laws no better than those who patiently wait outside of our country for their chance at the American dream through legal channels.

This can be done by allowing those who have come here illegally a second chance to depart and then reenter the country legally. This is the model that was contained in legislation that Senator JOHN KYL and I introduced well over a year ago. We did so after holding about half dozen hearings on the broken immigration system and ways to fix it. Both of us, like all of our colleagues, but particularly Senators from border States, are earnestly interested in trying to find a way to fix it. But I recognize—and I believe Senator KYL does as well—that there needs to be flexibility built into any proposal.

We recognize there will probably have to be humanitarian exceptions for the elderly or third country processing for those who have no country to return to. Senator KYL and I are working on proposals to make these concepts work as part of a comprehensive bill. But then for the 12 million illegal aliens in this country, I am confident for their personal situations we would all agree that some special consideration is warranted. No one can test that.

But when creating a Federal policy that will impact tens of millions of people in the years to come, there has to be agreement and consensus on a general rule. That is why I disagree with the Judiciary Committee product. The general rule under their proposal is that illegal aliens will be rewarded with a special pass to citizenship and that person will be allowed to break in line ahead of those who have attempted to come to this country legally and are patiently waiting outside the country for their chance.

As you can tell, it is no secret that I oppose the committee product. I oppose it because I think it is bad policy and will reward illegal behavior. I believe it is a proposal built on an assumption that our immigration laws cannot be enforced. That is something I will never agree with because that is simply to give up and to admit defeat.

But, most importantly, I oppose it because I believe it repeats a mistake that our country made 20 years ago which, if repeated, will never be excused or forgiven by the American people.

I yield the floor.

EXHIBIT 1

[From the Washington Times, Aug. 2, 2004]

ILLEGALS ACTED ON RUMORS OF AMNESTY

(By Jerry Seper)

Nearly 35 percent of the illegal aliens captured trying to enter the United States in the 19 days after President Bush proposed a still-pending guest-worker program say they were trying to take advantage of what many saw as amnesty.

According to a confidential Border Patrol report to a Senate committee, 1,000 of 2,881 foreign nationals interviewed by agents after their capture at the U.S.-Mexico border between Jan. 7 and Jan. 26 acknowledged that rumors of an amnesty program—outlined in Mexican press reports and passed on by relatives—had influenced their decision to try to enter the United States illegally.

Mr. Bush's proposed immigration initiative, formally announced Jan. 7, would allow millions of illegal aliens in the United States to remain in the country as guest workers for renewable three-year periods if they have jobs. The aliens eventually could apply for permanent legal residence.

About 8 million to 12 million illegal aliens, mostly Mexican nationals, are estimated to be in the United States.

Beginning just days after the Bush announcement, the number of illegal aliens caught crossing into this country from Mexico increased dramatically, immigration-enforcement officials said, although the White House painstakingly has denied that the president's guestworker proposal offered amnesty—saying, instead, it would give illegal aliens holding jobs in the United States temporary work permits, but they eventually would have to go home.

Outlined as a set of principles and not as specific legislation, the Bush proposal did not prescribe any penalties for those caught entering the country illegally and would allow those here to remain in the United States for an as-yet undetermined number of renewable three-year periods.

The Border Patrol report said 66,472 illegal aliens were apprehended along the U.S.-Mexico border during that 19-day period, about 3,500 a day. The January 2004 total is more than 11 percent higher than the number of apprehensions reported in January 2003, according to patrol records.

The report said questionnaires were given to field intelligence agents to interview apprehended aliens on a random basis to determine their ''perception of the proposed temporary guestworker program.'' The questionnaire used the word ''amnesty'' because of the widespread reporting in the Mexican press referring to the proposed program as an offer of amnesty, the report said.

The questionnaire was canceled Jan. 26 after its public disclosure. The report said Border Patrol officials determined that the questionnaire's integrity had been compromised by the press coverage.

The Border Patrol has denied that the questionnaire was politically motivated or intended to imply that Mr. Bush was calling for a general amnesty, saying, instead, that the agency routinely develops questionnaires to request information from field offices on a variety of issues.

''This practice is critical to providing the Border Patrol with a comprehensive understanding of the border environment,'' the report said. ''The collection of this type of information is an essential tool that enables decision-makers to develop plans and operations specifically designed to counter threats or issues that the questionnaire identifies or confirms.''

The National Border Patrol Council, which represents the agency's 10,000 nonsupervisory agents, said apprehension totals increased threefold in the San Diego area alone, adding that the majority of aliens detained along the border in January told arresting agents that they had come to the United States seeking amnesty.

Most of those arrested and eventually deported had no history of immigration violations, the council said.

The council has told its members to challenge the guest-worker proposal, calling it a ''slap in the face to anyone who has ever tried to enforce the immigration laws of the United States.''

Congress approved an amnesty program in 1986 that gave legal status to 2.7 million illegal aliens.

A CBS News/New York Times poll in January 2004 said no issue upset the public more than Mr. Bush's amnesty/guest-worker proposal, with only one-third of Americans supporting him. And a CNN/Gallup/USA Today poll that same month said 74 percent of respondents thought the United States should not make it easier for illegal aliens to become U.S. citizens.

Sen. Charles E. Grassley, Iowa Republican and a senior member of the Senate Judiciary Committee, had asked Homeland Security Secretary Tom Ridge to explain whether ''rumors of amnesty'' concerning the Bush proposal had played any role in attempts by illegal aliens to cross the border.

Mr. Grassley told Mr. Ridge in a letter that he was concerned that illegal aliens were risking their lives and putting their futures in the hands of corrupt alien smugglers in an attempt to gain entry to the United States.

SECURING AMERICA'S BORDERS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2454, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2454) to amend the Immigration and Nationality Act to provide for comprehensive reform, and for other purposes.

Pending:

Specter/Leahy amendment No. 3192, in the nature of a substitute.

Kyl/Cornyn amendment No. 3206 (to amendment No. 3192), to make certain aliens ineligible for conditional nonimmigrant work authorization and status.

Cornyn amendment No. 3207 (to amendment No. 3206) to establish an enactment date.

Bingaman amendment No. 3210 (to amendment No. 3192), to provide financial aid to local law enforcement officials along the Nation's borders.

Alexander amendment No. 3193 (to amendment No. 3192), to prescribe the binding oath or affirmation of renunciation and allegiance required to the naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I express my sincerest appreciation for the leadership of Senator JOHN CORNYN as we have attempted in the Judiciary Committee—of which we are both members—to try and help produce a bill that will actually work, that will allow legal immigration to be formal, effective, and allow more people to come into our country legally while ending the disarray which now exists. He is so knowledgeable as a former justice on the Supreme Court of Texas and former attorney general of Texas. He understands it so well, being a Member from a State that deals with this in such a consistent and continuous way. I thank the Senator for his excellent work.

One of the aspects that is most troubling to me about the process—as it has gone along, I have become even more concerned about it—is that it indicates a lack of serious thought about what we are going to do as a nation to deal with those who are here illegally now. We know there are a lot of good

people here. What are we going to do in the future?

Let me report how things went in the Judiciary Committee. We had the Alito hearings, we had the Roberts hearings, we had the PATRIOT Act debate, and we had the asbestos debate. We have been as busy as any committee has ever been on a host of important issues facing our country all year. It seems as if that is about all I do, and I am on the Armed Services Committee at a time when we are a nation at war. We have a lot of things going on, and we have worked very hard.

At the beginning of the process, I expressed concern asked that we not rush the committee into something before it was ready. The majority leader set this time for this bill to come to the floor, and he said he expected us to complete a bill if we wanted a Judiciary Committee bill to be the vehicle on the floor. So the committee tried to do it. But there was not enough time. We did not give enough thought to it, in my view. We met for 6 days in the Judiciary Committee attempting to mark up Chairman SPECTER's immigration legislation, a mark that he put out which is considerably better, in my view, then what is currently on the floor. His was not acceptable in some ways, but it is better than the one we produced. He put his mark out for debate in Committee.

We began to discuss it. We met on March 2, March 8, March 9, March 15, 16, and 27. Six days may sound like a lot in the committee process, but this bill is 400 pages involving tremendous national issues which many people feel strongly about and which deserve real discussion.

During the first day, we basically just talked about the bill. No amendments were offered during the markup. During the next 3 days, we talked about the enforcement provisions of the bill and simply accepted by unanimous consent noncontroversial amendments to the first two titles of the bill, two of the seven titles. We accepted some amendments.

Then we get to day four. We did not have a single vote on any amendment during those first four days of hearings. On the fifth day, we once again in committee talked about how best to proceed. No amendments were offered, and none were voted on.

During the 5 days, we did not vote on a single amendment. All the controversial issues got pushed off to Monday. We are not normally here on Monday, but we showed up on Monday because the leader said we had to have a bill out Monday night or he would bring up his own bill.

During the morning session on Monday, we spent 3½ hours talking about amendments on the enforcement provisions of the bill. We spent a good bit of time on the enforcement provisions and made some progress. I got optimistic to the point that I have said if we did just a few more things, we could create an enforcement system that would work. So we spent a little time on enforcement. But we are still now talking about title II of the seven titles in the bill.

After lunch on Monday of this week, we met for another 3½ hours and ran through the remaining five titles, five sections of the bill, with little discussion and less understanding of what the amendments were and what they amounted to. We voted on several amendments without even having language to review. In only 3½ hours on Monday, we voted on four amnesty provisions and increased the chairman's mark by over 100 pages.

Let me make this clear. We spent 5 days talking about the enforcement issues with little controversy there. In contrast, we spent 3½ hours passing out the massive amnesty provisions in the bill that is now in the Senate that will attempt to legalize and put on an automatic path, virtually, to citizenship.

We also passed legislation that increases the legal immigration in our country by at least double—probably more than that—to 400,000 per year, with little discussion of who and how that should be done. It just was offered and passed.

I believe this Senate needs to slow down and think about where we are. It is very important.

Members of this Senate have expressed deep concern that the border has become a major gateway for terrorists to have access to the United States. Senator FEINSTEIN expressed that. Clearly, she is from California. We are pleased to have three Senators—Senator FEINSTEIN from California, Senator KYL from Arizona, and Senator CORNYN from Texas—who live on the border and know about it and understand it in many ways, far better than the rest of us. I share her concern and believe it can only be remedied by focusing on fixing our immigration system as a whole. It is something we can do. This is within our grasp at this point, but we are not there yet.

Securing our borders and being able to keep track of the people who come in and out of our country is essential to our security. We know that countries without secure immigration policies are a natural fit for bad actors who seek to live anonymously within their borders. A country that does not protect its borders and does not know the identity of those who come in and out of the country is laying out the welcome mat for criminals and even terrorists.

I have visited a number of times with troops and other government officials in Afghanistan. I have had the honor to meet with General Jones, our commander in Europe, General Abizaid, our commander in Central Command, and they have expressed exceedingly great concern to me about unregulated border areas. They have emphasized that there are a number of places around the globe, border areas of countries that are not very effective countries, in which criminals can gather and nobody does anything about it. It gets worse and worse, and terrorists nest there. The most dramatic example of that, of course, is this very long and very large border between Afghanistan and Pakistan, where many think Osama bin Laden hides out today. Some ask why isn't it possible for us to find him? It is a very large area. It is basically an area that has not been controlled effectively by the Governments of Pakistan or Afghanistan, and as a result, it is far more difficult.

I just came from there last week and had a briefing on this specific area. If anyone heard the briefing I had, there would be a far greater understanding of how difficult it is to control these areas.

A great nation like the United States has to do better. We cannot allow that tendency to occur in our country. I believe we can say with some integrity and honesty that tends to be what is happening here on our border.

Last night, I had an exchange with Senator KYL in the Senate, and he talked about the increasing number of people who are involved in crime on the Arizona-Mexico border. Many are not from Mexico. Many are from further south, from other countries, who come into Mexico, but it is an area in which they operate, move drugs, extort, carry people, and it is not a healthy situation at all. It is something a great nation, if we care about the people who want to live here and come into our country legally, should be very concerned about.

The United States felt the sharp consequences of open borders and lax enforcement when our ineffective immigration policies enabled 19 terrorists to obtain visas into the United States on September 11. September 11 was not the only act of terrorism on U.S. soil, though, that has resulted from poor immigration policies.

Let's talk about the Brooklyn subway plot. People may have forgotten that. Gazi Ibrahim Abu Mezer was caught by the Border Patrol agents three times while trying to illegally cross the Canadian border. After a third apprehension, Canada would not take him back. Because the United States suffers from a severe lack of detention space for illegal aliens like Mezer, what happened to him? Canada would not take him back. He was released into the country on bail with a promise that he would show up for a hearing at which he would be deported. So he wants to come to this country, he is apprehended for the third time, Canada will not let him come back, and they release him on a promise that he will show up for a hearing on whether he should be deported. It sounds like, based on those facts, he probably was confident he would be. While waiting for his hearing, Mezer busied himself by plotting to bomb the Brooklyn subway.

Mohammad Salameh, one of the World Trade Center bombing co-conspirators in the first World Trade

Center bombing attempt in 1993—more than an attempt; an explosion that did not bring down the building applied for a tourist visa to the United States. Although Mohammad Salameh overcame the presumption that he was required to overcome as a single male, young, and received a visa, he overstayed the visa and remained illegally in the United States. We passed amnesty. He applied then to be a permanent resident. It was rejected. Somebody caught it somehow and saw something there. What did he do? He applies for amnesty under the 1986 act, and they reject it. So what does that mean? Was he sent home? No, he just simply remained in the United States. Nobody bothered to come and look for him. He continued living and working here because there was no enforcement mechanism in place allowing authorities to detain and remove rejected green card applicants.

Mahmud Abouhalima, a leader of the 1993 trade bombing, was legalized as a part of the 1986 amnesty, also. It was only after he was legalized that he was able to travel outside the United States. The trips he took after being granted amnesty included several to Afghanistan and Pakistan, where he received the training he used in the bombing.

Most people who seek to stay in our country are good and decent people. They are not terrorists. We know that. But we have an increasing number of criminals from around the world seeking to enter this country, and we have the terrorist problem.

Abounalima took advantage of the amnesty. He got approved. Proper background checks apparently were not conducted, and he then, as a permanent legal resident, green card holder, was free to travel back and forth around the world and go to Afghanistan and Pakistan. That is where he got his training for the 1993 bombing.

The mastermind of the 1993 bombing was Ramzi Yousef. He did not waste time applying for a visa to come to the United States. Upon his arrival at JFK Airport, he simply applied for asylum, saying he was persecuted. There was a lack of detention space while they were trying to determine his status. They said to this man who illegally appeared at John F. Kennedy Airport—You are here illegally; we will arrest you. And he says: I claim asylum; I am here because I have been run out of my country. So he is entitled, now, to a trial or a hearing on that. But they cannot do it that day, and they do not have any place to put him, so they release him. They parole him into the country until a hearing can be held on his asylum claim. Yousef then used that time inside the United States to plan the 1993 bombing of the World Trade Tower.

Not only have our amnesty, visa issuance, and asylum policies brought terrorists into the United States, our programs have also served as a conduit for criminals and terrorists.

Hesham Mohamed Hadayet, murdered two people at the El Al counter at Los Angeles International Airport in July 2002. Less than a year after 9/11, Hadayet conducted that attack at the airport which resulted in the murder of two people.

He received legal status through the diversity lottery visa in this fashion: In 2002, Hadayet was a visa overstayer. He got a visa, came here, but he stayed illegally beyond the time he was supposed to stay. In his asylum claim, when they confronted him about it, he claimed that he was entitled to asylum, too. That is a good thing to say because that stops the works. So he claimed asylum. But a hearing was held, and the determination was that he was not entitled to asylum. It was rejected.

But with no mechanism, no will and no capacity to tell the truth, to remove him, he just stayed in the United States with his wife. Then Hadayet's wife won the diversity visa lottery. She got a green card and she was able to get one for her husband. So both of them were legalized. That is how he got into the country—not a way it should have happened. Once his asylum had been rejected, he should have been removed.

Now, we have been reading in the paper about Zacarias Moussaoui, who just confessed, apparently, to his intent to participate in the September 11 bombings in plane attacks in our country. He entered the country under the visa waiver program, and he just confessed that he was to fly a plane into the White House.

I would like to share a few more things about the ineffectiveness of our system. Most of the people who come here are not criminals. Most of the people who come here have legitimate reasons. They ought to wait until we are able to check their records and verify they are an appropriate person to come in our country. That is how the system is supposed to work. But the truth is, we are seeing a larger number of criminals coming in than we ever have before.

Criminals from other countries, and those who would commit crimes, also use the immigration system against us.

On December of 2005, Secretary Chertoff, the Secretary of the Department of Homeland Security, testified that the Border Patrol encountered 1.1 million illegal aliens attempting to cross the southwest border between the legitimate ports of entry illegally.

Just a few weeks ago, a Department of Homeland Security employee told us that approximately 12 percent—12 percent—of the people apprehended already had criminal records. That is 139,000 people. So for those they apprehended, they did a background check on them, and they found that 12 percent of those had a criminal record already, totaling 139,000 people.

In 2004, the Department of Homeland Security deported over 88,000 criminal aliens. Those removals accounted for over 40 percent of the people who were removed. Now, these are not simple immigration violations. They are serious offenses: fraud, drugs, extortion, or violence.

If we catch one criminal entering the country, each year, for every criminal entering the country we do not catch—and some say that is about correct—it is highly likely the United States received a net gain, in 2004, of 51,000 criminals, none of whom should have been allowed in the country if an appropriate system were operating.

A great nation does not have to accept everybody who wants to come. No nation does—not everybody. So we set standards. One of the standards is, people are not allowed in the country who have criminal records or charges are pending against them.

Now, the numbers of criminal aliens in the country is startling, I have to tell you. I wish it were not so, but I am just telling you what the numbers are. Criminal aliens now constitute a large percent of all the Federal prisoners in Federal prisons today. How many? What percent would you suspect? I will have to tell you, it is an astounding 27 percent. Twenty-seven percent of the Federal prisoners today are illegal aliens, criminal aliens.

In 2003, that means 44,000 criminal aliens were serving sentences in Federal jails. This is just the Federal jails, which probably represent 10 percent of all the prisoners in the United States. I believe those percentages could be even higher in State and local prisons. And I understand in some States it may be even higher, like in California and others.

An April of 2005 a GAO, Government Accountability Office, report found that the number of criminal aliens incarcerated in the United States increased 15 percent from 2001 to 2004. That is a steady and substantial increase.

According to the Bureau of Prisons, the cost of incarcerating criminal aliens totaled approximately $1.2 billion in 2004.

Now, again, I am not saying that we need to reject people and stop immigration and never allow anybody into our country because we are having an increasing number of people who attempt to come here who are criminals. What I am saying is, we need to make our system work so we can identify those people who have criminal histories and not allow them in and allow the good and decent people in. Isn't that what it is all about? It is a very important point.

Criminal aliens are also having a severely negative impact at the State and local level. Recently, an ICE agent—those are the immigration enforcement officers—in Alabama contacted me to tell me there is an enormous, growing problem with aliens trafficking drugs across north Alabama. Who would think that? He informed me that all of the green card holders he arrests for criminal convictions for trafficking dope were once illegal aliens but have been granted amnesty somewhere along the way.

To quote him directly, he said—this is what he told me:

[It is] because they had no respect for the law when they jumped the river, worked illegally, and used fake documents with false names.

That is what he said. Who can say there is no truth to that? I think there is some truth to that. Simply giving an illegal alien a green card does not suddenly make that person a law-abiding citizen. We need to make sure we have ascertained, when a person applies to come into our country by visa, or to obtain a green card, that they are law-abiding citizens who are going to contribute positively to our country.

I like to tell my friends in Texas the whole story about Alabama. Perhaps Georgia has a spin on it. It probably has a little spin on it, I say to the Presiding Officer. But the story was: If somebody got in trouble with the law in Alabama, and you went to their house, they would have ''GTT'' on the door. What did that stand for? ''Gone To Texas.'' In the old days, they did not have many prisons, and basically if you got out of town, that was fine.

I am wondering, sometimes, if people who are getting in trouble in their home countries are not finding it easier than being arrested and put in jail in their own country to just leave town. And if they leave town, maybe the local police and constabularies are happy to have them go and do not mind what happens to them. I am afraid some of that may be occurring here. I suspect in the early days, Georgia sent their people to Alabama, Mr. President. I don't know. Of course, your State was founded—I will not get into that story.

The next story from Alabama ICE agents was surprising to me. In December of last year, in the past few months, they arrested, in the north Alabama area, a leader of the MS–13 street gang—that is basically an El Salvadorian violent street gang—for possessing a stolen firearm. ICE had to release the gang member from custody a couple months later because the judge determined that he derived U.S. citizenship from his father who received amnesty in the 1990s and was naturalized when the gang member was 17. Normally, as a noncitizen, being charged with this offense, he would be deported.

A few weeks ago, just 30 days after being released from custody, the gang leader was again arrested, this time for firing eight rounds out of a car at a rival gang member in the town of Pelham, AL. Because he received citizenship through amnesty, Alabama will not see him deported.

The guy the gang leader shot at is the area leader of the Brown Pride 13 street gang, which is another street gang. ICE tells me this gang leader is also a once-illegal alien who received amnesty and a green card.

Now, we want to give amnesty to the people who deserve it. But we need to create a system that when we do that we have examined them to make sure they are the kind of people who would make good citizens. That is what we tell the American people we are going to do. That is what we tell them we are going to do. We tell them this bill sets up a lawful system for people to apply to immigrate to our country and that before they are allowed to immigrate and become a citizen, get a permanent status to stay here permanently, that we have checked them out. I am saying to you, too often we fail to do that. It is a hollow promise. ICE, in dealing with this gang leader, must wait for him to be convicted of a crime for him to be arrested.

Unlike any of us, these Federal agents are in the trenches every day working hard to enforce the law, of which most of us only hear about on the news. As this ICE agent told me, he gets aggravated that people do not realize that yet another amnesty or allowance for adjustment of status will only ensure that the Government rubberstamps more criminals into our country and allows them to receive green cards. He is worried about that.

I think if we took care and did it right, that might not be the case. I believe we can do it. But we have to be fully aware and take intentional steps or his prediction will be correct. And based on what he has seen in his experience, I have no doubt that he is somewhat cynical about the willingness of our Congress to take the necessary steps to make sure it does not happen.

Around the country we are seeing an increase in the number of illegal criminal aliens who are being apprehended, some with access to critical infrastructure and information pertaining to national security interests.

Jerry Seper of the Washington Post has written about these issues for some time. I have noted with some interest his accounts that demonstrate the gaping holes in our immigration enforcement and security policies. Let's share some examples of what he reported.

In May of 2004, John Torres, Deputy Director for Smuggling and Public Safety, of ICE, the Immigration Service, testified before the House Judiciary Committee that criminal organizations worldwide make over $9.5 billion a year smuggling foreign nationals. This is his testimony before the House Judiciary Committee, the Government official at ICE, that these criminal organizations make over $9.5 billion a year smuggling foreign nationals, illicit drugs, and weapons into the United States.

This smuggling includes as many as 17,500 people forced to work as prostitutes. We have heard about the sex slave prostitution problem. He says it includes as many as 17,500 sweatshop laborers and domestic servants. Mr. Torres testified that these well-established smuggling and trafficking pipelines serve as conduits for illegal immigrants and criminals seeking entry into the country. Many of these people are easily exploited by terrorists and extremist organizations. It is these people who will be granted amnesty under many of the proposals currently pending on the floor. This is a prime example of why we must focus on enforcement and border protection before anything else.

That is what the House decided to do. People say the House bill is harsh. The House bill is not harsh in the sense that it simply examined our enforcement procedures and found them totally lacking. They concluded the most honest way to deal with the problem was to confront border laxity and our enforcement mechanisms and get that under control. Once we have done that, then we could go to the American people with a plan to determine how many people will come in in the future, how many people are here, and how to handle those people who are here, many of them as fine and decent a people as anybody would ever want to know, working hard every day, contributing to our country. We do owe them fair and humane treatment. I will not support any bill that does not give them that. But the House said, as a first step, let's do that.

We spent most of our time in the Judiciary Committee marking up the enforcement protections in the bill. But at the last day, this Monday, we dumped in about 100 pages or more of this issue, the more serious and complex issue of the people who are here, how to handle them, and who to allow in in the future. That is why we are a bit rushed. As a matter of fact, that bill was not even printed and received by the committee members. We did not know what the language was until it was finally printed Wednesday night at 8. Now they want us to pass this legislation dealing with the historic challenges in immigration going beyond improving enforcement to the entire philosophy and policy of our Nation for many years to come. We are not ready to do that. Certainly if we are, this bill is not the vehicle to do so.

Last year in an isolated incident in Virginia, ICE agents arrested nine criminal aliens, six of whom had been previously convicted on aggravated felony charges, including child molestation, drug possession, and sexual assault. These aliens should have been deported on conviction. That is what the law says. These aliens were identified during an investigation that found they had attempted to obtain immigration benefits through the CIS, the immigration services agency, including work permits and permanent resident status. These are nine of the estimated 85,000 criminal aliens walking our streets today.

Last March, ICE agents deported 37 criminal aliens rounded up in the Washington area, two of whom had ties to MS–13, the Salvadoran gang which operates within the region. This group of criminal aliens were people convicted of theft, assault, burglary, sexual battery, and malicious wounding. From the Washington area alone in

2004, ICE deported 819 criminal aliens. MS–13 has an estimated 2,000 members in northern Virginia alone. This is not your ordinary street gang. It is a malicious, violent gang involving alien and weapons smuggling, murder, robberies, burglaries, carjacking, extortion, rape, and aggravated assault.

In May of 2005, ICE arrested 60 illegal aliens working as contract employees at a dozen critical U.S. infrastructure sites nationwide, including seven petrochemical refineries, very much potential targets, three powerplants, a national air cargo facility, and a pipeline company. What these things demonstrate, when I talk about Alabama or northern Virginia, is that the system currently is not working. We can make it work. It is not that hard. We are pretty close to getting there. We have jumped 8 feet, but the ravine we need to jump across is 10 feet wide. Let's go the extra 2 feet. Let's get out there and create a legitimate enforcement mechanism that will guarantee that we are as open and friendly as we have always been to those who want to come to this country but with a system that does not allow criminals to take advantage of us, does not allow terrorists to take advantage of us. In fact, this bill fails to prohibit the entry into our country of criminals in an effective way. That is why Senator KYL and Senator CORNYN have offered their amendment dealing with this particular issue. It absolutely needs to be a part of it. I was pleased that Senator CORNYN talked about the similarity between the bill we are moving today and the one we passed in 1986, which everybody agreed was amnesty. Black's Law Dictionary even defines amnesty by referring to the 1986 bill in their definition. Everybody admitted in 1986, it was amnesty. People have said we are not for amnesty. We have campaigned on it. Virtually every Senator, every leader, even the President has said we are not for amnesty. But anything you try to do, they say: That is not amnesty.

Is it not an automatic path to a green card and citizenship? Why isn't it automatic? Well, they have to pay $1,000. They have to pay their income taxes. Don't you have to pay your income taxes? What is this? You have to have a job. What do they come here for? To have a job. And then only the most part-time job with the most minimal proof would establish the work requirement. Basically it guarantees anybody here a path to citizenship as long as they don't get convicted of a felony. If you get convicted of a felony before you are deported today, the chances are very good you can maneuver your way out on bail and never be deported.

A good system would take a person directly from the incarceration facility and move them directly out of the country. That is what we say we are going to do, but we don't.

I have many more examples of situations in which we have not managed our immigration system well. As a result, illegal aliens have been caught working in nuclear plants and military bases in highly secret and sensitive areas of our country. We can do better than that. We absolutely can and we must do better than that.

I join with my colleagues Senators KYL and CORNYN in saying: We definitely need to fix this omission in the bill that came out of committee that fails to properly deal with those who would come into the country illegally who have a criminal record and who could be put on a path to amnesty if we don't work it correctly.

I urge my colleagues, let's keep an open mind on the legislation. Let's remember that our Nation has some of the finest people you could ever want living and working here, but we need to deal with them fairly and humanely. We don't need to build a barrier around our country if it does not allow people to come here lawfully. We are a nation of immigrants and we always will and should welcome immigrants into the country, but we need to gain control of our borders. That includes physical barriers, virtual fences, improved enforcement, additional detention space, technology, and also workplace areas. If we eliminate the magnet of the workplace, if we take firm, effective steps on the border, we can reach that tipping point where people move from coming illegally into our country and we don't know then whether they are criminals. We move those people from the illegal path to entry into our country to a legal path. Isn't that what we want? Isn't that what we promised the American people time and again, when we have been asked about it in our States and on interview programs? We have all said that.

The legislation before us won't get us there. If we vote for that and tell our people that it will do the job, I do not believe we will be correct. Let's fix it. Let's improve it. Then we can make it work.

I yield the floor and 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. ISAKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside in order for me to call up amendment No. 3215; provided further that at 4 p.m. on Monday, the pending amendments be temporarily set aside and Senator MIKULSKI be recognized in order to offer a first-degree amendment which is at the desk.

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

AMENDMENT NO. 3215

Mr. ISAKSON. Mr. President, I call up amendment No. 3215 and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 3215.

The amendment is as follows:

(Purpose: To demonstrate respect for legal immigration by prohibiting the implementation of a new alien guest worker program until the Secretary of Homeland Security certifies to the President and the Congress that the borders of the United States are reasonably sealed and secured)

At the appropriate place, insert the following:

SEC. ____. BORDER SECURITY CERTIFICATION.

Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, the Secretary may not implement a new conditional nonimmigrant work authorization program that grants legal status to any individual who illegally enters or entered the United States, or any similar or subsequent employment program that grants legal status to any individual who illegally enters or entered the United States until the Secretary provides written certification to the President and the Congress that the borders of the United States are reasonably sealed and secured.

Mr. ISAKSON. Mr. President, yesterday I took the floor to speak at length about the legislation before us and to talk particularly about the history of amnesty in the past dealing with immigration. I talked about the dangerous step we would take if we created another opportunity to attract even more to come here without first having secured our borders. The amendment I have asked to be placed before the Senate today accepts a very simple premise, and that is that we have failed as a country to secure our borders. We continue to have those coming here illegally to work because it is easier than coming here legally. And until we stop that and shut that down, any program granting status to an illegal person in this country should never be implemented.

In the insurance industry, swimming pools are entitled an attractive nuisance. In the business of immigration, American policy is an attractive nuisance. We are attracting people to come here the wrong way. We are not penalizing them for coming here the wrong way. And we are now allowing people to come here the right way, a seamless system that seems to work. So this amendment is merely a trigger. It says that notwithstanding what programs we adopt in the Senate before final passage, no program granting status to someone who is here illegally or may come here illegally in the future will take effect until the Secretary of Homeland Security has certified to the President of the United States and to the Congress that our borders are reasonably secure.

I am not going to take a lot of time, but I want to repeat something I said yesterday: A month ago I took to the

border myself along with Senator COLEMAN.

We went to Tijuana and San Diego, Fort Huachuca in Arizona. We saw firsthand the mechanisms that are available and being used today that will secure our border. We also saw firsthand the huge holes because we have neither funded the intelligence equipment and the eyes in the sky nor put the manpower on the border.

I, for one, will hold myself responsible and will be a reminder to this entire Senate that when we pass an appropriations act this year for Homeland Security and enforcement of immigration and customs, if it doesn't include the unmanned aerial vehicles we need on the border and the agents we need to enforce immigration law, then we are turning our back on a problem that began in 1986 and has continued until this day, and that is the benign neglect of us to fund the necessary equipment, manpower, and material to make the laws of this country work to allow people to come here in the right way as easily as possible but with accountability, and the people who come here the wrong way, to know there is a consequence to pay.

Human nature is human nature. People will respond when they know what the story is. Right now, they know the story is that it is easier to get here by sneaking in. In this measure, we send a signal that there will be no amnesty, no more free pass nor a continued flow of illegal people coming into this country. Instead, there will be consequences for ignoring the law, and there will be respect and appreciation for a normal, rational immigration process to work, so that America's labor needs are met, but America respects the borders between ourselves, the nation of Canada and the nation of Mexico.

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

The PRESIDING OFFICER (Mr. ISAKSON). 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, I want to express my support for the Senator's view that we need to certify that we have the enforcement system working for the immigration system before we make these other changes that allow people to be given amnesty or be given a right to stay here in some lawful way.

The reason that is important is this: To boil it down in 1 minute before I yield the floor, the reason that is important is that once we pass the policies—the amnesty that is in this bill, or whatever policies we eventually pass—to deal with new immigration for years to come or to deal with those already here, that becomes law then. The problem has been that no President whom I know of—Presidents Carter, Reagan, Bush, Clinton, or Bush—has ever taken it as a personal interest to ensure that what happens on our borders actually works. So they have not asked for more money, more people or asked sufficiently for technology for it to work. And the Congress, as the Senator said, often doesn't fund it.

So what are we saying? Fundamentally, what happened in 1986, I believe, was that amnesty was granted and the promise to create a legal system in the future never developed. We have a very rightful responsibility to make sure that doesn't happen again. I think that is the intent of the Senator's amendment. I look forward to studying it, and I thank him for offering it.

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

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I ask consent I be allowed to continue for a few minutes as though in morning business.

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

ERMA BYRD

Mr. LEAHY. Mr. President, yesterday afternoon my wife Marcelle and I went and said our final farewells to our Erma Byrd, the wife of our distinguished colleague and friend, Senator ROBERT BYRD of West Virginia. Marcelle and I have been privileged to know both Senator and Mrs. Byrd for well over 30 years.

While there, we talked with the distinguished senior citizen from West Virginia and told him how much that relationship meant, but especially how much it meant to us to see a love affair such as theirs, one that continued from the time they were teenagers to the time of Mrs. Byrd's death.

Mrs. Byrd and my wife used to sometimes drive down together for Senate spouse meetings. Every time Marcelle would come back, she would tell me something new and valuable she had learned from Erma and how much that friendship meant.

In recent times, when illness stopped her ability to come here, I would talk with my good friend ROBERT BYRD and ask him how Erma was doing and to tell him that both she and Robert were in our prayers and our thoughts. Many of us will be at the funeral this weekend out of respect for both of them. I will be thinking of the privilege it has been to have known them both and how privileged I am to still have as a dear friend and colleague Senator ROBERT C. BYRD.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

The majority leader is recognized.

(The remarks of Mr. FRIST pertaining to the submission of S. Res. 419 are printed in today's RECORD under ''Submitted Resolutions.'')

LEAVE OF ABSENCE

Mr. REID. Mr. President, on behalf of Senator ROCKEFELLER, and under rule VI, paragraph 2, I ask that he may absent himself from Senate business and any rollcall votes during his recuperation from recent back surgery.

SECRETARY OF INTERIOR GALE NORTON

Mr. ALLARD. Mr. President, I rise today to recognize the work of a good friend of mine and a distinguished public servant, Secretary of Interior Gale Norton. Today is her final day as Secretary of Interior. I am certain that her presence in that position will be missed.

Secretary Norton hails from my home State of Colorado where she built a reputation as a hardworking conservationist and public servant. In Colorado she served as the State's attorney general where she represented the State before the Supreme Court on several occasions. But arguing cases before the Supreme Court wasn't challenging enough for Gale, so when asked by President Bush to be the first female to head the Department of Interior she wholeheartedly agreed.

Throughout her time at Interior she employed a commonsense approach and an understanding of Western issues which has proven to be an asset to the agency and the Nation. It is vital to have someone who appreciates Western issues as Secretary of Interior. This understanding is so crucial because, on average, 52 percent of the land mass in the 13 Western States is federally owned, while the average for the rest of the Nation is 4 percent.

Secretary Norton has guided Interior through one of the most challenging periods in the Department's history with an enthusiasm, confidence, and expertise that will be difficult to match.

She saw the Department through some of the most devastating fire seasons in recent history, and in response