization only went through 2010 at 2,000 a year, so this bill does increase the authorization by about 30 percent. But it certainly does not require an actual doubling of the Border Patrol, and a 30-percent increase is not in the trigger. The reason that is important is, if it is not required as part of the trigger that kicks off the amnesty and the permanent residence, then appropriators in the future are not likely to do it. I can give you a string of examples of us authorizing Border Patrol, authorizing fencing, and never coming up with the money to fund it.

What about bedspace? What is inside the trigger? The claim the bill increases the detention bedspace is factually false. The bill does nothing more than current law. The Intelligence Reform and Terrorism Act of 2004 requires that 43,000 beds be in place by the end of this year. In 2004 we require 43,000 bedspaces by the end of 2007. The enforcement trigger contained in this bill, though it improved a bit after the Gregg amendment, still only requires 31,500 beds. It really weakens the number.

What about bedspace outside the trigger? Even with the bill's latest section on bedspace found outside the trigger, which requires the eventual addition of 20,000 beds, the bill still only gets to 38,000 beds, still below current law. So that is a problem.

Let me mention the fencing. We hear so much about that. The claim that the bill expands the border fence is also not true. The trigger requires only the building of 370 miles of fencing. Listen to me now. The trigger—the thing that was set up to make sure it happened, knowing how in the outyears things never get funded and seldom get funded and are unlikely to get funded, we were trying to mandate that with the trigger—it only requires 370 miles of fencing. Current law since last year's enactment of the Secure Fence Act of 2006 requires the construction of 700 miles of fencing along the southern border.

In a recent column published in the *National Review*, Deroy Murdock asked:

Americans who want secure borders wonder why the 700-mile southern frontier fence Congress authorized last year, of which only 12 miles have been built to date, stretches only 370 miles.

All I am saying to my colleagues is, we in the Senate have been around here a long time. We have heard how these things go, and we know a song and dance when we see one. But if you read the bill carefully you will conclude that the promises, though promises that sound so good, are not reality. They were absolutely headed to a failure, just like the Congressional Budget

Office said, of almost as much illegality in immigration in the next 20 years as we had in the last 20 years—only a 13-percent reduction. It is just not sufficient.

I see my colleague from Texas, Senator JOHN CORNYN, one of our most able Members, who is exceedingly knowledgeable about this issue. He is a member of the Judiciary Committee. Of course, he was a former attorney general in Texas and a member of the Texas Supreme Court. I value his judgment. Out of the time left to me, I will yield—how much time would the Senator request? First, let me ask how much time is left?

The ACTING PRESIDENT pro tempore. There remains 40 minutes.

Mr. SESSIONS. I yield 20 minutes to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for 20 minutes.

Mr. CORNYN. Mr. President, I almost hesitate to talk after those kind comments from my colleague from Alabama. I am afraid anything I might say would be a disappointment. But let me try.

This immigration bill is leaving all of us with a sense of *deja vu*. That is the sense that we have been here before. Strangely, not much has changed. Once again we see that this process ignores the request, the stated desire of many of us, to have an open and transparent debate, an opportunity to offer amendments and to have votes on those amendments. As a matter of fact, I understand the condition upon which some of us are even being allowed to speak now is that we just debate, and we not even be so presumptuous as to seek to offer a unanimous consent request for amendments. This is a bizarre process.

As we have seen so far, we started off rather inauspiciously, where because of constraints being placed on Senators, denying them the rights they have—Senators, I thought, had—and the responsibility that each of us has on behalf of our constituents to try to improve this legislation, to debate it—because we have been denied those basic rights of a United States Senator, we find ourselves in a strange position now. We have motions to table being offered. I don't know whether all 26 or so of the amendments contained in this so-called clay pigeon device, this arcane procedural device used to usurp the authority and the rights of Senators in order to railroad this bill through the floor—whether we are going to see all of these amendments tabled; in other words, without debate, without an up-or-down vote on the amendments and with the American people scratching their heads and wondering what in the world is going on.

How much more out of touch can people inside the Capitol be than they are now? We continue to see a bizarre process going forward. Last night we received a 373-page, so-called clay pigeon amendment. This is the bundle of

the 26 amendments that had been preapproved, screened, cherry-picked by the select few behind closed doors. You know what. We got that, the Members of the United States Senate and our staffs, after a special interest group had already posted it on their Web site. That is right. U.S. Senators and their staffs got a copy of this 373-page monstrosity, which nobody had a chance to read—we got it after a special interest group that had been participating in these closed-door negotiations got it and put it on their Web site.

Today, we are told: No, that is a work in progress. We are not yet through. Today we get a new 400-page version of the same package of amendments. I understand it is at the desk, but so far as I know, we have not yet received a copy of it. We have not had time, obviously, to review it and know what is in it. But that does not deter those proponents of this legislation on the floor who are going to keep charging ahead, regardless of our request to actually read the legislation, to understand what is in it, to offer amendments to improve it and to debate its contents. That is what I thought I was elected to do on behalf of my constituents when I came to the Senate.

I have to tell you, I think this all bodes very poorly for the likelihood that we are going to successfully accomplish true immigration reform and border security as a result of this legislation. I think we are heading toward a cloture vote tomorrow where it is looking increasingly like we are not going to be able to get the job done. I think it is a product, in large part, of secret negotiations.

I have to correct my comments. I just got the 400-page monstrosity known as the revised clay pigeon amendment. I look forward to reading it, hopefully, before the next vote is scheduled on the contents of this monstrosity.

As I was saying, by secretly negotiating this legislation, skipping the committee process, and then pushing it through the Senate without people having an adequate time to read it, we risk passing legislation which clearly is not thought out and which Members have not had sufficient time to review or to study in any detail, particularly because the language keeps changing, it seems, almost daily. This may, in the end—and this is the most important part—it may, in the end, do more harm than good.

For example, written into this legislation are provisions that will directly result in an increased likelihood that dangerous persons will get at least a probationary legal status that confers upon them a variety of rights and privileges that I do not think, on further reflection, we would want these people to have. These problems could be fixed if we had a rational process of debate and offering amendments and an opportunity to vote on those amendments but, without committee

review, without ample time to have that kind of debate and vote on amendments, there is really no hope to correct these flawed provisions.

I have spoken before about the type of amendments which I personally believe would improve this legislation. I want to talk about them. I understand I am constrained by an agreement that I not bring up these amendments, so I am not going to do that now. I may do it later and see if attitudes have changed, but I do want to talk about six of the most important amendments which I believe could and should be added. These are only six of the amendments that I personally think would make this bill better. I know my colleagues have other good ideas on how to improve this legislation.

We are going to be living with this legislation for many years to come—decades. We find ourselves now, 20 years later, living with the consequences of unenforceable legislation that was passed in 1986. So I think greater care needs to be taken.

One amendment I would offer would prevent criminal aliens from getting an enforcement holiday by authorizing them to delay, and even possibly avoid, deportation by filing frivolous applications for legal status as well as appeals from the denial. That is right. It would prevent them from getting virtual impunity, even though they filed a frivolous application for legalization, as well as multiple appeals.

Another amendment I would offer would prohibit criminal aliens, including gang members and absconders, people who have defied lawful court orders and either have gone underground or have been deported and entered the country illegally—technically felons under the Immigration and Naturalization Act—my amendment would prohibit them from tying up the process, gumming up the courts by appealing the denying of a request for a waiver of grounds for removal.

The court clogging that would ensue without these two provisions is almost sure to cause extensive delay that will almost certainly increase the costs associated with this bill and frustrate the intent of Congress trying to pass a truly workable system. This is not a hypothetical concern. As we debate this bill there is a lawsuit pending by people who have been deported from this country and therefore were not eligible to receive the 1986 amnesty, but they have been litigating their request that the INS, and now the Department of Homeland Security, grant them a waiver from that part of the 1986 law that said they were ineligible.

This litigation is still going on, 21 years after the 1986 amnesty was passed. Don't you think we would like to learn from our mistakes? Don't you think we would like to try to fix those problems? Under this process, we are not given an opportunity to do that. My amendments would prevent decades-long litigation and frivolous lawsuits from occurring with respect to the provisions of this bill.

Another amendment I would offer if given an opportunity would require judges to consider national security implications before issuing nationwide injunctions against immigration enforcement. That is an essential provision to protecting our Nation, something that this bill claims to do but which it omits.

I would note that that provision passed in last year's immigration bill but yet was consciously omitted from this one. There is no good reason to weaken last year's bill in this regard.

Another amendment I would offer would limit the timeframe of any appeal from a denial of Z status to 2 years, so that any error is promptly corrected and so that court proceedings would not tend to drag on endlessly, wasting tax dollars and logjamming our courts and allowing a person who has been determined not to be eligible for legal status to stay in the country indefinitely, under the guise of appealing their denial.

Another amendment I have would prevent those who have committed terrorists acts or provided material support to terrorism from qualifying for legalization under the "good moral character standard" under this bill, something that seems to be inherently obvious to me. It ought to be included. I am shocked it is not included.

I will give you one example. Last year, Mohammed El Shorbagi pled guilty to providing material support to the terrorist organization Hamas. Hamas, by the way, is identified by our own State Department as a terrorist organization, as well as by the European Union. This individual's conviction did not specifically bar him from becoming a U.S. citizen because, under the law in effect, aiding an organization that routinely fires rockets on innocent civilians, families, and neighborhoods; people who abduct innocent individuals; and those who have most recently staged a violent coup in Gaza, does not in any way affect their good, moral character.

Don't you think the Senate, the world's greatest deliberative body, representative of the 300 million people of the United States of America, would want to fix this glaring omission in the underlying bill? Well, I have been told that, no, we are not interested in that amendment. We have our cherry-picked set of preselected, prescreened, preordained, and no one else is going to be able to offer one. In fact, you cannot even debate them, much less offer them and have a vote on them.

I appreciate that some have finally recognized the significant flaws and security risks that are inherent in the bill as it is currently written. I would note, though, that it was not until late yesterday afternoon that some agreed that such a change was needed to improve enforcement and protect U.S. national security and included a version in the divided amendment.

Now, as I mentioned a moment ago, because the so-called clay pigeon that

includes 26 amendments is not yet—well, it was only a moment ago handed to me, hot off the press, I have not yet had time to study that version, I don't know whether the modified version that was sent to the desk today changes it. But at least there appears to be some movement toward closing that loophole.

But what other enforcement loopholes and flaws remain in the bill? I fear that under this expedited process, the train has left the station, and it is going to blow right through the middle of the Senate until we pass something without proper consideration, and we are going to make mistakes. I think that is a bad idea.

During the previous debate, I introduced an amendment that would bar criminals, felons, from ever being able to obtain Z status. While it did not pass during the previous debate, I am still clueless as to why that happened. I think now that people have had time to study it and to think about it, hear from their constituents about it, more members would be supportive of closing that loophole for felons. I have refiled this. This is another amendment I have that I hope we will be able to vote on eventually. I hope the Senate does not consciously allow felons the benefit of a pathway to legalization and American citizenship. I cannot imagine why in the world we would.

As I said, those are only six of the amendments that I think need to be offered and added to this bill. Let me mention one other thing. I see the Senator from Kentucky, who perhaps would like to add his comments. Let me mention one other glaring loophole that I talked about a little yesterday. This was a provision that requires a 24-hour background check for someone who applies for legal status. But failing that, the default position is they get a probationary Z visa. In other words, we put a provision in here that says: If the background check can't be completed in 24 hours—and it can't, I promise you—that the applicant will be automatically granted legal status on a probationary basis.

I am concerned particularly because what that does is not only gives them an ability to obtain a probationary Z visa or legal status, the White House has said: Oh, don't worry about it. If we cannot get the background check done in 24 hours, and we find out they are disqualified because they do not pass a background check, we will send someone out to pick them up. Do you know how many absconders there are in the United States who are under lawful orders of deportation and have simply gone underground and the Department of Homeland Security, Immigration and Customs Enforcement has failed to pick them up and to execute the lawful orders of our courts? There are 623,000 absconders who meet that definition. Are we supposed to believe that people who fail the background check for this probationary Z visa are now going to be picked up, when 623,000 people who

have defied lawful court orders, who are on the lam, who have gone underground and whom the Department of Homeland Security has failed to pick up and deport, according to the lawful orders of a court, that now all of a sudden the policy has changed?

Trust us. Trust us. Well, I tell you what, the American people do not trust the Federal Government, particularly in this area. I hesitate to say it, but it is with good cause, based on hard experience, based on overpromising and underdelivering when it comes to our immigration program.

I support increasing legal immigration, looking at how to recruit the best and the brightest and allowing them to come here, particularly if they come to our universities and study at our world-class universities and stay, so we do not have to send them home and so they end up competing with us and taking jobs overseas.

I support comprehensive immigration reform. But I do not support promising the American people that, oh, yeah, trust us this time, we are serious, when there are such obvious flaws in the underlying legislation, that we are being prohibited by this railroad of a process from being able to offer amendments, to get votes on those amendments, to be able to fix the underlying bill.

I can see why the American people would be skeptical, because I am skeptical. I am increasingly skeptical as a result of the way this process and this legislation has been handled.

My hope is that should this cloture vote fail tomorrow, which I think, under the circumstances, looks increasingly likely, we will come back and reassess what we have done, or, moreover, what we have failed to do and try to be more serious, more deliberate, more conscious of trying to actually deliver on our promises rather than continuing to overpromise and underdeliver on this great issue of national concern.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Senator BUNNING from Kentucky is here and desires to speak on this legislation. I thank him for his comments previously and for his clarity of thought on the issue.

How long does the Senator desire to speak?

Mr. BUNNING. About 5 minutes.

Mr. SESSIONS. I yield 6 minutes to the Senator from Kentucky.

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

Mr. BUNNING. Mr. President, I said this before, but here we go again. Three weeks ago, a significant majority of the Senate rejected this flawed immigration bill and the flawed process that led to it. But now it is back.

One of the key reasons the bill failed the first time around was the flawed process or the lack of process that led to the bill. In the Senate, an idea nor-

mally takes months, if not years, to become a bill and pass. But instead of letting the bill develop through the deliberative process, a few Senators and a few people from the administration wrote the bill in secret.

They held no committee meetings, there were no hearings, there was no committee report. In fact, Senators did not even see the whole bill until several days into the debate. When those of us who were not part of the secret negotiations finally saw the bill, we found all kinds of problems. But we were told the bill had to be finished by a certain date. We were not even allowed an open debate on the floor.

So with a few days looming before the Fourth of July recess, a few negotiators got back together and blessed another list of amendments to get votes. Apparently, they believe that 20 or more votes equals a full debate. What a joke.

As if that were not bad enough, the majority leader is taking an unprecedented step to shut off the right of Senators to debate and amend the bill. That is not the Senate. The process is not the only thing that is flawed around here; the bill itself is flawed.

In 1986—thank God I was not in Congress—Congress passed an amnesty bill that was promised to be the last of the amnesty bills. Here we are 20 years later, and the problem is much worse, much, much worse. The bill is no better. Instead of punishing illegal immigrants and employers who ignore the law, this bill is a get-out-of-jail-free pass. It gives those who broke the law their own VIP line to a green card and citizenship.

For this bill to work as promised, the Government would have to process at least 12 million illegal immigrants in a matter of months. In short, the timeframe the Government would have to conduct these background checks, issue identification cards, and to build a system to check every employee in America to make sure they are legal, that is the timeframe.

The Government would also have to implement new guest worker programs, eliminate the green card backlog, overhaul the green card system, and start issuing new visitor visas. But I do not believe it will work, and the American people certainly do not believe it will work. I am not talking about the far left or the far right; I am talking about middle America—middle America.

I am talking about the people who are stuck in the lines in passport offices, waiting on the Government, waiting for them so they can go on a summer vacation. We are supposed to believe that the same Government that cannot even get passports into the hands of their people is going to complete background checks on from 12 to 20 million illegal immigrants, give them a secure ID card, check every employee in the United States to verify their work status, and secure the borders.

I don't think so. Unfortunately, this bill does not even secure the borders.

The \$4.4 billion included in the bill does not add any new border security. It only funds the trigger requirements of the bill which do not even require implementation of existing laws such as building the 700 miles of border fence and the 43,000 detention spaces.

There are other problems, too. The bill does not require background checks to be completed of illegal immigrants getting amnesty before they get their visas. The bill gives Social Security credits to illegal aliens for work they did illegally. Illegal aliens with terrorist connections can get amnesty, and they do not have to pay all their back taxes or learn any English at least for 10 years. What a deal. The bottom line is the bill will not work.

It is much worse than the status quo. Any chance of fixing it is being erased by the handful of negotiators and the majority leader. Instead of trying to fix the bill, the majority leader is using unprecedented tactics to ensure only a few blessed amendments are considered. We all have amendments, such as the Senator from Texas. None of them are going to be considered.

I will not support amnesty. I will not repeat the mistakes we made 20 years ago. I will not be responsible for tens of millions more illegal immigrants coming into this country waiting for the next amnesty. I will not support this process or this bill.

I thank the Senator from Alabama for yielding me the time.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Kentucky. On this question, this fundamental promise by our friends, whom I refer to affectionately as the masters of the universe, that we would secure the border—what does our expert congressional arm say about it? What does the Congressional Budget Office say about it? They say, no, it will not. Senator CORNYN and Senator BUNNING have pointed out a number of things that are weaknesses with the bill. Will this weakness and other items they talked about in the bill actually secure the border? According to CBO, the new Senate bill will only reduce the annual illegal immigration by 13 percent. Illegal inflow at the border will be reduced by approximately 25 percent, but that will be substantially offset by increased additional visa overstays, almost over a half million in the next 10 years. According to CBO, the net result will be only a 1.3 million reduction in new illegal immigrants over the next 20 years. Because we expect under current law 10 million to come over that period illegally—that is a lot—enactment would reduce that expectation to 8.7 million new additional illegal immigrants by 2027. Out of 10 million, we have 8.7 million. I ask my colleagues, is that securing the border? Is that effecting a legal and lawful and effective immigration system? I suggest it is not. There is no way you can say it otherwise.

One of the key things of an effective immigration system is the US-VISIT exit system. That is not affected in this. I have talked about that some, but I won't go back into that.

I see my colleague from Louisiana here, Senator VITTER. He is an outstanding lawyer who has spent a great deal of his time and energy studying these 700 pages and trying to get the amendment of 370 or so pages so he can study it and help decide what it will do. I see Senator VITTER is here. I am pleased to yield to him 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized for 5 minutes.

Mr. VITTER. Mr. President, I thank the distinguished Senator from Alabama.

I want to briefly take the floor to lay out how enormously unfair this process is. I am new to the Senate. Coming here, I had always heard, particularly coming from the House, about the fundamental aspect of the Senate being unlimited debate. I walked through the wrong door, because that is not the case, certainly not the case for me in terms of this bill. It has been exactly the opposite from start to finish.

Why do I say that?

First, we are handed an 800-page bill, given very little time to digest it. Then a few days later, in terms of this latest revisiting of immigration reform, we are handed a 373-page mega-amendment and given no time to digest it. Then some of us demanded the time to digest it by not agreeing to waive the reading of that 373-page amendment. Only because we did that, we were finally given the right to look at the amendment overnight last night. Great. So we come back at 10 a.m. this morning, after working with our staffs to wade through 373 pages of the amendment, only to find out that mega-amendment is out the window. We have a new modified version of the mega-amendment, which we have never seen before, which we were only given a copy of in the last hour. Now we are trying to digest a new mega-amendment. Meanwhile, the procedure is rolling along.

Of course, the majority leader, through this unprecedented use of the so-called clay pigeon, has hand chosen the only amendments that apparently will come up during this debate on the Senate floor. It is not an accident that there are no Vitter amendments. I had plenty filed. None of them are on the list. The majority leader could have chosen any list of amendments. He could have tried to make an effort to have a balanced list to include some amendments of folks such as me who have fundamental reservations with the bill. He did not. There are no Vitter amendments. It is not a coincidence there are no Sessions amendments. There are no DeMint amendments. There are no Cornyn amendments, the person who began this process working with the working group, developing the bill. It is not a coincidence there are no

Elizabeth Dole amendments. All of us have been completely shut out in terms of the handpicked list of amendments.

Then we try to participate in the process again on the Senate floor. I try to be recognized several times to exercise my rights as a Senator. I am shut down again because the majority leader will only recognize me for purposes that he decides, not me, for purposes that he approved of, not me. Basically, I am allowed to debate and nothing more. I am not allowed to offer a motion. I am not allowed to do any of that. It is coming to the point where I am wondering, even if he allows me to say anything, is he going to hand me a script and I will have to read from that?

This is not an open, fair process. This is not the Senate I heard about, with unlimited debate and amendment. Yes, there are unlimited amendments as long as they are approved, apparently, by the majority leader. None of them are my amendments. Yes, there is unlimited debate as long as you agree not to exercise any of your rights as a Senator. You can talk only. You can't make a motion. You can't try to bring up your amendments. You can't do any of that.

That process is fundamentally unfair. I hope many Senators who are still considering how they will vote on cloture will focus on this process. The American people have said loudly and clearly this is an important issue to them. They have also said loudly and clearly, by any poll out there, that they absolutely disapprove of this bill by enormous numbers. For us to move ahead anyway is one thing. For us to move ahead using this process, railroading me, railroading any strong opponent of the bill, is something else. It is patently disgraceful.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I appreciate the comments of the Senator from Louisiana.

Let me say what I believe is not in dispute. The procedure Majority Leader REID has chosen to utilize is a procedure never before utilized in the Senate. They say: You are just saying it is unfair. Everybody says things are unfair.

The reason this is more than a question of fairness is because it is a transfer, an arrogation of power to the leadership by which, for the first time in the history of the Senate, the majority leader will be able to approve or disapprove whether a Senator gets a vote on an amendment. If one wanted to do that up until this time, since the founding of our Republic, they stayed down here and didn't agree to unanimous consent requests. They stood their guns. It might not be easy, but one could get a vote. They could talk about what they wanted to talk about. But this process by which the leadership will select a limited number of amendments, place them in this clay-

pigeon maneuver and only those amendments get voted on and every other amendment is rejected, is unprecedented in the Senate.

I had a senior Member of the Senate come up to me with some alarm not long ago this morning and say: You need to be able to get amendments.

I don't think we have thought this through. It is dawning on me how significant this is. I said earlier: What would Paul Wellstone say? What would Jesse Helms say? What would other Senators say, individual Senators who are proud of the ability—seldom used, perhaps—they could utilize to raise a point that they believe in, even if everybody else disagrees. That is part of our heritage. It will be eroded if we go through this process.

I know my time is up. I appreciate the personal courtesies of the majority leader. He has always been courteous to me. In this instance, a bad decision has been made. Hopefully it will be rectified in some fashion one way or the other by denying cloture on the legislation.

#### COMPREHENSIVE IMMIGRATION REFORM ACT—Continued

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

Mr. REID. Mr. President, we have this matter before us. We are going to do our very best to work through it. To remind everyone about this legislation: This bill was taken up. We spent considerable days on the Senate floor. Prior to doing that, of course, we had a debate last year that encompassed much of what we have talked about this year. In addition to that, though, during the time we pulled the bill from the floor—this bill was pending here—of course, we brought that back with the amendments that had passed.

In addition to that, with the concurrence of the President—because the No. 1 complaint that folks on the other side had initially was there was nothing that was going to take care of the border—\$4.4 billion is now in this matter that is now before the Senate, \$4.4 billion to strengthen the border. It does do that. Not only do we spend the money, but we spend it well in this bill. There will be 370 miles of fencing that will be paid for—will not be just talked about—300 miles of vehicle barriers that work extremely well, probably better than the fences. It will now be possible to hire 20,000 new Border Patrol agents. There are 105 ground-based radar and camera towers. There will be a facility with detention beds for people who violate these immigration laws. There will be a place to put them.

It toughens employer sanctions by creating a mandatory employer verification system. It doubles criminal and civil penalties against employers who hire unauthorized workers. Employers can be fined up to \$5,000 per worker for the first offense, up to \$75,000 per worker for subsequent offenses, or they can serve jail time.