that a high level of confidence in the safety or reliability of a nuclear weapon type which the two Secretaries consider to be critical to our nuclear deterrent could no longer be certified, the President, in consultation with Congress, would be prepared to withdraw from the CTBT under the standard ''supreme national interests'' clause in order to conduct whatever testing might be required.

As Senator BIDEN stated on the Senate floor on October 12, 1999:

They have to assume, then, that the President, knowing that this stockpile is no longer reliable, would look at the U.S. Congress and say: I, President whomever, next President, certify that we can rely on our stockpile. They either have to assume that or they have to assume their concern about our stockpile is not a problem because the moment the President is told that, he has to call us and tell us and withdraw from the treaty . . .

Senator BOXER likewise argued that withdrawal from the treaty would be exclusively the responsibility of the President during her remarks on the Senate floor on October 13, 1999, stating,

If our stockpile is not safe and reliable, the President will withdraw from the treaty. There doesn't have to be a Senate vote. It's not going to get bogged down in the rules of the Senate. If there is a supreme national interest in withdrawing from the treaty, we will withdraw.

Indeed, even some Senators openly opposed to the President's decision to withdraw the United States from the ABM Treaty have recognized his constitutional authority to make the decision without the consent of the Senate or Congress. In December 2001, Inside Missile Defense quoted Senator DASCHLE on the subject:

It's my understanding that the President has the unilateral authority to make this decision. But we are researching just what specific legal options the Congress has, and we'll have to say more about that later . . . at this point, we're very limited in what options we have legislatively.

Similarly, according to a July 2001 article in the New York Times, Senator LEVIN stated,

The president alone has the right to withdraw from a treaty, but Congress has the heavy responsibility of determining whether or not to appropriate the funds for activities that conflict with a treaty.

My own view is that while it would be anomalous for Congress to withhold funding for a national missile defense system, Senator LEVIN is correct on both counts: withdrawal is the President's decision and any funding for anything must be through Congressional appropriation.

In conclusion, I believe history will judge President Bush's notice of withdrawal from the 1972 ABM Treaty as equal in importance to his historic decision to commit the United States to the war on terrorism. With the withdrawal decision, he has paved the way for the United States to work aggressively toward deployment of defenses to protect the American people against the growing threat of a ballistic missile attack.

In announcing his intent to withdraw the United States from the treaty, President Bush acted in accordance with changed international circumstances and our national interests—reestablishing the important doctrine of ''peace through strength'' as the basis for U.S. security policy. And he acted within the authority granted by the Constitution to the Chief Executive.

I commend the President for arriving at a very difficult decision. As we all know, the role of Congress has not ended with our withdrawal from the treaty—the annual budget process can be used to either undermine or support the President's decision, a matter I will address in a future presentation. But for now, an essential first step in moving forward to protect the United States against a serious threat has finally been taken, and the President should be commended for his action.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM

Mr. KYL. In the remaining time I have I would like to address a matter that will be before the Senate as the pending business as soon as we conclude morning business; that is, the Enhanced Border Security and Visa Entry Reform Act, H.R. 3525. The sponsors of this legislation all spoke to the reasons for this legislation on Friday when the matter was brought to the floor at 11:30 by unanimous consent request of the majority leader. I thank Majority Leader DASCHLE for bringing this matter to the Senate floor so we can dispose of it.

A little bit of history is in order. The sponsors of the legislation—Senators KENNEDY, BROWNBACK, FEINSTEIN, and myself—had worked hard to develop this legislation in the aftermath of September 11 because we held hearings in two different subcommittees of the Judiciary Committee that revealed loopholes in our immigration laws, loopholes through which some of the terrorists who came here and carried out their horrible attack on September 11 were able to gain entry into the United States. They came on legal visas, visas that in some cases should never have been granted. They were here under student visas, even though they no longer attended the classes they had signed up to attend. In the case of some of them, they were out of status by the time of September 11.

We set about to identify loopholes in our immigration and visa laws that we could close to make it much more difficult for terrorists to gain entry into the United States. That legislation was developed before the end of last year's congressional session and was actually adopted by the House of Representatives just before we adjourned for the year. We attempted to have it adopted by the Senate, but Senator BYRD objected on the grounds that it required Senate debate, and he didn't want to simply adopt it as a matter of unanimous consent.

At the beginning of this year, we sought to find ways to bring the bill to the Senate floor for that debate and amendment, if need be, and had not been successful until the end of last week when, as I said, the majority leader successfully propounded a unanimous consent request that the Senate take the bill up. There is no limitation on time nor on amendments, but there has been such a strong outpouring of support for the bill—indeed, I think there are some 61 cosponsors, and that probably reflects the fact we have not gotten around to all the Members of the Senate, that it is clear the bill can pass very quickly as soon as we are ready to call for the final vote. But out of deference to those who believed it did need debate, that opportunity has been made available.

The only people I am aware of who spoke on the legislation on Friday were the four cosponsors: Senators KENNEDY, BROWNBACK, FEINSTEIN, and myself. We all laid out the case, to one degree or another, for the legislation and urged our colleagues who may have something to say about it to come to the floor and express themselves. Indeed, if there were amendments, we would be happy to entertain those amendments.

We are obviously hopeful there will not be, so we can simply adopt the legislation approved by the House and we can send it to the President for his signature. Why is this our goal? Each week that goes by without this legislation being in place represents an opportunity for a terrorist to gain entry into the United States. We have to close the loopholes. Most of the actions the legislation calls for are going to take time to implement, so it is not as if we can slam the door shut the minute the President signs the bill. We have to put into place procedures, for example, whereby the FBI, CIA, international organizations, and others can all make available, to the people who grant visas, information that bears upon the qualifications of the people seeking entry to the United States, people who apply for the visas—information that might suggest, for example, that there is a connection with a terrorist group and therefore the visa ought to be denied.

That is going to take time to implement, as will other provisions of the legislation. So time is wasting. We know there is no—I was going to state it in the negative. I was going to say there is no evidence the terrorists have given up the ghost here. I think there is a lot of evidence that they will try to strike us when they believe they can, and when they see us as having a point of vulnerability. That is why we have to begin to close these windows of vulnerability as soon as possible.

The head of the INS has indicated he thinks some of the timeframes for achievement of results under this legislation may even be pretty difficult for INS to meet, which is to say it is all the more important to begin now to close these loopholes because it is going to take a while to get everything

in place, to effectuate all of the pieces of this legislation.

That goes back to my point that we have to get this signed as soon as possible. If there are amendments to the legislation here on the Senate floor, then it will have to go to a conference committee. That is all right, assuming we can get the conference to act quickly and bring the bill back to both the House and the Senate. But it is important we do that so the President can sign the legislation.

I appeal to my colleagues who have something to say about this, especially those who believed we should not consider it without debate on the floor, to come to the Chamber and explain their views on it, and to offer any amendments if they have amendments, so we can deal with those amendments and get on with our business.

I know the majority leader was reluctant to do this before without an agreement to have a specific time limit on debate because he wanted to complete work on the energy bill by the end of this week—as do, I think, almost all of us. I am sure all of us would like to be done with the energy bill. But we are not going to be able to finish that if we cannot quickly finish the Enhanced Border Security and Visa Entry Reform Act.

Again, I call upon my colleagues to come over. Let's finish the job and get this done.

I would like to say one other thing because there is a little element of confusion about something in section 245(i). Section 245(i) is a provision of the immigration law that allows for people who want to gain permanent status in the United States under two specific provisions to do so. Its provisions had terminated with respect to a large group of people, maybe 200,000 or 300,000 people, who wanted to gain permanent residence but whose legal status in the United States terminated and therefore they would have had to go back to their country of origin and apply for that status.

What some people wanted to do, including the administration, was to extend the period of time that they could make their application and complete that process so they could be allowed to stay in the United States permanently. Some of this involves reunification of families, for example.

In an effort to support the administration and to accommodate the interests of those who wanted to do that, there was an agreement between Senator KENNEDY and myself—and others—about exactly how that should be done. We both committed ourselves to trying to achieve the ratification of the temporary extension of section 245(i). The House of Representatives actually passed a second version of the Enhanced Border Security and Visa Entry Reform Act, a version which included section 245(i) with it. They did that earlier this year. That bill is pending at the desk.

It has not been called up for consideration, but I want my colleagues to know that is where this debate about section 245(i) comes into effect. There are some who believe section 245(i) represents a grant of amnesty to people. Perhaps one could argue that is, to a limited extent, true.

They are concerned that it represents the first step in a broader grant of amnesty. I hope that is not the case. But they have some concerns they have expressed about it. I hope we do not confuse the issue of 245(i) with H.R. 3525, the bill pending at the desk that we will be taking up again in just a few minutes—we can quickly pass H.R. 3525, get it to the President for signature, and then deal with section 245(i)—because I believe we need to deal with it, but I believe it will be easier to deal with outside the context of H.R. 3525.

Here is the reason I say that. I urge my colleagues who may be thinking about combining the two just to think about this for a moment. I believe we have an excellent chance of getting both of these things passed. But I think we may have an excellent chance of getting neither of them passed if they are combined. The reason is, I am concerned the Members of the House of Representatives may not be as inclined to vote for section 245(i) again as they were before. As a result, if we put this into conference and the question were put to the Members of the House, I am not certain they would vote for it. Nor am I sure that those who are opposed to section 245(i) in this body would permit it to come to a vote if it had to be brought back to this body as part of the Border Security and Visa Entry Reform Act.

So I urge my colleagues who support this to bear with us and understand we can have both of these things if we treat them separately. Those who oppose 245(i) will have a full opportunity to debate it and amend it if necessary, and to have a vote on it. But I hope that in an effort to kill section 245(i), they will not also be willing to kill H.R. 3525. I just tell my colleagues, if you try to combine 245(i) with H.R. 3525, you may be signing the death warrant for both, and I do not think that is the intent, of some people, anyway, who have talked about the possibility of filing an amendment relating to section 245(i) on H.R. 3525.

So I call on my colleagues to come to the floor and debate this legislation. If they have amendments, let's offer the amendments and try to dispose of them.

I see Senator KENNEDY is here, with whom I worked closely on this legislation. Frankly, we would not be where we are without all the work he has put into it. I am sure he will join me in asking those who have anything at all to say about it to come to the floor and say it so we can get on with it, take our vote, and then get back on the energy bill which obviously we want to conclude by the end of this week.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3525, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3526) to enhance the border security of the United States, and for other purposes.

The PRESIDING OFFICER. Who yields time?

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

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

Mr. KENNEDY. Mr. President, I spoke at some length on Friday, and I will only take a few moments now. If there are Members who desire to seek recognition to offer an amendment, I will yield the floor.

I just want to, as we come back to the discussion at the start of this week, once again underline the importance of the legislation; but, secondly, I want to mention the various groups that are in strong support of it.

Again, I am enormously grateful to my friend and colleague, Senator FEINSTEIN, who spends a great deal of time on immigration issues, as do Senators KYL and BROWNBACK. I commend all of them for their wonderful work in helping develop this legislation. They all have spoken very effectively on this legislation and have made a very strong case for it.

I will mention again the various groups that are in strong support of the legislation. It is always a fair indication of the breadth of support.

First of all, we have the principal student organizations that deal with international education. This is extraordinarily important because one of the most complicated and difficult issues is trying to know, when educational visas are given, whether the student comes to the United States; and when they come and gain entrance, whether they actually attend the college, whether they attend the classes,