

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

#### PROGRAM

Mr. REID. So there will be three roll-call votes at about 11:30 a.m. tomorrow on confirmation of the Foxx nomination, on adoption of the committee-reported substitute amendment, and on cloture on S. 744, the comprehensive immigration reform bill.

#### ORDER FOR ADJOURNMENT

Mr. REID. Following the statements of Senators CHAMBLISS for 15 minutes and Senator SESSIONS for 10 minutes, I ask unanimous consent that the Senate adjourn under the provisions of S. Res. 189 as a further mark of respect to the memory of the late Senator Hathaway of Maine.

Mr. SESSIONS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Would the majority leader agree to 30 minutes for me before we close up?

Mr. REID. Of course.

Mr. SESSIONS. I thank the majority leader. He is always courteous.

The PRESIDING OFFICER. The request, as modified, is agreed to.

The Senator from Georgia.

#### IMMIGRATION REFORM

Mr. CHAMBLISS. Mr. President, I rise to speak briefly on the bill before the Senate and more extensively on a section of this bill I have been working on diligently to improve.

First of all, I wish to commend the authors of this bill. I have been through complex legislation before and this is a very complex issue. I know how hard the so-called Gang of 8 has worked. We can't please everybody with any complex piece of legislation, but I think they have done a very credible job of putting together a piece of legislation that at least we could get to the floor for debate.

I think having this bill on the floor is causing us to have a very important debate that is long overdue. We all know our immigration system is broken and we need to fix it. However, I am disappointed we have not been able to have a full and open debate on potential solutions to fix the system. I have stated publicly that I have serious concerns with several provisions in the bill, including some related to border security triggers, interior enforcement, and the program designed to address our agricultural labor workforce. That last topic—agricultural labor—is what I wish to spend the majority of my time discussing tonight.

But before I focus on the ag piece of this bill, I just have to say that I am terribly disappointed and frustrated at the way this bill has played out. I am about to talk for several minutes or so

on straightforward, commonsense amendments to the agriculture portion of the bill.

I have been working on ag immigration reform for nearly all of my time in Congress, both in the House and in the Senate. That is a total of going on 19 years. This is an issue I care deeply about because I come from the heart of ag country in south Georgia. But guess what. I am not going to have a chance to vote on any of my amendments, not because they are poison pill amendments—they are not—not because many of my colleagues do not agree with the changes I am suggesting—many actually do. It is because the sanctity of a deal has been given precedence over sound policy. Let me say that again: The sanctity of a deal is being given higher priority over sound policy.

Now, I am not on the Judiciary Committee, and the chairman of the Judiciary Committee was down here a little earlier talking about everybody had the opportunity in committee to file amendments. They had over 300 or so. That is well and good, and I am glad this bill went through regular order. I wish every bill that came to the floor of this Senate would go through that same regular order. But I am also not a Member of the Gang of 8, so I have not had the opportunity to have input on this bill. Nevertheless, I reached out in a constructive way to various folks to try to make some changes to the bill.

I particularly want to thank my colleagues, Senator GRAHAM, Senator RUBIO, Senator BENNET, and Senator SCHUMER and their staffs for working tirelessly and in good faith with me to try to make some improvements to the bill.

I thought we were making progress, and I think actually we did. But now I understand that one or two Members want to prevent this bill from happening, and so I am not going to be given the opportunity to have my amendments called up.

What I can do, and what I will do, is highlight to my colleagues here and to my friends in the House of Representatives who may or may not take up this issue the problems I see with the ag portion of this bill.

The agricultural portion of this bill has not been discussed extensively on the Senate floor, but it is vitally important to all Americans. Farmers and ranchers in the United States produce the highest quality food and fiber in the world. The continued safety of the agricultural goods produced in the United States is an issue not just of convenience but of national security. Due to the importance of food safety, it is critical to know who is handling our Nation's food supply and who is working on our Nation's farms and ranches. Additionally, if our farmers and ranchers cannot access a stable and legal workforce, they will be forced to downsize or eliminate their U.S. operations, and that is happening today.

This leads to more of the food we eat being imported from other countries. I want to make sure we do everything we can from a policy standpoint to keep that food and fiber production right here in the United States.

Today the majority of immigrant agricultural workers are undocumented. We need both secure borders and put in place an immigration system that allows those who seek to come to the United States to work in the diverse sectors of the agricultural industry to do so legally. H-2A is the current ag guest worker program in force in the United States today.

I have been working on H-2A reform since I came to Congress not only because Georgia's farmers are among the largest users of the program, but because it is clear to me that the current program is cumbersome and difficult to use, as well as expensive.

My colleagues who drafted this bill have included many reforms to the agricultural guest worker program, and several of these reforms do take a needed step in the right direction. However, there are several areas that remain troublesome to me, and so I am proposing amendments to address some specific areas.

Mr. President, I know the section of this bill focused on agriculture represents a delicate political balance, but we have a responsibility to enact smart policy, and we also have a rare opportunity to replace the cumbersome and largely unworkable H-2A program with something that will truly address the needs of those in agriculture all across the country while ensuring that no American workers are displaced. We also need to ensure that we do not give those undocumented aliens working in one sector of our economy a vast preference over the rest of the illegal population in terms of the pathway to citizenship.

Before I talk about my amendments, I want to give Members of the Senate an understanding of how the agriculture piece of this bill is set up. The ag portion of this bill puts in place a blue card program to transition illegal aliens who have worked in agriculture to lawful permanent resident status.

It also creates a new agriculture guest worker program to replace the current H-2A Program. The blue card program is open to anyone who has worked in agriculture for 575 hours or 100 workdays over the 2-year period of 2010 to 2012.

Let me say that again. If you worked for 575 hours or 100 workdays out of the 730-day period of 2010 to 2012, you qualify for a blue card provided you had that work in agriculture. Frankly, to me, that is a very low threshold.

The general undocumented population covered by our RPI program which is in the base bill has to prove they meet the requirements to gain RPI status by a preponderance of the evidence standard of proof. However, for the blue card program, that undocumented alien only has to prove

they worked that very minimal amount in agriculture by the standard of proof called just and reasonable inference. There is no interview required, and no way to verify the person applying for the blue card status actually worked in agriculture. Someone who lives in an area where agricultural work is performed and has evidence of their residence in that area could get a blue card by showing proof of residence and saying they were paid in cash in their agricultural job.

I am afraid the lax standards set out by the bill to qualify for the blue card program will lead to an influx of illegal aliens who worked a minimal amount in agriculture or never even worked in agriculture, to qualify for the program, sending more folks than we need in the agriculture sector to those jobs.

You might say, Why in the world would anyone choose to qualify for the blue card program, since agricultural work is widely viewed as some of the toughest work around and the most demanding work? Well, the answer is pretty simple. It is because the blue card program is a faster, cheaper, easier way to a green card than the RPI program for other undocumented aliens in the base bill.

While the RPI program doesn't allow illegal aliens to get a green card for at least 10 years, under the blue card program, if you are an agricultural worker, you can get a green card in 5 years.

While the RPI program doesn't allow green cards to be issued until certain border triggers are met, the blue card program doesn't require those aliens to wait on that border security piece.

Thirdly, while the RPI program costs a \$2,000 fine in addition to processing fees, the blue card program has a cost of \$500. The theory behind the blue card program is to incentivize this undocumented population to work in agriculture because it is a critical industry that traditionally has not attracted many American workers. However, the way the bill is written, there are very minimal agricultural work requirements.

You have to keep in mind that once an alien gets a blue card, they are authorized to work in any job in the United States. They have to meet the minimum work requirements in an agricultural occupation, but otherwise they are free to take any other job in America and are treated as a U.S. worker for hiring purposes.

So what are these work requirements to go through the blue card program and to get a green card? Well, there are two tracks: The illegal alien can work at least 100 days a year in an agricultural operation for 5 years or the alien can work 150 days per year for 3 years. Either way, the alien gets that green card in 5 years. Even the accelerated track requires the alien to work less than half the year in agriculture.

While the alien can work in any other job in the United States, he or she doesn't have to. So, in theory, a blue card holder could work 100 days

per year for 5 years in agriculture and be totally unemployed the remainder of the year, and still get a green card in 5 years and still have legal residence inside the United States.

Likewise, the alien could work 150 days per year for 3 years and be totally unemployed the remainder of the time and still get a green card in 5 years. That doesn't seem right—especially when the RPI population is not allowed to be without a job for more than 60 consecutive days. Clearly, the agricultural worker is getting a vast preference over the RPI undocumented workers.

Because of the way the blue card program is set up, I am afraid we are providing too strong an incentive for people who did very minimal or even no work in agriculture to access the program, and that we will end up with more agriculture workers than we need. Then because the work requirements are so low, once folks get the blue card, they will perform the minimal amount of work required and move on to a different job and we will leave those farmers and ranchers in the lurch with an unstable workforce—because, remember, these blue card folks are treated as U.S. citizens for hiring purposes.

The other aspect of this that concerns me—and we know this to be a fact because we saw it happen after the 1986 amnesty program under Ronald Reagan. That is, once these individuals who are working in agriculture get that green card, which allows them to permanently stay in the United States, they are out of agriculture. They are going to leave the farm, and they are going to go to work in construction or some other industry someplace in America where the working conditions are better and maybe even the pay is better. It is going to happen, because history tells us it is going to happen.

Some of my amendments are aimed at tightening the blue card program to ensure that only those folks who truly work in agriculture are using the program. The fact is I want those experienced agricultural workers to stay in agriculture, and I am also providing them some incentives to do so. The base bill here went way too far in the other direction.

The first amendment I will discuss tightens requirements to obtain the blue card. It raises a standard of proof to verify that you actually worked those very minimal qualifying hours in agriculture to qualify for the blue card program to what it is for the RPI population, i.e., a preponderance of the evidence.

As I mentioned before, the standard in the base bill is just and reasonable inference. Someone has to be able to prove by a just and reasonable inference that they performed over 2 months of agricultural work over a 2-year period of time in order to get into the blue card program. I think that standard leaves the program susceptible to all kinds of fraud.

However, I understand there are concerns by some that due to the nature of undocumented work in agriculture, it will be difficult for them to garner the necessary evidence of work history to access the program even though the bill protects employers from liability for having employed illegal workers.

At any rate, because there is that concern, my amendment provides that for those who truly worked in agriculture but cannot meet that standard, because of the nature of an undocumented workforce, they don't have that evidence, those folks have the opportunity to sit down and do an interview with the appropriate agency officials and prove to them face to face that they did work in agriculture as a matter of just and reasonable inference. If they can do that through the interview process, then they can get into the blue card program.

This amendment will eliminate most of the potential for fraud for the blue card program and is simply a very commonsense amendment.

The second amendment I will mention tightens the work requirements to maintain the blue card and eventually transition to a green card. Instead of allowing 100 workdays for 5 years or 150 workdays for 3 years to get a green card, my amendment says you must work 180 days for each of the 5 years in order to qualify for the green card.

If you are going to be put on this preferential pathway to a green card, I think you ought to be able to work at least half the year in agriculture. I don't think that is too onerous—6 months of work per year for 5 years.

Some will argue that some agricultural work is only a few weeks per year, and so 6 months of work per year is too much to require. To that I would say if a worker is only performing 3 or 4 weeks of agricultural work per year, then maybe this blue card path is not the best path for them. Perhaps they are better off seeking the RPI pathway to citizenship. We are talking about a preferential pathway to citizenship for a half a year of agricultural work per year under my amendment, with no other work requirement. I don't think this is too much to ask, and I think many people will still be able to maintain their blue card status with no problem.

The third amendment I filed has to do with how preferential that pathway to citizenship is for the blue card workers. The current bill says regardless of any border security triggers being met, an unlimited number of blue card workers will be issued green cards in 5 years. Those folks who qualify under the RPI section of the bill can't start the green card process until 10 years after enactment and certain border triggers are met. I think stretching that timeline for the blue card workers—who, remember, are authorized to work in any job in the United States—to 7 years rather than 5 years is more than reasonable and is still a preferential pathway to citizenship.

The fourth amendment dealing with the blue card program deals with the fines for the blue card program. Again, this goes to how much more attractive the blue card program is as compared to the RPI program.

The bill, as written, requires folks on the RPI program to pay fines totaling \$2,000 in order to get a pathway to citizenship. However, those on the blue card program are only required to pay fines totaling \$500—just \$500 for this faster and easier pathway to citizenship. That is not right.

I understand these agricultural workers don't have a lot of money, and so I am not asking to raise it to the same level as the RPI group. However, I think the fine should be significant. My amendment would increase that total blue card fine to \$1,000, which is double what it is in the underlying bill but still half of what it costs the RPI folks.

The final amendment I have filed relative to the blue card program should be totally noncontroversial. It has to do with previous H-2A workers who want to participate in the blue card program.

There is a provision in the underlying bill which I agree with that allows those former H-2A workers who meet the blue card work requirements to apply for a blue card and participate in the blue card program even if they are not currently in the country. I think this is the right policy, because many H-2A employers have been using the same workers for many years through this legal guest worker program, and I don't think we should punish them for having done the right thing in the past.

What this amendment does is simply add language that clarifies that the agencies involved in administering the blue card program need to promulgate regulations that will allow those former H-2A workers to make their application from outside the country.

In summary, I have five amendments to this bill relative to the blue card program and several of these are smell-test amendments, because without them I think it is difficult for this blue card program to pass the smell test.

I also have a series of amendments aimed at improving the new agricultural guest worker program set up by this bill, which is called the W-2/W-3 program.

It is imperative that we as policymakers get this program right. If history is any indication, we make reforms to our immigration laws once every 20 to 30 years. We have to make sure the guest worker program put in place by this bill is practical in its implementation and can be used by our farmers and ranchers, because as these blue card workers leave agriculture—and we know they will—we have to make sure there is a stable and legal workforce available in those instances when U.S. workers cannot be found.

I have said it before and I will say it again, that I think this new guest

worker program takes a step in the right direction. But I do have a few amendments to improve it that I will talk about now briefly.

The first amendment has to do with wages. The underlying bill sets a national minimum wage for each of six different agricultural job categories for the years 2014 to 2016. The wages for each category will automatically increase anywhere from 1.5 percent to 2.5 percent each year forever.

I have several issues with this wage section, such as the fact that a national wage does not reflect very real regional differences in cost of living or the fact that the wages do not seem to be based on any survey data. But I know how hot an issue this wage section is, so in an effort to be abundantly reasonable in how I propose to alter the bill, the main fix I am looking to make is to the number of wage categories.

I think we can all agree some agricultural jobs require a more skilled or experienced worker than others, and my amendment protects that fact. What I am trying to avoid is the book-keeping nightmare created by these six wage categories.

Under the categories presented in the base bill, a worker in a packing shed is in a different category than a field worker and is paid at a different rate; and a worker driving a tractor is in a different category and paid at a different rate from the field worker and the packing shed worker. But all of my friends familiar with the day-to-day operation of a farm will agree, the reality is that on any given day on a diversified crop farm, workers will be doing any combination of those three jobs. So my amendment collapses those six wage categories into two: a skilled wage and an unskilled wage. To get to those numbers, I simply averaged the wage data the Gang of 8 proposed in the underlying bill and used the same job categories the Gang proposed in the bill. My aim is to prevent an employer from having to determine how many hours a guest worker spent in the field versus the packing shed each day, as he would have to do under the current bill.

The second amendment deals with the issue of liability. If you ask my H-2A users in Georgia what their biggest complaint is with the H-2A program, I will guarantee that all of them will tell you it is liability.

Let me be clear upfront. I do not want to take away any protections that exist for workers. They need that. They deserve it. Nor do I want to prevent a worker with a legitimate grievance to be allowed to pursue that grievance. What I do want to protect against, though, is frivolous lawsuits that can cost a lot of money and waste a lot of time. There are several areas in the bill that I think can be tightened as they relate to liability.

The first area of liability that I think needs to be dealt with and is addressed in my amendment has to do with medi-

ation. The bill rightly sets up alternative dispute resolution to try to keep some of the complaints outside the Federal courtroom. However, the mediation setup under the bill is not binding. What is the point of providing this alternative dispute resolution if you do not want to make it binding? My amendment would do just that.

The second area of liability that is addressed by my amendment has to do with the Legal Services Corporation. Current law provides that Legal Services cannot represent an undocumented alien who is not present inside the United States at the time representation occurs. I think that is a good law. The underlying bill, however, eliminates that law and specifically says that Legal Services can represent a W-2 or W-3 ag guest worker, even if they reside outside the United States.

We are not talking about U.S. citizens. We are not even talking about blue card workers. We are talking about future guest workers. I think it leaves open the possibility of frivolous lawsuits being filed from a foreign country, and I simply do not think that is sound policy.

There is a final area of liability I am concerned about that has to do with housing. The bill treats those agricultural employers who provide housing under the W-2/W-3 program, as they are required to do if they cannot or do not provide a housing allowance, as housing providers under the Migrant and Seasonal Agricultural Worker Protection Act, MSPA, as it is referred to.

Let me tell you what that means. It means that any guest worker who alleges a housing violation such as a broken screen door or a nonworking microwave will be allowed to pursue that grievance through a lawsuit filed in Federal court, and believe you me it happens today.

That doesn't make sense to me. There should be a right to cure a defect before they have that right to file suit in Federal court. There should be a right for the employer to fix any minor or incidental issues with housing, but that is not allowed under the base bill. Initially, my amendment had language to address this, but at the request of the bill's sponsors who told me that was too controversial, I eliminated that piece of my liability amendment. It is strange to me this would be controversial, but to some it is, so that is a problem in the bill I am not even addressing by this amendment, but I do want to highlight it for my colleagues because I am telling you, this is going to be a real issue if that provision in this bill ever becomes law. I am hopeful that as this process moves forward there may be another opportunity to do something to address this in a reasonable way.

The third amendment to the guest worker program has to do with the allocation of visas. The current bill allocates the 112,000 W-2 and W-3 visas among the four quarters of the year. I understand the intent of the drafters.

They didn't want all of the visas to get used by all of those who seek visas early in the calendar year and not have any visas available for those who do not need workers until later in the year. However, I think a more efficient distribution of visas would be to issue them to all allotments; one on January 1 to accommodate year-round users such as dairy and those with a spring crop and then one on July 1 to accommodate the fall crop. My amendment does just that and it weights the January 1 allotment to have 70 percent of the visas because there are those year-round users such as poultry processors who will be needing those visas early on.

Any unused visas from the January 1 allotment will roll over to the July 1 allotment. The fact is crop seasons do not fit squarely into calendar quarters, and I think by changing the timing of the visa allotments it simply makes more sense.

The fourth amendment to the guest worker program I have filed has to do with the wages of former H-2A workers. I can commend the drafters for recognizing that we do not need to punish those employers who, to their economic disadvantage, have been using the current H-2A program to ensure they have a legal workforce. They did this by saying that even though blue card workers are treated as U.S. workers under the bill, and therefore have to be hired before any guest worker, if you have used a H-2A worker for 3 out of the past 4 years and want that H-2A worker to continue to work for you under the new guest worker program, you can. That former H-2A worker will not be displaced by a blue card worker.

However—and this is where I have the problem—if you hire that former H-2A worker under the new guest worker program, you do not pay that worker the wage rate established under the W-2/W-3 program. The bill requires that you pay that former H-2A worker a separate and higher wage rate called the AEWR. This is the wage rate that exists under the current H-2A program and it is part of the reason that law is so flawed. This just doesn't make sense. It seems to, once again, punish those who have been playing by the rules and the punishment is exacerbated because there is a provision in the bill that says you cannot give any preference to guest workers.

On its face that makes sense. But what it actually means is that you have to pay all the workers you hire that AEWR rate and that is just not right. This is a fairly technical concept, so let me give an example.

Say you have farmer Joe who has been using the H-2A programs even though his neighbors have not and they have hired undocumented illegal aliens and paid a much lower rate. This means all these years Farmer Joe has been providing free housing to his workers, paying their transportation costs to his farm, and paying the higher AEWR wage rate, which in Georgia

this year is \$9.78; meanwhile, those who use a questionably legal workforce have not had to provide housing, have not had to provide transportation, and have only paid minimum wage to their workers. If Farmer Joe uses 100 H-2A workers every year and has 10 critical workers he wants to make sure he re-hired under the new W-2/W-3 program, he can do that. He can hire these 10 guys before he hires any blue card workers. He still has to hire Americans first, but after that he can hire those 10 workers.

The rest of his workforce, in all likelihood, will be filled with blue card workers because there will be so many of them legalized and needing to meet a work requirement. So Farmer Joe will have 10 former H-2A workers and 90 blue card workers. However, under this bill, he will be forced to pay those former H-2A workers the higher wage rate of the AEWR, rather than the wage rate set up by the W-2/W-3 program in the underlying bill. Because he can't treat guest workers any better than U.S. workers and because blue card workers are considered U.S. workers, he will also have to pay all 90 of the blue card workers the AEWR rate.

So my amendment would simply strike that provision so Farmer Joe will pay the wage rate set up by the W-2/W-3 program. He will still have to pay all the blue card workers at the W program wage rate but not the AEWR rate.

The final amendment I will discuss is very straightforward. It simply extends the H-2A program for 3 years. The current bill extends H-2A for 1 year, but my amendment would add 3 years to that. While the H-2A program is far from perfect, it does allow employers who need legal workers to get them in a timely manner. Standing up a new program and moving it to a new agency and issuing new regulations to govern the program is a big undertaking, and it is all mandated to be done within this 1 year—within 1 year in the bill. I think H-2A can serve as a safety net in the off chance there is a bump in the road in getting these new programs propped up.

As I said earlier, I will not have the opportunity to have any of these amendments voted on or even accepted by unanimous consent. I cannot tell you how much that disappoints me. Any of these changes will take this bill in the right direction, from my perspective. The ag portion of this bill is a critical piece of the legislation, and I am afraid it has been overshadowed by some of the other issues. But we are doing a great disservice to our agriculture community and to all Americans who put food on their tables every night if we do not get this right—and we are not getting it right in this underlying bill.

There is going to be fraud and abuse like we have never seen in the ag guest worker program. We are going to have folks getting green cards ahead of those who have been standing in line

and doing the right thing for years and years and years and all of a sudden these workers who now hold a blue card and say: Yes, I worked in agriculture for 3 months out of the year for Farmer Mack over here—and there is nobody to dispute that—and he says: I worked a definitive period of time for 3 years, all of a sudden at the end of a total of 5 years he is going to get a green card and an automatic pathway to citizenship. That is just not right.

I came to my colleagues in good faith to try to make positive changes to this bill. I come to the floor now to talk about some of those changes. Ultimately, I want what is best for American agriculture. I want to be a constructive part of this debate and, unfortunately, a relatively few of my colleagues are preventing that from happening and none of these amendments are ever going to see the light of day.

I yield the floor. 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 the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, I would like to express my appreciation to Senator CHAMBLISS. This is one of the least-discussed but more important parts of our bill, ag provisions. He has delineated weakness after weakness in this process. The idea is he had to strengthen the bill. I hope the people who have heard it would draw a number of conclusions. First, there are great weaknesses in the bill. Second, Senator CHAMBLISS fully understands, though he has worked on this—I know last time we had a bill here—at great length and contributed in great detail to it. I think the third thing we ought to understand is this is a complex regime we are trying to set up. I am not sure the government can ever accomplish a setup of as complex a regime as the effort that has been made to create in this legislation.

I thank Senator CHAMBLISS for his positive contributions, for his work. I know he has been a constructive advocate with Members on the other side, trying to improve the legislation. I thank him for sharing in depth the difficult and confusing parts of this law.

There are a lot of things we need to understand before we move to final cloture vote on this legislation. It is late. I hope people will pay attention. We need to understand accurately what is happening. I have been an advocate. I am sure in the times we are here, sometimes we have to respond at a moment's notice and we make a statement that is not entirely accurate. But I do believe the sponsors of the bill who came to us and claimed they had the toughest bill in history and that it was going to solve our problems had an obligation to be more accurate than they have been.

Sometimes they make mistakes. Some of the disagreements make a difference in whether the legislation is good legislation or whether it is bad legislation. It is just important. I would like to point out a few things that have been talked about a lot today.

One was recently one of our Gang of 8, Senator MENENDEZ, made reference to the border security and the officers who have written a letter complaining about this legislation and suggested, somehow, that maybe it was before the border enforcement had been improved—promised to be improved, at least. But I think it evidences a misunderstanding of how our system works.

This is a letter from the National Citizenship and Immigration Services. These are not the Border Patrol agents, these are not the ICE agents, these are the people who process the claims for citizenship and they try every day to do the right thing and treat people fairly and equally and ensure that people wait in line and wait their turn. They are not supportive of this legislation. They represent 12,000 USCIS employees, adjudication officers, and staff. This is the statement they issued:

The amended 1,200 page Corker-Hoeven immigration bill—

Not something previously, but the last bill we moved forward today— if passed, will exacerbate USCIS concerns about threats to national and public safety.

These officers try every day to review these applications for visas and entry permits. They try to identify terrorists and not let them come in. They turn down people who don't qualify. They said this bill will exacerbate threats to national security and public safety.

They go on to say:

It will further expose the USCIS agency as inept with an already proposed massive increase in case flow that the agency is ill prepared to handle.

In other words, they are not able to handle the flow they have now and this is going to provoke a disastrous flow that will make them all look inept. They are correctly afraid people will say they let terrorists and criminals in the country, and they had no way possible to process these matters.

They go on to make a strong statement. These are people who serve our country and who are not allowed to participate in drafting the legislation.

The proposal goes out of its way to provide legalization for criminal offenders while making it more difficult for Adjudications Officers to identify threats to the nation's security in our ongoing war against terrorism. It was deliberately designed to undermine the integrity of our lawful immigration system.

I don't think our people deliberately wanted to have the system fail, but the people who have been writing this, if they wanted to make it tougher and tighter, would have written it a lot differently than it is now. It leaves these

officers exposed and unable to fulfill their requirements to identify and block people who should not be admitted to the United States, and that was a very strong statement. It represents deep feelings by those officers.

They go on to say:

This bill should be opposed and the reforms should be offered based on consultation with USCIS adjudicators who actually have to implement it. Hopefully, lawmakers will read the bill before their votes. I say put a cork in it.

That is what they say to us, and that was on Monday.

Here is another statement from the ICE officers, these officers, headed by Chris Crane, their association union president. Chris Crane is a former marine. He is so articulate and concerned about this legislation. He has raised it time and again.

The ICE officers have filed a lawsuit against Secretary Napolitano because they say she has blocked their ability to do their duty and placed them in a position where the supervisory directions to not enforce the law deny them the right to fulfill their oath to enforce the law. They filed a lawsuit in Federal court attacking this. I have never heard of this.

This whole association, which consists of thousands of officers, filed a lawsuit against Secretary Napolitano and their supervisor. They voted no confidence in John Morton, their supervisor, 2 years ago, and he just retired a few days ago. An independent survey of government morale factors found that ICE virtually had the lowest morale rating out of 179 government agencies.

Two years ago I asked Secretary Napolitano: Would you meet with these officers? She refused to say so. I asked her again earlier this year. She has not met with them. Nobody wants to listen to the people who are required to enforce the law.

Who are the ICE officers? The ICE officers are the people who deal with interior enforcement and deportations. They identify people who are here illegally, and they deport them and go through the mechanism. They have relationships with prisons where they go by the prison and pick up somebody who is illegally in the country and who has committed a crime. They are the ones who get them deported. They arrest people—or at least supposedly they used to when they had jobs. They interfaced with local police.

They have been undermined in every way by this administration and kept from doing their job. That is a fact. That is why the morale is down, and that is why they have sued the government. That is why they oppose this bill. They were never listened to.

It cannot be the policy of the United States of America that if someone gets past the border of the United States, they are never going to be deported. It cannot be the policy that the only thing that counts is having a Border Patrol, but if they can get through,

they are home free. There are not that many. I think there are 12,000 of these officers. There are not nearly enough to do the job already. They are getting no strength or support at all in this legislation.

I would note further that under the Congressional Budget Office analysis of this bill, which comports with what I have been saying for months, we are going to have a big increase in the amount of visa overstays. They are not going to be caught at the border. They are going to come in on a visa and never return. If we don't have ICE officers engaged in the effort, we will never be able to deport them.

We say, well, we are going to give legal status to everybody who is here. Let's say we give legal status to everybody who is here. What about the future? The people who are given legal status here will be given a Social Security card. They will be given a legal document that allows them to be in the country. ICE is not going to deport them. But what about those who come in the future? We are going to have no mechanism so they can be deported? That is one of the biggest flaws in this legislation.

I was a Federal prosecutor. I know about law enforcement. I did it for 15 years. If we don't help and have them engaged and utilize their ability, and treat them like second-class officers or citizens, we are not going to get the kind of legality the legislation promises—nowhere close. It is flawed. It should not pass. These officers tell us that correctly.

So the ICE officers are right. They said to us on June 24:

I urge you to vote no as this bill fails to address the problems which have led to the nation's broken immigration system and in fact will only serve to worsen current immigration problems.

It will worsen current immigration problems. That is their word. They go on to say:

Instead of empowering ICE agents to enforce the law, this legislation empowers political appointees to further violate the law and unilaterally stop enforcement. This at a time like no other in our nation's history, in which political appointees throughout the federal government have proven to Congress their propensity for the lawless abuse of authority. There is no doubt that, if passed, public safety will be endangered and massive amounts of future illegal immigration—especially visa overstays—is ensured.

They go on to say:

Abuses by political appointees, who currently pick and choose laws enacted by Congress will or will not be enforced, will escalate with their increased discretion and authority provided by this bill.

They say:

A vote against this bill is not a vote against immigration reform which we all seek, it's a vote against bad legislation and the special interests that wrote it; it's a vote to start this process anew and create reforms that truly fix the nation's broken immigration system.

How much clearer can it be? They are correct about this. Chris Crane is an

American patriot and his team is courageous. They have had to stand in there against an administration that issued this directive that basically required them not to follow plain law. What does this bill do? He indicated it right there. He said it gives even more discretion to the Secretary so she can issue even more directives undermining the law.

In fact, basically what the bill does is give more legal authority to the Secretary to do what she has been doing now, which is fundamentally, in many ways, contrary to law.

The Federal judge who is hearing this lawsuit the ICE officers filed explicitly stated at one of the hearings that the Secretary is not above the law, and that is certainly correct. She has been acting above the law by directing them not to comply with the law.

We are not saying we want the ICE officers to go out and round up everybody. Remember, if this bill passes, everybody will be given legal status—the ones who are supposed to be given legal status—and others will need to be identified. If they are not legally here, they will need to be deported. In the future, people who come in violation of the law will need to be deported also.

The Gang of 8 proposal adds four times more guest workers to our economy than a 2007 plan offered. It offers four times more guest workers than were offered by the 2007 bill that failed here—that comprehensive plan. This is at a time when 21 million Americans cannot find full-time employment. Imagine that. We have a much higher unemployment rate today than we had in 2007 before the bubble burst and we had the recession. We had virtually full employment in those days. Now we have high unemployment, which is a deep problem with employment in America today, and I don't think it is going to rapidly get better. For the last quarter of last year, growth of GDP was only .4 percent. The first quarter of this year has been revised down dramatically today to 1.8 percent. That means over half a year our growth is only 1.1 percent. That will not create jobs. It is not creating jobs. It is not enough to pull down unemployment in any way.

This bill is going to bring in huge amounts of new workers to take the few jobs being created. The bill also dramatically boasts permanent legal immigration. The permanent legal flow of immigration will increase substantially. Overall, it is conservatively estimated that the bill would legalize more than 30 million people—mostly lower skilled legal immigrants—over the next decade. It will be three times the current rate, and that is something I said originally.

I asked Senator SCHUMER, the Gang of 8 leader, at the committee: How many people will be legalized under your bill? Well, we won't say. I said again: How many? You offered a bill; you want us to vote for it. Can't you tell us how many people would be ad-

mitted? He refused to say. I said, 30 million over 10 years. The current legal flow would be 10 million over 10 years.

CBO came out with their report last week: 30 million in the first 10 years. Who was right about that? I mean, this is a big increase. Yes, it includes the people who are here illegally, but the annual flow is at least 50 percent higher than the current 1 million, according to the Los Angeles Times. I think that number comports with what we are able to calculate. So we are talking about a 50-percent increase in the annual flow of immigrants into the country with more coming in under chain migration. All of them will be able to work. All of them will be competing for jobs in the workplace at a time we are not producing many jobs.

What does the Congressional Budget Office say? I said for weeks this flow of labor had no other reasonable impact than to pull down wages of American workers. What did CBO say? CBO said the same thing. Last week the Congressional Budget Office in their study used this chart—I didn't make this chart. This is one of the few charts CBO put in their report, and it deals with the question of wages. "The average wage would be lower than under the current law over the first dozen years."

This shows in 2025 coming back to catch up. But, still, if the bill hadn't passed, we would have had more increased wages, and we would have had a different picture altogether. So it is going to be a serious impact on working Americans.

Professor Borjas from Harvard talked about this. He has written papers about this. He has written books on the subject. He is, I am sure, the most authoritative person. He is an immigrant himself—not his parents; he is an immigrant. He says also that wages are adversely impacted, particularly in lower skilled workers.

So Professor Borjas basically said there is benefit to low-income workers. Who gets it? The companies that hire the most low-income workers because those companies will be able to hire more people at lower wages. Who will lose, he said, in this process? The many more people who are workers. That is who is going to lose. We can't bring in large increases in labor at a time of high unemployment and not expect labor rates to go down.

Is the free market crowd not aware of that? Are our Democratic colleagues who talk about protecting the worker not aware of that? How can that be denied? Professor Borjas said it.

The Atlanta Federal Reserve economists found a substantial reduction of the value of working people in the Atlanta region as a result of the current flow of immigration. They detect a clear reduction in wages as a result of the current flow of immigration, and this flow is much bigger.

We are talking about not only a 50-percent increase in the legal flow of immigration every year, meaning 15 million over 10 years as opposed to 10

million. In addition to that, we are talking about the 11 million who would be given amnesty and legal status. Then there is an additional 4.5 million people who can't come in right now because there is a limit of how many each year—a cap. Those are going to be accelerated.

Then we have a guest worker program. Senator CHAMBLISS talked about the agriculture industry. There are all kinds of guest worker programs. The guest worker programs will double the number of workers who come in. They come for one reason, and that is to take a job. They will double.

So this is a huge impact on our wages in America. This country is not creating enough jobs to sustain that.

That hurts the 11 million who are going to be given legal status. That hurts the immigrants who come here legally and have legal status already. That hurts poor people all over America, particularly because so many of these workers are competing for the lower wage jobs.

According to the U.S. Commission on Civil Rights and Professor Borjas, the group who will suffer the most are African-American males. This is really a matter not to be disputed.

One in three high school dropouts doesn't have a job. One in two African-American teenagers is unemployed. Twenty-one million Americans who want a full-time job cannot find one. In the city of Detroit, one in three households is on food stamps. In Washington, DC, one in three children lives in poverty.

Senator MENENDEZ, I think, confuses total wage growth with average wage growth. Remember, more workers will increase the total wages, so if we bring in 1 million people, yes, more wages will be paid, but the average wage would be lower.

If a person is a worker, what does that person want to hear? They want to hear somebody say: Oh, the economy is going to have more wages. Isn't that great. But I am going to have less because 30 million people-plus will be here added to the workforce and everybody gets less and I am supposed to be thankful about that. I am supposed to write my Congressman and say: Oh, great, thank you for passing a bill that increases total wages in America.

Give me a break.

How about this: They say that GNP is up. Senator MENENDEZ said that. He said GNP will increase. We are hearing that repeatedly: GNP will increase. Well, of course, just like total wages will increase when we have 30 million, 40 million people added to the economy, GNP is going to increase some if we add large numbers of people to the economy. That is the total of goods and services produced in America. But what about the average person and their share of the economy? Will it go up or will it go down?

Look at this chart. It comes right out of the CBO score, right out of their book. This is 2013 and this is 2029. This



is, I guess, 2032 where the lines cross. How many years? Well, over 29 years or 26 years. This bill, S. 744, would reduce per capital GNP by 0.7 percent in 2023, out here, and it stays below the line it would have been on had the bill not passed. This is below what would have happened if the bill had not passed. Passing the bill pulls down GNP per capita, making each worker in America less able to have a full share of the wealth of America. That is what that means. It is not right.

We have had people just blindly coming down here for days now and asserting boldly, without any serious economic data to back it up—except in 2033. This is out to 2033. They have had years way out there where they try to claim improvement. We need to be worried about our people now. We have people unemployed now, looking for jobs right now. We should be helping them. So this is important.

Finally, I will show my colleagues one more chart we need to focus on. This is one of the most stunning charts I have seen. I was shocked when my staff told me about it. It was part of the Congressional Budget Office analysis and debt projections for our economy for the next 10 years. They do that every year. They do updates every year. So in the early part of this year, they did a projection of employment for the next 10 years, and they projected what kind of job creation we would have over the next 10 years. Our CBO does it every year. It is not a new report, it is something they do normally. This is what they concluded: For the next 5 years, 2015 through 2018, while we are coming out of the recovery from the recession, they project we would create 171,000 jobs a month.

That is really not enough to reduce unemployment significantly. We ought to be creating 200,000, 250,000, 300,000, to begin to pull down unemployment. But that is what they predicted. But look at this: This is the second 5 years of their 10-year window. They project only 75,000 jobs a month. So our staff called them.

They said: Tell me about this.

CBO said: We are glad you called. We are glad you called because we have given a lot of thought to this. We have studied projections and data and the case for projections for slower growth in this period of time for mature economies. This is what we come up with as the best projection, using private sector information and other data, including Department of Labor Statistics.

Well, from 2019 through 2023, we will be bringing in 75,000 jobs a month, with this bill. How can that not increase unemployment in America? How can that not create a glut of workers that pulls down wages and creates more unemployment?

I just don't see how we can possibly justify this large flow of workers without adversely impacting the salaries of American workers. I am not talking about the 11 million who would be legalized. I am not talking about those

people because that is part of the agenda we have, to be a part of any long-term settlement of our immigration problem. I am saying in the future the annual flow, the monthly flow, will be more than we will be creating jobs here. That is a pretty stunning figure.

Mr. Peter Kirsanow, who serves on the U.S. Commission on Civil Rights and used to be on the Labor Relations Board, I believe, writes that this bill would have "profound and substantial costs to American workers."

He was participating in the hearings of the Civil Rights Commission. He said every witness there said that. Professor Borjas at Harvard, the leading expert in this area, has found that from 1960 through 2012, immigration has cost native-born workers an average of \$402 billion in lost wages, while firms using workers such as this gained income. He goes on to say the impact of increased immigration from 1980 to 2000 resulted in a 3-percent decrease in wages for average native workers and an 8-percent decrease for high school dropouts. This is 8 percent. That means a lot of money.

He goes on to say: "Immigration has its largest negative impact on the wage of native workers who lack a high school diploma"—a group that makes up, in recent decades, a shrinking share of the workforce. These workers are among the poorest of Americans.

He goes on to say: "The children of these workers make up a disproportionate number of children in poverty." He concludes that, based upon census data, when we have an increase of workers in a specific field of 10 percent, we can have the employment rate fall. A 10-percent increase in supplied workers from immigration levels reduced the employment rate for African Americans by 5.9 percent. That is already.

My point is I don't see how anyone can say that anything like over the next decade, we are not going to see lower wages, more unemployment, and lower per capita GNP. Frankly, I think Borjas's analysis is probably stronger on that subject than CBO's.

We know this: The Federal Reserve Bank in Atlanta has done similar studies. These studies show things such as the average worker's pay being reduced by \$1,500 a year, which is \$120 a month.

My colleagues continue to insist that their promise is correct, that this bill would not provide welfare to those who are given legal status. But the facts show it is not correct. I just have to rebut that. I questioned that at the beginning. We now know their promise is not correct.

Immediate access to once legalized individuals—they will first have immediate access to State and local benefits.

Senator RUBIO even proposed an amendment to the bill that would have eliminated that, but it was never voted on. So the bill we will be voting on does not change that at all. He knew that was contrary to the promises made.

Immediate access that will be given to those who are given this RPI provisional status to free earned-income tax credits is in the bill. I offered an amendment in committee to fix that. In other words, the earned-income tax credit, if a person makes below a certain salary and they are working and they have a family, they get a big check, sometimes \$2,000, \$3,000, from the Federal Government. It is not a tax deduction. It is not a credit against future taxes. It is a direct payment to that individual in the form of a subsidy and a welfare payment and that is the way the CBO scores it—as a direct payment, just like any other payment of welfare to the individual because that is what it is.

They will get that immediately. I offered an amendment in committee. I do think—I think I incorrectly said earlier that the Gang of 8 Members voted against it. I do believe Senator GRAHAM and Senator FLAKE voted for my amendment in committee, but it failed in committee. That amendment, to be offered tonight by Senator RON JOHNSON of Wisconsin, has been blocked and will not be voted on.

So if this bill passes, there will be welfare payments immediately to all 11 million who qualify, and large numbers of these individuals will qualify because they are low-skilled. Over half do not have a high school diploma, and they will be in that wage rate that qualifies for this welfare payment.

Also, within 5 years, 2 to 3 million illegal immigrants who are given legal status will become green card holders and/or citizens and become eligible for all Federal benefits. So a big chunk of them—2 to 3 million—will be put on a pathway to citizenship in 5 years and certainly legal status in 5 years.

The PRESIDING OFFICER. The Senator has consumed 30 minutes.

Mr. SESSIONS. I ask unanimous consent, Mr. President, for an additional 2 minutes and I will wrap up.

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

Mr. SESSIONS. I thank the Presiding Officer for his courtesy.

So those will get the welfare within 5 years. That is where we are.

I appreciate the work that a lot of people have put into this legislation. People have worked hard on it. They have a vision they want to accomplish. We do need to fix our broken immigration system. But this legislation does not do it. It does not come close to doing it. It should not become law, and we should make sure it does not become law.

I urge my colleagues tomorrow to vote no. That does not mean we will never do anything. That is, of course, silly. We need to come back with a more realistic piece of legislation—legislation that asks seriously how many workers this economy can accommodate. Do we have a system that deals with visa overstays? This bill weakens dramatically the entry-exit visa system under current law that has never

been implemented but should have been implemented years ago. It undermines the requirements in current law that would make that system work. Therefore, it will not work. It is weaker than the current law. We should be following current law.

In addition, we need to strengthen, as Senator PORTMAN advocated, the E-Verify system at the workplace. That is not done. As Senator CHAMBLISS pointed out, there are so many complexities in these guest worker programs, so many loopholes and difficulties that we do not even know about. We need to simplify that system.

A guest worker system that brings a person here to work for 3 years with their family, where they can reup for another 3 years and maybe another 3 years—they are then going to be asked to leave this country if they no longer have a job, if we hit a recession? That is not going to happen. That is an impractical system.

A good guest worker system should allow workers to come to America—only those who intend to work for the season they intend to work, and then they should return home. They should maintain their residence in the foreign country, and then they work here as guest workers. That is what a guest worker program should be.

This bill allows people to come with their families, to put down roots and become established, and then it is impractical and unkind and unrealistic that we would, 10 years from now, say go home. We are going to have huge visa overstays, as CBO predicts, because that is the way it is going to work.

I thank the Presiding Officer for giving me an opportunity tonight to share a few of my concerns, as we move to a big vote tomorrow on cloture.

I yield the floor.

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#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., on Thursday, June 27, 2013, and does so as a further mark of respect to the memory of the late Senator William Dodd Hathaway of Maine.

Thereupon, the Senate, at 8:35 p.m., adjourned until Thursday, June 27, 2013, at 9:30 a.m.

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#### NOMINATIONS

Executive nominations received by the Senate:

#### THE JUDICIARY

PEDRO A. DELGADO HERNANDEZ, OF PUERTO RICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO, VICE DANIEL R. DOMINGUEZ, RETIRED.  
BRUCE HOWE HENDRICKS, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE MARGARET B. SEYMOUR, RETIRED.

ALISON RENEE LEE, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE CAMERON M. CURRIE, RETIRING.

#### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### *To be general*

LT. GEN. ROBIN RAND

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### *To be lieutenant general*

MAJ. GEN. RUSSELL J. HANDY

#### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 624, 3037, AND 3064:

##### *To be brigadier general, judge advocate general's corps*

COL. CHARLES N. PEDE

#### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

##### *To be major*

PETER C. RHEE