I can tell my colleagues that this body needs to stand in strong opposition to what the Iranians are doing, urging them to release this U.S. citizen so she can return here to her home.

Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating there to be printed in the RECORD.

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

The resolution (S. Res. 214) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 214

Whereas Dr. Haleh Esfandiari, Ph.D., holds dual citizenship in the United States and the Islamic Republic of Iran;

Whereas Dr. Esfandiari taught Persian language and literature for many years at Princeton University, where she inspired untold numbers of students to study the rich Persian language and culture;

Whereas Dr. Esfandiari is a resident of the State of Maryland and the Director of the Middle East Program at the Woodrow Wilson International Center for Scholars in Washington, D.C. (referred to in this preamble as the ''Wilson Center'');

Whereas, for the past decade, Dr. Esfandiari has traveled to Iran twice a year to visit her ailing 93-year-old mother;

Whereas, in December 2006, on her return to the airport during her last visit to Iran, Dr. Esfandiari was robbed by 3 masked, knife-wielding men, who stole her travel documents, luggage, and other effects;

Whereas, when Dr. Esfandiari attempted to obtain replacement travel documents in Iran, she was invited to an interview by a representative of the Ministry of Intelligence of Iran;

Whereas Dr. Esfandiari was interrogated by the Ministry of Intelligence for hours on many days;

Whereas the questioning of the Ministry of Intelligence focused on the Middle East Program at the Wilson Center;

Whereas Dr. Esfandiari answered all questions to the best of her ability, and the Wilson Center also provided extensive information to the Ministry in a good faith effort to aid Dr. Esfandiari;

Whereas the harassment of Dr. Esfandiari increased, with her being awakened while napping to find 3 strange men standing at her bedroom door, one wielding a video camera, and later being pressured to make false confessions against herself and to falsely implicate the Wilson Center in activities in which it had no part;

Whereas Lee Hamilton, former United States Representative and president of the Wilson Center, has written to the President of Iran to call his attention to Dr. Esfandiari's dire situation;

Whereas Mr. Hamilton repeated that the Wilson Center's mission is to provide forums to exchange views and opinions and not to take positions on issues, nor try to influence specific outcomes;

Whereas the lengthy interrogations of Dr. Esfandiari by the Ministry of Intelligence of Iran stopped on February 14, 2007, but she heard nothing for 10 weeks and was denied her passport;

Whereas, on May 8, 2007, Dr. Esfandiari honored a summons to appear at the Ministry of Intelligence, whereby she was taken immediately to Evin prison, where she is currently being held; and

Whereas the Ministry of Intelligence has implicated Dr. Esfandiari and the Wilson Center in advancing the alleged aim of the United States Government of supporting a ''soft revolution'' in Iran: Now, therefore, be it

Resolved, That—

(1) the Senate calls upon the Government of the Islamic Republic of Iran to immediately release Dr. Haleh Esfandiari, replace her lost travel documents, and cease its harassment tactics; and

(2) it is the sense of the Senate that—

(A) the United States Government, through all appropriate diplomatic means and channels, should encourage the Government of Iran to release Dr. Esfandiari and offer her an apology; and

(B) the United States should coordinate its response with its allies throughout the Middle East, other governments, and all appropriate international organizations.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007—Continued

Mr. MENENDEZ. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. The Dodd amendment No. 1199.

AMENDMENT NO. 1194 TO AMENDMENT NO. 1150

Mr. MENENDEZ. I ask unanimous consent that the amendment be set aside in order to call up amendment No. 1194.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself and Mr. HAGEL, Mr. DURBIN, Mrs. CLINTON, Mr. DODD, Mr. OBAMA, Mr. AKAKA, Mr. LAUTENBERG, and Mr. INOUYE, proposes an amendment numbered 1194 to amendment No. 1150.

Mr. MENENDEZ. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

AMENDMENT NO. 1194

(Purpose: To modify the deadline for the family backlog reduction)

In paragraph (1) of subsection (c) of the quoted matter under section 501(a), strike ''567,000'' and insert ''677,000''.

In the fourth item contained in the second column of the row relating to extended family of the table contained in subparagraph (A) of paragraph (1) of the quoted matter under section 502(b)(1), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (3) of the quoted matter under section 503(c)(3), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (3) of the quoted matter under section 503(c)(3), strike ''440,000'' and insert ''550,000''.

In subparagraph (A) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''70,400'' and insert ''88,000''.

In subparagraph (B) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''110,000'' and insert ''137,500''.

In subparagraph (C) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''70,400'' and insert ''88,000''.

In subparagraph (D) of paragraph (3) of the quoted matter under section 503(c)(3), strike ''189,200'' and insert ''236,500''.

In paragraph (2) of section 503(e), strike ''May 1, 2005'' each place it appears and insert ''January 1, 2007''.

In paragraph (1) of section 503(f), strike ''May 1, 2005'' and insert ''January 1, 2007,''.

In paragraph (6) of the quoted matter under section 508(b), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In paragraph (5) of section 602(a), strike ''May 1, 2005'' and insert ''January 1, 2007''.

In subparagraph (A) of section 214A(j)(7) of the quoted matter under section 622(b), strike ''May 1, 2005'' and insert ''January 1, 2007''.

Mr. MENENDEZ. Madam President, I ask unanimous consent that Senators DURBIN, CLINTON, DODD, OBAMA, AKAKA, LAUTENBERG, and INOUYE be added as cosponsors of this amendment, along with Senator HAGEL and myself.

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

Mr. MENENDEZ. Madam President, the legislation currently before us curtails the ability of American citizens, or U.S. permanent residents, to petition for their families to be reunified here in America. Right now, if the bill goes untouched, this bill sets two different standards for groups of people, and it sets it in a way that is fundamentally unfair. One group is those who have followed the law and obeyed the rules by having their U.S. citizen relative or U.S. lawful permanent resident petition to bring them into this country legally, and one more favorably—it treats the next group much more favorably, one who has entered or remained in the country without proper documentation. So those who have obeyed the rules, followed the law, relatives of U.S. citizens, get treated in an inferior way to those who have not followed the law, who get treated in a better way. Let me explain how.

The Menendez-Hagel amendment simply states that at a minimum, the two groups should be treated equally under the bill. Our amendment is about fundamental fairness. All this amendment does is to make sure both groups face the same cutoff date.

Right now, those who are in our Nation in an undocumented status are allowed under the bill to potentially earn permanent residency so long as they entered this country before January 1, 2007. All our amendment says is that those who followed the rules who are waiting outside of the country who are the immediate relatives of U.S. citizens shouldn't be treated worse because they obeyed the law and followed the rules. They should at least be treated the same, not worse. Therefore, they should have the same date: January 1, 2007. All this amendment does is simply apply the same standard, the same cutoff date to those who followed the rules so that those who did obey the law and who legally applied for their green card can potentially earn permanent residency so long as they apply for their visa before January 1, 2007.

Now, this is a somewhat complicated issue, so let me explain exactly what the legislation as it is currently drafted does if we don't adopt this amendment. Right now, there is a family

backlog of people who have applied for legal permanent residency. These are the people waiting outside of the country, waiting as they are claimed and have their petitions by a U.S. citizen or permanent resident saying: I want to bring my father or my mother here. I want to bring my child here. I want to bring my brother or sister here. This legislation, as currently drafted, does away with the rights of U.S. citizens to make that claim if, in fact, those individuals have not filed their application before May 1, 2005.

It is important to pay attention to that May 1, 2005 date because it is nearly 2 years before the cutoff for people who are here in an undocumented status—those who didn't follow the law, obey the rules, and those who may obviously have no U.S. citizen to claim them. So it actually says to a U.S. citizen and a U.S. permanent resident: You have an inferior right and a right that is now lost because it exists under the law as it is today. That right is lost, and your right is inferior to the rights of those individuals who have not followed the rules and obeyed the law. So as this bill seeks to clear the legal family backlog, we say: Don't treat a U.S. citizen worse. Don't treat a U.S. citizen worse. The legislation as currently drafted sets this arbitrary date of May 1, 2005, yet gives everybody else who didn't follow the law the date of January 1, 2007. That means a lot of family gets cut off. The rights of U.S. citizens get cut off as well.

Right now, the legislation also says that if you overstayed a visa or came to this country without proper documentation before January 1, 2007, you can ultimately become a lawful, permanent resident between the 9th and 13th year of the process that the bill describes. But if you applied for a visa outside of the country and you applied by a U.S. citizen or permanent resident and you followed the rules, there is no—no—guarantee you will ever be able to be reunified with your family.

Our amendment would remedy this injustice by moving the cutoff date for those who legally applied for visas to January 1, 2007—the same cutoff date that is currently set for the legalization of undocumented immigrants. And we would add the appropriate number of green cards to ensure we don't create a new backlog or cause the 8-year deadline for clearing the family backlog to slip by a few years. So we stay within the framework of the underlying bill; we just bring justice and fairness to the bill for those who have obeyed the law, followed the rules, and are the family members of U.S. citizens.

Now, why shouldn't legal applicants be able to keep their place in line if they applied before January of 2007? Clearly, this legislation, as it is currently written, is unfair to those who legally applied for a visa. The legislation unfairly says that those who followed the rules lose their place in line. The legislation unfairly says that those who followed the rules will have to wait at least an additional 8 years before they even become eligible to compete—eligible to compete—for a new proposed merit-based green card. The legislation unfairly says that those who followed the rules would have to wait a total of 10 years in addition to the time they have been waiting—in addition to the time they have been waiting—before they are eligible to compete under a new and different system, with a different set of rules, and no guarantee they will ever be able to be reunited with their family member, that U.S. citizen or permanent resident. Clearly, at a minimum, we should allow those who played by the rules to have the same cutoff date of January 1, 2007.

Now, not only is it unfair to make people who follow the rules wait longer than those who chose not to, it is also wrong to make people who applied under our current system have to reapply under a totally different one. Those who applied on May 1, 2005, or after, applied under our current immigration system that values family ties and employment at a premium, unlike under this bill, would now be subject to a completely different standard that is primarily concerned with education and skill levels. This is like changing the rules of the game halfway through it. People who applied after May 2005 would not only lose credit for the up to 2 years they have been waiting under the legal process, they would also have to apply under a completely different system than the one under which they originally applied.

Now, let's think of how fundamentally unfair that is.

In this photo is the late Marine LCpl Jose Antonio Gutierrez, a permanent resident of the United States—the first American casualty in the war in Iraq. For people similar to the late Jose Antonio Gutierrez who served their country, for them, under this bill—he was not only here legally but was serving his country—oh, no, you apply for your family by May 1, 2005, or, sorry, we will give those people who don't follow the rules and obey the law a preference. But you, who served your country, you who wore the uniform, you who have done everything right—no, you have an inferior right.

Is that the legacy we leave to people who have served their country, a legal permanent resident? Sometimes people don't even know we have legal permanent residents fighting in the service of the United States—tens of thousands. That is fundamentally unfair.

In this photo is another group of lawful permanent residents, ''first called to duty.'' They were in different services of the Armed Forces of the United States, serving their country, in harm's way. Guess what. Under the bill, you have family abroad, you applied for them, you did the right thing, and you told them to wait. After May 1, 2005, sorry, Charlie, your right is gone, just like that. Your value and service doesn't matter. All these soldiers, sailors, and marines—all different services—all of them are ultimately serving their country.

Under this bill, we take people such as them, and so many others, and vitiate their rights. That is fundamentally unfair. These people not only are serving our country abroad, they are protecting our airports, our seaports, and our borders. They risk their lives in Afghanistan and Iraq and around the world to protect us at home. To petition for your sister to come to live with you in America, you lose that right if you filed after May 1, 2005. You didn't do the right thing, but you get the benefit of 2 years more than those who obeyed the laws and followed the rules—brothers and sisters, sons and daughters, mothers and fathers. It is hard to imagine that one would have that right taken away from them.

Here is another case for you to consider. You are a U.S. citizen, you have paid your taxes, you have served your Nation, you attend church, and you make a good living. You are a good citizen. You petition to have your adult child come to America, but you did so after the arbitrary date of May 1, 2005. Under this bill, that U.S. citizen would lose their right. However, those undocumented in the country after May 1, 2005, get a benefit. It is hard to imagine, but it is true.

Right now, this bill is unfair and nonsensical, capriciously punishing those who have followed the rules and legally applied for a green card. What message, then, do we send? I have heard a lot about the rule of law, a lot about waiting in line, a lot about all those who should have followed our immigration laws. Yet what message does the bill send? You followed it, but your rights are vitiated, taken away—not the rights of the family member waiting abroad to come here, it is the rights of the U.S. citizen to make the claim for that individual. That is what bothers me about the underlying legislation. They are taking my right away and your right away as a U.S. citizen.

We must make sure that people who have played by the rules and legally applied to immigrate here are not arbitrarily placed at a disadvantage in respect to those who are in this country in an undocumented status. As I have said many times before, comprehensive immigration reform must be tough but must also be practical and fair and tough on border security. Certainly, we have done that here—this bill even moved more to the right—by providing a pathway to earned citizenship.

At the same time, we have to be fair by rewarding those who have followed the law. I think we have to remain true to those principles. Let me give you a little sense of this. I have heard a lot about chain migration. You know, it is interesting, we have seen during history that when we want to dehumanize something, take out the humanity of something, when we want to make it an abstract object, we find a word or a

phrase for it, such as chain migration. I have heard a lot about what a ''nuclear family'' is and is not.

I will use these paperclips to demonstrate this. I always thought a mother or father, son or daughter, brother and sister was not a chain; I thought that was a circle of strength. It is a circle of strength within our community. It is a sense of what our society is all about, regardless of what altar you worship at, what creed you believe in. I thought, when I heard the speeches of family values on the floor, that this was a circle of strength and dignity and the very essence of what is essential for our communities to grow and prosper.

What does this bill do? It says that is not a value—a mother, father, son, daughter, brother, sister. It is not a value. That is what this bill does. Let me tell you what family values have meant to this country. Here on the chart are names of Americans who had immigrant parents. A lot of them probably could not have come to this country under the bill as proposed. Look at what their offspring have provided for this country.

A gentleman known as General Petraeus happens to be leading our efforts in Iraq. He is our big hope to turn it around. He had immigrant parents.

Thomas Edison, from my home State of New Jersey, Menlo Park, invented electricity. He may not have been the originator of that in this country if his parents had not come here.

Martin Sheen, from the show ''West Wing,'' would not have been here under this bill.

Jonas Salk invented the polio vaccine, which was a great achievement. His parents would have likely not made it here under this bill.

Colin Powell, former Secretary of State, former chairman of the Joint Chiefs of Staff—he is somebody who is admired on both sides of the aisle—he would not have made it here under this bill.

Antonin Scalia—I may not agree with him all the time, but he is a distinguished member of the Supreme Court of the United States. Several of these names you might recognize as Republicans. He would not have likely made it here under the bill as proposed; Carl Sandburg, a great poet, who wrote of our humanity as a people; the late Peter Jennings, who talked to us every night on television.

These are all people who have contributed in so many different ways to our country because their parents came to America. Family values have enriched America.

Let me give you another group of citizens. These, unlike those others who were born in the United States, are naturalized U.S. citizens, meaning they weren't born in this country. They came here through the immigration process of our country. I would like to think some of them have contributed some good things:

The Governor of California, Arnold Schwarzenegger. I am not sure he would have made it into this country; Henry Kissinger, former Secretary of State; Ted Koppel, who brought us the news on ''Nightline:'' Levi Strauss, you have probably worn his products; Desi Arnez, one of my favorites, a Cuban immigrant, who loved Lucy every day on national TV; Bob Hope was a naturalized U.S. citizen. He brought an enormous amount of joy to our service men and women across the globe; Patrick Ewing, a great basketball player; Oscar de la Renta, a great designer; Liz Claiborne; Madeleine Albright, former Secretary of State; Albert Einstein. His parents never would have made it under this bill; Andrew Carnegie of the Carnegie Foundation; Joseph Pulitzer, of Pulitzer Prize fame; Michael J. Fox, who talks to us every day about the necessity for stem cell research and the incredible challenges of Americans with Parkinson's. He is a naturalized U.S. citizen.

The list goes on and on. The bottom line is that under this bill, so many of those, such as General Petraeus, Colin Powell, Thomas Edison, and Antonin Scalia, whose parents came to this country and therefore gave them the opportunity to be born in America, they would not have made it under this bill. Family values. Those who did not have the good fortune to be born here, but because their parents immigrated here, were naturalized U.S. citizens. They have contributed greatly.

So let's not dehumanize this reality. This isn't about ''chain migration.'' This isn't about some abstract sense of how we try to change a very important concept—family, family values, reunification, strengthening communities, and having great Americans who have altered the course of history and made this country the greatest experiment and country in the history of the world.

Our amendment simply says to all those who have espoused family values, it is time to put your vote with your values. It says don't snuff out the right of a U.S. citizen or a U.S. permanent resident, these guys in this picture—don't snuff out their right, all permanent residents of the U.S. originally, don't snuff out their rights to be able to claim family members. Don't treat those of us who are U.S. citizens and legal permanent residents worse than those people who didn't obey the law, follow the rules, and came into the country. Don't do this. At least treat us equally. At least treat us equally.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I appreciate my colleague from New Jersey and the passion and value he brings to this debate; it is tremendous, and we are all better for it. I am grateful to him.

I rise this afternoon to, once again, discuss the dire need we have in this country and in our communities for comprehensive immigration reform. I do believe the debate on immigration reform has been the kind of meaningful, bipartisan approach in the Senate—with Senators KYL and KENNEDY working together, Senator MCCONNELL and Leader REID working together—this is a bipartisan approach and the debate the American people expect out of the Senate.

I am proud we are moving forward on it because of the immediate need but also the way we are going about this process.

Despite the Senate's success in producing a bipartisan bill last year, the issue still has not been resolved. There is still much to be questioned, and we are working through that.

The majority of my colleagues will agree that our Nation's current immigration system is badly broken, it is out of date, and it desperately needs to be fixed. I plan to look for any plan that we can support that is tough and practical and fair in dealing with this ever-increasing issue.

Without a doubt, the top priority must be the safety and security of our country, as well as the economic needs of industry, U.S. citizens, and immigrants. But most importantly, the security issue is one of our top priorities.

I am so pleased the underlying bill includes triggers to require that Border Patrol agents are significantly increased and vehicle barriers and fencing are installed along the southern border with Mexico before any of the other provisions can even begin, making sure that we are taking care of what we know we can do and we can do quickly.

I believe this bill is a work in progress, though, just as any other bill we bring before the Senate—working hard through the committee process and through years of debate, but also recognizing that we are not here to create a work of art but to create a work in progress. Through these debates and actually through implementation, we learn what works and what doesn't work, what the current needs of our country are. But as we move forward with implementation, we learn the future needs.

If we debate reform in this bill in the coming days and weeks, we must also address other important issues. As I stated during last year's debate, my home State of Arkansas had the largest per capita increase of the Hispanic population of any State in the Nation during the last census. Arkansas has become what is referred to as an emerging Hispanic community, with largely first-generation immigrants. These immigrants have had a dramatic impact on our communities and our economy.

The majority of immigrants in my State came to the United States because they wanted an opportunity to work hard and achieve a better life for themselves and for their families. However, I believe it is to the detriment, oftentimes, of taxpaying Americans if we don't address the millions of illegal

immigrants living in our communities. We have to do so in a practical way, in a realistic way of how we effectively use the tax dollars we have, along with the rules and regulations and realistic barriers that we can put into place to rein in the problem that exists today in this country.

No reform proposal should grant amnesty. Amnesty is total unqualified forgiveness without restitution, and no policy should provide amnesty. This policy does not, nor did the one we passed in the last session of Congress. I don't think it is fair to the citizens of this Nation or to those immigrants who do play by the rules to come into this great land. Those who have broken the law, including employers who knowingly hire illegal immigrants, must face proper recourse.

However, I also don't believe it is practical, wise, or even, quite frankly, an economic reality to think that we can simply round up and deport all of the illegal immigrants who are residing in this country today. That is why I support an approach that includes serious consequences for those who are in our country illegally and yet want to remain. We create an earned path to citizenship and tough enforcement policies for businesses and those who are working toward that citizenship. We can eliminate the shadow economy that encourages illegal immigration.

According to the bill being debated, all undocumented immigrants who arrive in the United States before January 1, 2007, will be required to pay a hefty fine, a $5,000 fine, go to the end of the line, and wait 8 years before a green card can be issued, putting into place stiff regulations and expectations of those who have come here against the rules and yet want to remain, putting them at the back of the line not at the front.

In addition, a touchback provision has been included that will require the head of a household to return to his or her country of origin to apply for a green card before being allowed to return. Many of us know how absolutely precious citizenship in this great land is. When I first ran for Congress, I can remember the first thing my father told me. I was a young single woman out campaigning and pleading with my fellow Arkansans in east Arkansas, people I had known ever since I was born, people who had helped raise me, those I had grown up around.

My father said: Never, ever, ever miss an opportunity to ask someone for their vote. He said: When you have something that precious, you want to be asked for it.

Citizenship in this great country, just as that vote, is a precious gift, and we, as Arkansans and Americans, know that anything similar that precious is worth working for.

That is why these provisions are important because it demonstrates that citizenship is something that must be earned and is not free.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. LINCOLN. Mr. President, I am sorry, I didn't know I had a restricted time limit. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Is there objection to the request for an additional 2 minutes for the Senator from Arkansas? Without objection, it is so ordered.

Mrs. LINCOLN. I thank the Chair.

Mr. President, as I said, citizenship in this country is not free, and it is something that has to be earned and worked for, and that is what this bill requires.

I also believe any plan must consider guest workers. Many business leaders throughout our great State of Arkansas have told me about the valuable contribution that legal immigrant workers have made to the economic growth we have seen. It is my belief these workers are vital to sustained growth and development of many industries and farming communities throughout our land. However, we must ensure that adequate safeguards are in place to prevent guest workers from taking jobs from U.S. workers or driving down wages and benefits for hard-working Americans. We have seen that in this bill, and we will continue to work to strengthen it.

I am pleased the immigration reform legislation we are currently debating contains provisions that will improve our agricultural guest worker program which will benefit our Nation's farmers.

We stand at a crossroads in this country. Over the last decade and a half, the immigrant population has expanded in every area of our country, many of them coming here legally but some not; some coming illegally, many of them already paying local taxes. Almost half are paying into Medicare and Social Security with no promise of ever receiving any benefits.

We are faced with the decision that gets to the heart of what values we hold near and dear as Americans. We have always said: If you work hard and play by the rules, there is a place for you in this great land of America to raise your children and contribute to our great melting pot.

We now must consider as part of this debate what to do with those who have broken the rules to come here but have since worked hard to provide for their families. I hope the Senate will give this difficult question the reasoned, thorough debate it deserves.

The problems we face today with border security and illegal immigration did not appear overnight, and they will not be solved overnight. It is a difficult and complicated issue, and fixing it will not be easy. But while I am still reviewing the provisions of this legislation and reserve the right to try to improve it through the amendment process, as others will, I believe strongly that we can work to complete an immigration bill this year because we no longer can wait.

I thank the majority leader and Senator MCCONNELL. I thank Senator KENNEDY and Senator KYL for their hard work. And I look forward to continuing our work on this bill and hopefully finding a solution to this issue and doing so in a timely way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1186, AS MODIFIED

Mr. DURBIN. Mr. President, I ask unanimous consent that notwithstanding the adoption of amendment No. 1186, that it be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by inserting after subparagraph (G), as added by section 503 of this Act, the following:

''(H) Aliens who are eligible for a visa under paragraph (1) or (3) of section 203(a) and who have a parent who was naturalized pursuant to section 405 of the Immigration Act of 1990 (8 U.S.C. 1440 note).''.

AMENDMENT NO. 1181

Mr. DURBIN. Mr. President, pending before the Senate and a vote in a few moments is an amendment by the Senator from North Dakota, Mr. DORGAN. It will sunset the guest worker program at 5 years. We will stop at 5 years and take a look at this immigration program and decide whether it is good for America, whether it is fair and just.

I don't believe that is an unreasonable request. I think it is the right thing to do, and I will be supporting that amendment.

I wish to speak to that amendment, but first I wish to say a word about the bill.

Mr. President, 96 years ago, just a few miles from where we are meeting, on July 18, 1911, a woman came down a gangplank in Baltimore, MD. She had just arrived on a voyage from Bremen, Germany. She had a 2-year-old little girl in her arms and two young children, a boy and a girl, by her side. She stepped foot in America in Baltimore and took a train to join up with her husband in a place called East St. Louis, IL.

This woman who brought these three children across the Atlantic didn't speak English. She only knew that her husband was waiting 800 miles away and was making her journey. That woman was my grandmother. The baby in her arms was my mother. That was 96 years ago. Ninety-six years later, the son of that little girl stands as a United States Senator from Illinois. It is a story about America.

This Nation is great because of the immigrants and their sons and daughters who came here and made it great. I am certain that when my mother's family announced to their villagers in Jurbarkas, Lithuania, that they were leaving for America, that they were leaving behind their home, their garden, their church, their history, their language, and their culture and heading someplace where they couldn't

even speak the language, I am sure as their neighbors walked away in the darkness that evening they all said the same thing: They'll be back. They'll be back.

They didn't go back. They stayed here. They built America. People similar to them have been building America since the beginning.

This bill is about immigration. It is about a system of immigration that has failed us. It has failed us because 800,000 undocumented illegal people pour across our southern border every year into America. It has failed us because employers welcome these employees, often paying them dirt wages under poor conditions and say to them: We will use you until we don't need you, and then you are on your own.

These immigrants sacrifice for themselves, send their money home, and dream of someday that they will have security and peace of mind. That is the story.

Sadly, we have 10 or 12 million now in our country who came that way, with no legality or documentation.

I salute Senator KENNEDY and those who brought this bill to the floor. They have worked long and hard for years to deal with this issue honestly. They have to fight the talk show hosts who are on every afternoon screaming about immigration with not one positive thought of what we can do about it. Instead, Senator KENNEDY and many like him have stood up and said: We will risk our political reputation by putting this measure before America. Let's do something and fix this broken immigration system.

I salute them for that—for border enforcement, for workplace enforcement, for dealing honestly, fairly, legally, in an American way with the 12 million people who are here.

The amendment before us addresses one part. It addresses the guest worker program. As written in this bill, we would allow 400,000 people a year to come into America and work as temporary workers, and that number could increase. By action of the Senate yesterday, we reduced the 400,000 to 200,000.

Do we need 200,000 guest workers every year in America? I don't know the answer to that. I can tell you today that among college graduates in America, the unemployment rate is 1.8 percent. The unemployment rate for high school graduates is 7 percent. It tells me that there is a pool of untapped talent in America.

Do we need 200,000 people coming from overseas each year to supplement our workforce? I don't know the answer to that question. There are those who insist we do and some who say we don't. And that is why Senator DORGAN's amendment is important. It says we will try the 200,000 a year for 5 years and then stop and assess where we are, what has happened to wages of American workers, what has happened to businesses that need additional workers. We can make an honest assessment at that point. If we see American wages going down, if we see the unemployment rate of Americans going up, we may want to calibrate, reconsider.

His is a thoughtful and reasonable approach. Senator KENNEDY has said, and he is right, that we establish standards of treatment for these guest workers that are dramatically better than what they face today. There is gross exploitation taking place. We know that.

Many of these undocumented, illegal workers are treated very kindly, but many are exploited. We know the stories. we hear them, we read about them. We can change that, and we should. A great nation should not allow people to be exploited in this way.

It is not inconsistent to say that we will have a limited number of guest workers, that we will treat them fairly and honestly and in a decent manner, with decent wages, and then step back in 5 years and make an assessment of where we are. I think that is a reasonable approach to take.

There are many positive provisions in this bill, but the one thing that troubles me is the idea of guest workers being here for 2 years and leaving, creating a rotating class of people with little investment in the United States. How will that work? We already know the answer to that question. That is what European nations are doing today. They are bringing in people from former colonies and other countries. The Turks are coming into Germany, Africans coming into France, but they never become part of those countries. They are always the workforce. They become angry. They become dispossessed. They riot in the streets because they have no investment in that country in which they are working. They are being exploited and used. I don't want to see that happen in America. I want those who are living here to be vested in this country and its values and its ideals.

Finally, let me say that when it comes to guest workers and H–1B visas, where we invite higher skilled workers, our first obligation is to the workers of America, those who are unemployed and those who have the American dream but just need an American chance. As we look at each of these categories of workers, let us make certain that the first question we ask and answer is, are we dedicated to the workers and the families across America to make sure they have a fighting chance to realize the same American dream my mother realized when she came off the boat.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just as an inquiry, I think we are scheduled for a vote at 2:15; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I see the Senator from North Dakota.

How much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes, and the Senator from North Dakota has 8½ minutes.

Mr. KENNEDY. Mr. President, I yield myself 3½ minutes, and the Chair will let me know when I have ½ minute remaining.

Mr. President, just to summarize where we are, those of us who have studied this issue—and I respect all the Members of the Senate in giving this consideration—recognize we have to have a comprehensive approach. We don't rely on any one part in order to be successful with this recommendation in terms of immigration reform. We have the strong border security, but with the border security we do have some opportunity for people to come in the front door so they are not coming in the back door illegally. We have tough interior enforcement because we require that those individuals who are going to come in have a card. We treat them fairly, we treat them well, and we provide the same kinds of protections for those individuals that we give to the American workers. That doesn't exist today. It is an entirely different game.

We have to understand at the outset that the guest worker doesn't get in here unless there is a refusal of any American to do that job. If there is any American anyplace that will do the job, they get it. Do we understand that? This is for jobs Americans will not do. We hear great stories about people being unemployed here and unemployed there. I agree with that. But the fact is, there are some jobs in the American economy which Americans just will not do. I don't think that needs to be debated. And there are those who will come here and will do those jobs with the idea that, hopefully, they will have an opportunity to be part of the American dream. So the advertising goes out for the job that is out there, and Americans can get the job. If no American wants it, then the opportunity is there for a guest worker.

We have built in here a review of the guest worker program. The Senator from North Dakota says: Let's do a 5-year and then end it. We say: Let's take it to 18 months. I spoke earlier in the debate about what this commission does. It is made up of businessmen, it is made up of workers and of economists who will decide how this program is working. Is there exploitation? Is it functioning? If it is working, is it fair? It is 18 months, and then they have to give Congress the information. They do the study, they give the information, and we modify the program.

Under the existing program, people will go out and work for a period of 5 years, and they may very well earn points to become part of the American dream. That doesn't exist in the European system. This is entirely different. These individuals, in 5 years, up to a million individuals, earn points to become part of the American dream, but

then suddenly the Dorgan amendment pulls the strings right out from under them. Down they go. Down they go. The promise to them is if they work hard and play by the rules and work in very tough and menial jobs, they may have an opportunity—not guaranteed, but they may have the opportunity to be a part of the American dream, but not under the Dorgan amendment, under our amendment.

This is the way to go. We have in here the review that is essential and necessary. This can provide the Congress with the information of whether this program is working. It has been established, and it will be set up. It will be functioning, and it will give Congress the best information. We will have continuing oversight, and we will be able to adjust that program in ways that serve humanity and serve our economy.

I hope the Dorgan amendment will be defeated.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield 1 minute to the Senator from California, Mrs. BOXER.

Mrs. BOXER. Mr. President, it is very rare that I have such a strong disagreement with my friend, TED KENNEDY, but I don't understand the agitation over an amendment that simply says that a program that allows 200,000 foreign workers in here, a generalized program—this isn't AgJOBS, which is a specific industry program that we know we need because we know right now half the workers are foreign workers; this is a generalized, open program, 200,000 foreign workers a year. I think Senator DORGAN and I and others have shown that American workers are going to be hurt by this. So why is there so much angst about sunsetting a program that will allow in now 200,000 people a year? It was 400,000. Thanks to the Bingaman amendment, it is down. This is a modest amendment. This is a sensible amendment.

Mr. President, I would ask my friend to yield me 1 more minute, or 30 seconds.

Mr. DORGAN. I yield an additional 30 seconds.

Mrs. BOXER. Mr. President, here is the point: You are doing no harm to these people. Under this bill, these people have to leave at the end of 6 years. They are done. So for the Senator to say this somehow hurts people in the long run, it simply isn't true.

This is a modest amendment. It makes a lot of sense. Who knows, in 5 years, we could be in a massive depression. We don't want that, but we are certainly not going to want to extend the program in that case. This is a wise amendment, and I urge an ''aye'' vote.

I thank the Senator from North Dakota for his leadership.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes 40 seconds.

Mr. DORGAN. Mr. President, there is no social program in this country as important as a good job that pays well. That is just a fact. Having a job that pays well, with some job security, is the way we expand opportunity in this country and allow someone to be able to take care of their family.

We are told by those who offer this legislation that there are jobs Americans won't take, that we don't have enough workers and we should bring in workers from outside of our country. Well, it is true there are jobs, for example, at the lower end of the economic scale where businesses that offer those jobs don't want to pay anything for those jobs, and so they do not have people rushing to beat down the door to get those jobs. They do not have to pay a decent wage for those jobs if they can keep bringing in cheap labor. That is what is at work here in the guest worker program. I thought supply and demand was something that was cherished and embraced by the people who most strongly support this. Supply and demand. So if you are having trouble finding workers for a job, you raise the price, you raise the wage.

Do my colleagues know what is happening to workers in this country? Their productivity has gone way up. We have had dramatic gains in productivity by workers. Has their income gone up? No, not at all, especially those at the bottom. There is downward pressure on their income. Why? Because we are told we can have an almost inexhaustible supply of cheap labor coming into this country.

Even if this bill were not on the floor, we bring in 1.2 million people per year under the legal process by which people come to this country. So it is not as if there is not going to be immigration. On top of that, there will be well over a million people coming in for agricultural jobs without this bill. But this bill says that is not enough, that we need additional workers to come in because we need more of those workers, particularly unskilled workers, at the bottom.

Here is what this group has put together as a plan. It is hard for me to see how you could come up with a plan such as this, but this is the plan. It used to be 400,000, but now it is 200,000. In the first year, we bring in 200,000 people from outside of this country to come in and take American jobs—200,000 people come on in. They can stay for 2 years, by the way, and bring their family, if they want. Then they go home for a year, come back for 2, go home for a year, and come back for 2 more years. If they bring their family, they can only come twice, with a year in between.

So here is the way it works: 200,000 come in the first year. They stay here for the second year. That is 200,000. Another 200,000 come in, perhaps their families come in. Let's go through year 10. What you have, for example, in year 10 is you have 1,200,000 people here in year 10; 11, 1,200,000 people; in year 8, you have 1,200,000 people. We are not talking about 200,000 people; we are talking about millions of people, including their families, coming in during this period of time for the sole and exclusive purpose of taking American jobs—jobs which we offer in this country and which we are told Americans will not perform.

That is simply not true, by the way. Americans will perform these jobs if there are decent wages. But you don't have to pay decent wages if you can bring in people from elsewhere who are used to working for 50 cents an hour or from Asia where they are used to working for 20 cents an hour and working 7 days a week, 12 and 14 hours per day. If you dispute that, go to Xianxian, China, and check any of the factories there and find out the conditions and the wages.

Well, my point is this: We will get these millions of people into this country on top of the 1.2 million who will already come in legally. Plus we will say to the 12 million who came in illegally that you, too, now are deemed to be legal and given a work permit. On top of that, we want to bring in additional guest or temporary workers. I ask this question: Of these millions of people—millions of people—how many of them are going to leave and go back home?

My colleague yesterday said that the Governor of Arizona, who probably knows as much about this as any other Member of the Senate, has pointed out that you can build the fence down there—talking about the southern border—but if it is 49 feet high, they will have a 50-foot ladder. Talk to the Arizona Governor, he says. It is a matter of fact that some workers will still come here illegally or legally, but one way or another, they will come in. So much for the proposition that the bill brought to the floor of the Senate solves the immigration problem.

We are told we need a guest worker or temporary worker provision here because they are going to come anyway. Apparently, we are saying: OK, they are going to come in illegally anyway because we can't stop them—we don't have a provision in the bill to stop them—so we will very cleverly say they are guest workers and give them a permit as they come in. That is the bottom line here.

My amendment is very simple. I lost the amendment to strip out the guest worker provision, a provision we don't need and shouldn't need. It is a provision that is the price paid to the U.S. Chamber of Commerce for their support for this bill even as they export good American jobs through the front door, mostly to Asia. We don't need and should not support this provision. I lost my amendment the day before yesterday to strike this provision. This amendment I offer today says at least—at least let us sunset this provision in 5 years so we can take a look at whether any of these promises have made any sense.

I was here in the Congress in 1986. I heard all the promises of the Simpson-

Mazzoli Act. None of them were true, and 3 million people got amnesty. There was no border security to speak of, no employer sanctions to speak of, and there was no enforcement. Now, all these years later, we have 12 million people in this country without legal authorization. What do we do? We bring a new bill to the floor with border security, with employer sanctions, and a guest worker provision. Nirvana.

The fact is, it is not going to work, regrettably, and this is the worst possible provision in this bill, in my judgment.

Mr. President, I yield the floor, and I reserve my time.

How much time remains?

The PRESIDING OFFICER. The Senator has 17 seconds.

Mr. DORGAN. I will reserve the 17 seconds unless the Senator from Massachusetts is ready to yield back, and then I will yield back and we can vote.

Mr. KENNEDY. I yield the time.

Mr. DORGAN. I yield my time.

The PRESIDING OFFICER. All time has been yielded. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Wyoming (Mr. THOMAS).

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—48

Baucus	Feingold	Obama
Bayh	Grassley	Reed
Biden	Harkin	Reid
Bingaman	Inhofe	Rockefeller
Boxer	Inouye	Sanders
Brown	Klobuchar	Schumer
Byrd	Kohl	Sessions
Cardin	Landrieu	Shelby
Casey	Lautenberg	Stabenow
Clinton	Leahy	Sununu
Coburn	Levin	Tester
Conrad	McCaskill	Thune
Corker	Mikulski	Vitter
Dodd	Murray	Webb
Dorgan	Nelson (FL)	Whitehouse
Durbin	Nelson (NE)	Wyden

NAYS—49

Akaka	Craig	Kennedy
Alexander	Crapo	Kerry
Allard	DeMint	Kyl
Bennett	Dole	Lieberman
Bond	Domenici	Lincoln
Bunning	Ensign	Lott
Burr	Enzi	Lugar
Cantwell	Feinstein	Martinez
Carper	Graham	McCain
Chambliss	Gregg	McConnell
Cochran	Hagel	Menendez
Coleman	Hatch	Murkowski
Collins	Hutchison	Pryor
Cornyn	Isakson	Roberts
Salazar	Specter	Warner
Smith	Stevens	
Snowe	Voinovich	

NOT VOTING—3

Brownback	Johnson	Thomas

The amendment (No. 1181) was rejected.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. CRAIG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thought the Republican leader, the Senator from Kentucky, Mr. MCCONNELL, wanted to speak and introduce an amendment. Then we are hopeful that we would deal with the Vitter amendment, and after that we would go with the Feingold amendment, and perhaps even the Sanders amendment as well. That might be a way we proceed.

I see the Senator from Kentucky, who is going to talk for a period of time. Then we would go back to the Republican side, Senator VITTER, come back over here to Senator FEINGOLD, then perhaps they were looking on the other side—we had talked to our Republican colleagues—and we are hopeful to get a vote, potentially go to Senator SANDERS after that.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 1170 TO AMENDMENT NO. 1150

Mr. MCCONNELL. Mr. President, I thank my friend from Massachusetts.

I ask unanimous consent that the pending amendment be laid aside, and I call up amendment No. 1170.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 1170.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: to amend the Help America Vote Act of 2002 to require individuals voting in person to present photo identification)

At the appropriate place, insert the following:

SEC. _____. IDENTIFICATION REQUIREMENT.

(a) NEW REQUIREMENT FOR INDIVIDUALS VOTING IN PERSON.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

"SEC. 304. IDENTIFICATION OF VOTERS AT THE POLLS.

"(a) IN GENERAL.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present a current valid photo identification issued by a governmental entity before voting.

"(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2008.".

(2) CONFORMING AMENDMENTS.—

(A) Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303, and 304".

(B) The table of contents of the Help America Vote Act of 2002 is amended by redesignating the items relating to sections 304 and 305 as relating to items 305 and 306, respectively, and by inserting after the item relating to section 303 the following new item:

"Sec. 304. Identification of voters at the polls.".

(b) FUNDING FOR FREE PHOTO IDENTIFICATIONS.—

(1) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following:

"PART 7—PHOTO IDENTIFICATION

"SEC. 297. PAYMENTS FOR FREE PHOTO IDENTIFICATION.

"(a) IN GENERAL.—In addition to any other payments made under this subtitle, the Commission shall make payments to States to promote the issuance to registered voters of free photo identifications for purposes of meeting the identification requirements of section 304.

"(b) ELIGIBILITY.—A State is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

"(1) a statement that the State intends to comply with the requirements of section 304; and

"(2) a description of how the State intends to use the payment under this part to provide registered voters with free photo identifications which meet the requirements of such section.

"(c) USE OF FUNDS.—A State receiving a payment under this part shall use the payment only to provide free photo identification cards to registered voters who do not have an identification card that meets the requirements of section 304.

"(d) ALLOCATION OF FUNDS.—

"(1) IN GENERAL.—The amount of the grant made to a State under this part for a year shall be equal to the product of—

"(A) the total amount appropriated for payments under this part for the year under section 298; and

"(B) an amount equal to—

"(i) the voting age population of the State (as reported in the most recent decennial census); divided by

"(ii) the total voting age population of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

"SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to any other amounts authorized to be appropriated under this subtitle, there are authorized to be appropriated such sums as are necessary for the purpose of making payments under section 297.

"(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The table of contents of the Help America Vote Act of 2002 is amended by inserting after the item relating to section 296 the following:

"PART 7—PHOTO IDENTIFICATION

"Sec. 297. Payments for free photo identification.

"Sec. 298. Authorization of appropriations.".

Mr. MCCONNELL. Mr. President, Members on both sides have voiced a

lot of legitimate concerns about the immigration bill that we brought to the floor earlier this week, which is precisely what we were hoping for when we decided to move forward with it. We needed to air things out. Many of our Republican colleagues have rightly focused on border security and their concern that people who have broken the law can somehow get away with it under the proposed legislation.

As we have debated this issue on the floor, the American people have spoken very loudly. Phones have been ringing off the hooks. If we have settled anything this week, it is that Americans are not shy about expressing their views on immigration. It is my hope this debate will move forward until every apprehension will be addressed.

Now I wish to voice a concern of my own. The Constitution says: All persons born or naturalized in the United States are citizens, and are therefore free to vote. As a corollary, we have always maintained that no one who is not a citizen has a right to vote. But in order to preserve the meaning of this pledge, we need to make sure the influence of those who vote legally is not diluted by those who do not; those who do not abide by the laws are not free to influence our political process or our policies with the vote.

As we move forward on this immigration bill, we need to make sure we protect voters, protect the 15th amendment by strengthening protections against illegal voting. This is the principal concern, but it is also practical.

The fundamental question we have been debating this week is what to do about the fact that 12 million people in this country are here illegally. We would have to go back more than two decades to find a Presidential election in this country in which 12 million votes would not have tipped the balance in the other direction.

Only citizens have the right to choose their elected representatives. Regardless of what we decide to do about these 12 million, those who are not here legally and are not citizens should not have the ability to upend the will of the American people in a free and fair election. This is not fantasy. It was reported last week that hundreds of noncitizens in and around San Antonio have registered to vote over the past several years. Most are believed to be here illegally and many are thought to have cast votes.

We have no reason to believe this practice, if true, is not being replicated in other cities and towns all across our country. So the question is: Given the current reality, how do we safeguard the integrity of the voting system? If these millions were eventually to become citizens, how do we propose to make sure their vote counts, that it isn't diluted?

Now the Carter-Baker Commission on Federal Election Reform, founded after the 2004 election and spearheaded by former President Jimmy Carter and former Secretary of State Jim Baker, has already addressed the problem. Here you see President Carter and former Secretary Jim Baker together addressing this issue as they cochaired the Federal Election Reform Commission. That report said, quite simply, election officials need to have a way to make sure the people who show up at the polls are the ones on the voter lists.

I cannot think of anyone who would disagree with that. The solution the commission proposed, the Carter-Baker Commission, is the same one I am proposing today as an amendment to the immigration bill.

In our country, photo IDs are needed to board a plane, to enter a Federal building, to cash a check, even to join a wholesale shopping club.

In a nation in which 40 million people change addresses each year, in which a lot of people don't even know their neighbors, some form of Government-issued tamperproof photo ID cards should be used in elections as well. If they are required for buying bulk toothpaste, they should be required to prove one's identity, to prove that someone actually has a right to vote and a right to influence the laws and policies of our country. We need to ensure those who are voting are the same people on the rolls and that they are legally entitled to vote. ID cards would do that. They would reduce irregularities dramatically and, in doing so, they would increase confidence in the system.

We have all been through elections where groups of voters questioned the results based on rumors of coercion or fraud. Photo IDs would substantially limit this kind of voter skepticism and loss of faith in the political process.

Consistent with the purpose and the aim of the 15th amendment, we don't want anyone who has the right to vote to have any difficulty acquiring an ID. This amendment addresses this concern by establishing a grant program for those who cannot afford a photo ID. People who qualify will be provided one for free, no cost. No less an advocate for poor Americans than Ambassador Andrew Young has said photo IDs would have the added benefit of helping those who don't have drivers licenses or other forms of official ID to navigate an increasingly computerized culture. Photo IDs would make it easier to cash checks, rent movies, or gain access to other forms of commerce that are closed to people who don't have them.

An overwhelming majority of Americans support this attempt to ensure the integrity of our elections. An NBC News/Wall Street Journal poll last year showed 26 percent of respondents strongly favored requiring a universal tamperproof ID at the polls. Nineteen percent said they mildly favored the IDs. You can do the math, Mr. President. That is 80 percent of the American people think this is a good idea. On issues in America, 80/20 is about as good as it gets. Twelve percent were neutral and didn't have an opinion at all, only 3 percent mildly opposed, and 4 percent opposed. So let's add those together. We are talking about 80 to 7, with the rest of Americans not having a view. Ninety-three percent of those who were asked for their opinion were either undecided or in favor of implementing this control. State polls show similar results. Americans are clearly divided on what to do with illegal immigrants in our communities, but they seem to agree on the benefit of an ID.

Members from both sides of the aisle agree we need to address voting irregularities. The junior Senator from Illinois is sponsoring a bill that would stiffen penalties for preventing someone from exercising his or her right to vote. He has already drawn 12 Democratic cosponsors. The bill is meant to respond to a problem we all recognize and which we should do something about by requiring photo ID for voters. Two dozen States already require—that is 24 States—some form of identification at the polls.

As a result of the Help America Vote Act, photo ID is required for those who register to vote by mail but who can't produce some other identifying document. What I would like to do is to provide a Federal minimum standard that is consistent but which allows States wide flexibility in determining the kind of ID that is required. It doesn't have to be a driver's license. It could be a hunting or fishing license. Either way, we would be ensuring for the first time the same verification standards from rural Iowa to Dade County, FL. This would be one of the surest steps we could take to protect the franchise rights of every American citizen in a fast-changing and increasingly mobile society.

The promise of America is that every law-abiding citizen has an equal stake in the political process and should be treated equally under the law. The most concrete expression of this right is the right to vote. It is a right that has been at the core of our democracy for more than a century, and whenever it has been deprived at the local level, we strengthen it federally. We need to strengthen it again now as part of our effort to reform America's immigration laws. Stronger borders would do nothing to prevent noncitizens who are already here from abusing the system further through illegitimate voting. To protect franchise rights of all born and naturalized citizens, we need to harden antifraud protections at the polls. For the sake of the citizen who is already here and for those who dream of becoming citizens in the future, this amendment is an important step in the right direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1157

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment and call up Vitter amendment No. 1157.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. DEMINT, Mr. THOMAS, Mr. BUNNING, Mr. ENZI, and Mr. INHOFE, proposes an amendment numbered 1157.

Mr. VITTER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike title VI (related to Nonimmigrants in the United States Previously in Unlawful Status)

Strike title VI.

Mr. VITTER. Mr. President, this is an important amendment that goes to the heart of our debate. This amendment strikes all of the text of title VI, the Z visa amnesty section. It takes all of that Z visa out of this massive immigration bill. I thank several Members for joining me in this important amendment: Senator DEMINT, Senator THOMAS, Senator BUNNING, Senator ENZI, Senator INHOFE, and Senator COBURN. They are all cosponsors of this amendment. I ask all of my colleagues to join in this fundamental but necessary correction of the bill.

Many folks will say: We can't do this. This goes to the heart of the bill. It goes to the heart of the compromise. Well, indeed, it does. It does that because that is where an absolutely fundamental flaw with this approach resides. The Z visa is amnesty, pure and simple. Amnesty is at the heart of this bill and is a fundamental problem and flaw with the bill that we must correct. Make no mistake about it, the American people know this. It is obvious. Why is it so hard for us to acknowledge the fact, acknowledge the negative consequences that flow from it, and correct it?

Considering how badly received last year's Senate-passed amnesty bill was, I am shocked we are here again, admittedly with a better bill in some respects but with a bill with Z visa amnesty right at the heart of it. The American people don't want this. They don't want the Z visa, because they don't want to reward law breaking and thereby encourage more of the same. The Z visa amnesty provision absolutely rewards those who have broken the law and, in doing so, is a slap in the face to those thousands upon thousands of folks who are honoring the law, following the law, standing in line, waiting their turn under the rules.

I ask my fellow Senators, are we going to be a nation that values that rule of law? These Z visas tell lawbreakers the opposite, that it is OK to break the law. In doing so, most importantly, most negatively, that has to encourage more like behavior in the future. Clearly, that sort of amnesty sends the wrong message, a reward for breaking the law. Clearly, that encourages the same sort of behavior we absolutely don't want in the future.

I think the fundamental question in this debate is, is this bill going to be a repeat of the 1986 immigration reform the Congress passed at that time or is this bill fundamentally different? Again, that is a central question that goes to the heart of the Z visa issue and others.

In 1986, Congress took up immigration reform. They passed a significant bill, not as wide sweeping as we are talking about now but certainly a significant bill. Arguments were very much the same: We are going to beef up enforcement. We are going to get serious. We are going to have real enforcement at the border. We are going to have meaningful enforcement at the workplace. In that context, we need this amnesty one time, and it will be done and the problem will be solved.

What is the history since then? The history is clear. A problem that was then about 3 million illegal aliens has grown at least fourfold—12, 13 million, or more. So it has mushroomed. The problem has gotten a lot worse. Why? Because the amnesty provisions of that bill in 1986 absolutely went into force and effect. They were absolutely honored. But at the same time, the enforcement never happened to an adequate extent.

So what happens with those two dynamics? It is simple to see what did happen—inadequate enforcement, real amnesty that sent the message loudly and clearly: You will eventually be forgiven for breaking the law to get into this country illegally. The problem mushroomed. The problem quadrupled from more than 3 million illegal aliens in the country to 12 or 13 million or more today.

That is an awfully fundamental question we need to ask as we look at this legislation. I have asked that question. My answer is: This is a vastly improved bill from last year, but this bill still has that fundamental flaw. This bill still risks—and I believe will inevitably repeat—the mistake of 1986, only on a far broader, a far bigger, and far more dangerous scale. We cannot afford that.

There are colleagues of both parties in this Chamber who make the argument that we hear about most legislation: The status quo is broken. This bill is not perfect, but this bill will move it along. This bill will make it better.

That sort of incrementalist approach is true in a lot of cases. In this case, I don't think it is true at all. In this case, a flawed bill gives us the real threat, the real danger of making the problem a lot worse, not better. That is the history of what happened in 1986. That is what will happen again with inadequate enforcement plus amnesty.

How do we correct this? One way is to beef up enforcement. I support a lot of different measures to make the enforcement more certain, to nail it down absolutely before we go into any of these other areas such as a temporary worker program, certainly Z visas. The triggers in this bill are much ballyhooed, but the triggers don't get us to where we need to be before they trigger the Z visa. All the triggers do is say: We are going to do what was planned for the next 18 months anyway, which isn't all of what we need to do, which isn't half of what we need to do to secure the border and have real workplace enforcement. But then we are going to trigger the amnesty. We are going to trigger the Z visa. That is not enough. We need to beef up those enforcement provisions.

The other way to fix going down the 1986 road again is to get rid of amnesty, to get rid of the Z visa. That is exactly what this amendment does.

Certainly many of my colleagues will protest wildly about calling this amnesty. If you look at the facts, there is no other conclusion to reach. If you look at history, there is no other conclusion.

For those lawyers in the Chamber, probably the best known legal reference book is Black's Law Dictionary. Open it. Turn to ''amnesty.'' It is very straightforward. Amnesty is ''a pardon extended by the government to a group or class of persons.'' Black's Law Dictionary cites as its first example of what that means the 1986 Immigration Reform and Control Act. It points to that very act and says it ''provided amnesty for undocumented aliens already present in the country.'' That is the example it cites in the very definition of the concept of amnesty.

I ask unanimous consent to print this definition with the example in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Black's Law Dictionary (8th ed. 2004)]

amnesty, n. A pardon extended by the government to a group or class of persons, usually for a political offense; the act of a sovereign power officially forgiving certain classes of persons who are subject to trial but have not yet been convicted

The 1986 Immigration Reform and Control Act provided amnesty for undocumented aliens already present in the country.

Unlike an ordinary pardon, amnesty is usually addressed to crimes against state sovereignty—that is, to political offenses with respect to which forgiveness is deemed more expedient for the public welfare than prosecution and punishment.

Amnesty is usually general, addressed to classes or even communities.—Also termed general pardon. See PARDON. [Cases: Pardon and Parole 26. C.J.S. Pardon and Parole §§3, 31.]—amnesty, vb.

''Amnesty . . . derives from the Greek amnestia ('forgetting'), and has come to be used to describe measures of a more general nature, directed to offenses whose criminality is considered better forgotten.'' Leslie Sebba, ''Amnesty and Pardon,'' in 1 Encyclopedia of Crime and Justice 59, 59 (Sanford H. Kadish ed., 1983).

express amnesty. Amnesty granted in direct terms. Implied amnesty. Amnesty indirectly resulting from a peace treaty executed between contending parties.

Mr. VITTER. In that context, one obvious question is: How does that amnesty provision compare to what is in this 2007 bill?

I think if you go down the requirements of the 1986 law and the requirements of this bill before us, you will see they are disturbingly familiar.

In 1986, how do you gain temporary residence status? Continuous unlawful residence in the United States since before January 1, 1982. Fees: a $185 fee for the principal applicant, $50 fee for each child, a $420 family cap. You have to meet certain admissibility criteria: 18-month residency period, English language and civics requirement. Those are the basic requirements under that 1986 law.

Let's compare it to what is in this bill, which is very similar. The dollar amount fees are higher, more significant, but in terms of the nature of the requirements in this bill, they are disturbingly similar: physically present and employed in the United States since a certain date—January 1, 2007; $1,000 penalty and a $1,500 processing fee; meet admissibility criteria; background check; English language basic requirement, et cetera—the exact same type of requirements under the Z visa provisions of this bill, as well as the 1986 law, which ''Black's Law Dictionary'' itself labels amnesty.

Mr. President, I ask unanimous consent to have printed in the RECORD this simple side-by-side comparison of the 1986 law and this bill presently before the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1986 IRCA

TEMPORARY RESIDENT STATUS

Continuous unlawful residence in the U.S. since before January 1, 1982.

$185 fee for principal applicant, $50 for each child ($420 family cap).

Meet admissibility criteria.

Ineligible for most public benefits for five years after application.

18-month residency period.

ADJUSTMENT TO PERMANENT RESIDENT

English language and civics requirement.

$80 fee per applicant ($240 family cap).

2007

Z VISA STATUS

Physically present and employed in U.S. since January 1, 2007.

$1,000 penalty and $1,500 processing fee.

Meet admissibility criteria.

Background check.

ADJUSTMENT TO PERMANENT RESIDENT

Meets merit requirements, file application in home country.

$4,000 penalty.

Mr. VITTER. So, again, let's not repeat the horrible mistakes of the past. Let's not repeat the fundamental mistake of 1986 that got us to the situation we are in today, that quadrupled, or more, the problem then faced in 1986. Let's not repeat it in either side of the ledger: by having inadequate enforcement—and I am afraid the enforcement provisions of this bill, the trigger requirements, et cetera, are inadequate—and let's not repeat it on the other side of the equation by granting amnesty and creating a magnet for more illegal activity into this country.

We cannot afford to do that. This amendment goes to the core of that fundamental problem and corrects it by taking out title VI, the Z visa amnesty provisions.

Mr. ENZI. Mr. President, I rise in strong support of the amendment introduced by the Senator from Louisiana. I am proud to be a cosponsor of this amendment.

I am disappointed in the way the substitute amendment to S. 1348 was brought before the Senate. I do not believe Senators have had adequate opportunity to fully understand all the impacts this legislation will have on our Nation. Over the next 2 weeks, Senators and staff will continue to study the language. I hope the Senate leadership will ensure that all Members have the opportunity to have their amendments considered by the full Senate. I am pleased an agreement was reached to vote on the Vitter amendment.

If this was the first time the Senate was considering offering amnesty to illegal aliens, I think this debate would be under a different tone. When the 1986 legislation was enacted, Members of the House and Senate had the best of intentions—to improve our border situation and decrease illegal immigration by offering permanent status to those in the United States illegally. Those good intentions, however, were not without fault. We can see that now, 21 years later, and we cannot ignore the problems caused by that legislation.

Our goal here is to make an immigration system that works—one that meets the economic needs of our Nation and allows for legal immigration and legal workers. We need to make it less complicated to immigrate legally rather than illegally. The status quo is just the opposite. It has become so difficult to follow the legal path that many look for the easier route of crossing our border without paperwork, without filing fees, and without bureaucratic delays. It has become so difficult for employers to hire legal temporary workers that many hire illegal immigrants without legal Social Security numbers, without labor certifications, and without bureaucratic delays. Our laws should not be a deterrent to themselves.

Our immigration system is complicated. Our borders remain open. Border security must be the top priority of the debate. We cannot have immigration reform without strengthening the security of our borders. This is why I am pleased that the language the Senate is considering includes triggers that must be met before certain provisions can be enacted.

There are some positive ideas in this legislation, but there remain many problems. The Senate should not pass flawed legislation merely for the sake of voting on something.

Amnesty is one of the main concerns of my constituents in Wyoming. Amnesty sends a message to illegal immigrants that if you break our immigration laws and avoid being detected for several years, the United States will not only forgive you but reward you with permanent resident status. Amnesty encouraged illegal immigration. In 1986, 7 million immigrants were granted amnesty. Today, we are facing an illegal population of over 12 million. The 1986 legislation did not stop illegal immigration. We should not repeat this policy without ensuring that we are not making the same mistake.

I continue to closely examine bill language as new developments unfold and will make decisions keeping in mind what concerns I have heard from the people and businesses of Wyoming. We expect to spend the first week of June continuing to debate and amend the bill. I am concerned about where we will be in 2 weeks on this legislation. This issue is too important to refuse to consider amendments for members of either party.

Again, I state my strong support for Senator VITTER's amendment to remove the amnesty provisions from this legislation. I hope my colleagues in the Senate will join me in taking a strong stance against amnesty.

With that, I yield back the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed as in morning business for 3 minutes.

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

(The remarks of Mr. BIDEN are printed in today's RECORD under ''Morning Business.'')

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the pending amendment be set aside so I might call up an amendment.

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

AMENDMENT NO. 1176 TO AMENDMENT NO. 1150

(Purpose: To establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II)

Mr. FEINGOLD. Madam President, I call up amendment No. 1176.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. LIEBERMAN, and Mr. INOUYE, proposes an amendment numbered 1176 to amendment No. 1150.

Mr. FEINGOLD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in the RECORD of Wednesday, May 23, 2007, under ''Text of Amendments.'')

Mr. FEINGOLD. Madam President, this amendment contains the language of S. 621, the Wartime Treatment Study Act, a bill I have introduced with my friend from Iowa, Senator GRASSLEY.

This amendment would create two fact-finding commissions: one commission to review the U.S. Government's treatment of German Americans, Italian Americans, and European Latin Americans during World War II, and another commission to review the U.S. Government's treatment of Jewish refugees fleeing Nazi persecution during World War II.

I am very pleased that my distinguished colleagues, Senator LIEBERMAN and Senator INOUYE, have agreed to cosponsor this amendment. They are also cosponsors of my bill, and I appreciate their continued support for this important initiative.

This amendment would help us to learn more about how, during World War II, recent immigrants and refugees were treated. It is an appropriate and relevant amendment to this immigration bill.

I would have preferred to have moved this bill on its own. Senator GRASSLEY and I have introduced the Wartime Treatment Study Act in the last four Congresses, and the Judiciary Committee has reported it favorably each time, including just last month. It has been cleared for adoption by unanimous consent by my Democratic colleagues. But I am forced to offer this as an amendment because the Wartime Treatment Study Act has not cleared the Republican side in this Congress or any of the last three Congresses. It is time for the Senate to pass this bill.

During World War II, the United States fought a courageous battle against the spread of Nazism and fascism. Nazi Germany was engaged in the horrific persecution and genocide of Jews. By the end of the war, 6 million Jews had perished at the hands of Nazi Germany.

The Allied victory in the Second World War was an American triumph, a triumph for freedom, justice, and human rights. The courage displayed by so many Americans, of all ethnic origins, should be a source of great pride for all of us. But we should not let that justifiable pride in our Nation's triumph blind us to the treatment of some Americans by their own Government.

Sadly, as so many brave Americans fought against enemies in Europe and the Pacific, the U.S. Government was curtailing the freedom of some of its own people here, at home. While it is, of course, the right of every Nation to protect itself during wartime, the U.S. Government can and should respect the basic freedoms that so many Americans have given their lives to defend.

Many Americans are aware that during World War II, under the authority of Executive Order 9066 and the Alien Enemies Act, the U.S. Government forced more than 100,000 ethnic Japanese from their homes and ultimately into relocation and internment camps. Japanese Americans were forced to leave their homes, their livelihoods, and their communities. They were held behind barbed wire and military guard by their own Government.

Through the work of the Commission on Wartime Relocation and Internment of Civilians created by Congress in 1980, this unfortunate episode in our history finally received the official acknowledgement and condemnation it deserved.

Congress and the U.S. Government did the right thing by recognizing and apologizing for the mistreatment of Japanese Americans during World War II. But our work in this area is not done. That same respect has not been shown to the many German Americans, Italian Americans, and European Latin Americans who were taken from their homes, subjected to curfews, limited in their travel, deprived of their personal property, and, in the worst cases, placed in internment camps.

Most Americans are probably unaware that during World War II, the U.S. Government designated more than 600,000 Italian-born and 300,000 German-born U.S. resident aliens and their families as ''enemy aliens.'' Approximately 11,000 ethnic Germans, 3,200 ethnic Italians, and scores of Bulgarians, Hungarians, Romanians, or other European Americans living in America were taken from their homes and placed in internment camps. Some even remained interned for up to 3 years after the war ended. Unknown numbers of German Americans, Italian Americans, and other European Americans had their property confiscated or their travel restricted, or lived under curfews. This amendment would not—would not—grant reparations to victims. It would simply create a commission to review the facts and circumstances of the U.S. Government's treatment of German Americans, Italian Americans, and other European Americans during World War II.

Now, a second commission created by this amendment would review the treatment by the U.S. Government of Jewish refugees who were fleeing Nazi persecution and genocide and trying to come to the United States. German and Austrian Jews applied for visas, but the United States severely limited their entry due to strict immigration policies—policies that many believed were motivated by fear that our enemies would send spies under the guise of refugees and by the unfortunate antiforeigner, anti-Semitic attitudes that were sadly all too common at that time.

It is time for the country to review the facts and determine how our immigration policies failed to provide adequate safe harbor to Jewish refugees fleeing the persecution of Nazi Germany. It is a horrible truth that the United States turned away thousands of Jewish refugees, delivering many to their deaths at the hands of the Nazi regime we were fighting.

It is so urgent that we pass this legislation. We cannot wait any longer. The injustices to European Americans and Jewish refugees occurred more than 50 years ago. The people who were affected by these policies are dying.

In fact, one of them died earlier this month. Max Ebel was one of the thousands of German Americans who were interned during World War II in the United States. He died on May 3, 2007. His death brings me great sadness.

Max Ebel was only 17 when he came to America in 1937. He fled Germany after he was assaulted for refusing to join the Hitler Youth. When he came to the United States, he lived with his father in Massachusetts. He learned English. He joined the Boy Scouts. He completed high school. When the war broke out, he registered for the draft.

Nonetheless, in 1942, this new American was arrested by the FBI and interned under the Alien Enemies Act because of his German ancestry. He spent the next 18 months in a series of detention facilities and internment camps and ultimately was transferred to a camp in Fort Lincoln, ND, where despite the way he had been treated, he found a way to help the war effort. He volunteered for a government work detail and spent a North Dakota winter laying new railroad track on the Northern Pacific Rail Line. Max Ebel's crew boss saw how hard he worked and petitioned for his release.

Finally, in April of 1944, the Government let him go home. Despite everything that had happened, he remained loyal to his new country and became a citizen in 1953. A few years ago he told a journalist:

I was an American right from the beginning, and I always will be.

Max Ebel's death is a loss not only to his family and friends but also to our country.

But losing Max Ebel does more than bring me sadness; it also makes me a bit angry. It makes me angry because he did not live to see the day that Congress recognized what he went through: his internment at the hands of his newfound country.

I have been trying for years to pass this legislation creating a commission to study what happened to Max Ebel and to other German Americans and other European Americans and to Jewish refugees during World War II. I am gravely disappointed that Max Ebel and many others affected by these policies will not be here to see that legislation become law.

Americans must learn from these tragedies now, before there is no one left. We cannot put this off any longer. These people have suffered long enough without official, independent study of what happened to them and without knowing this Nation recognizes their

sacrifice and resolves to learn from the mistakes of the past that caused them so much pain.

As the Milwaukee Journal Sentinel editorial board put it, Congress must move forward with this legislation:

Lest the passage of time deprive more Americans of the justice that they deserve.

Let me again repeat that this amendment does not call for reparations. All it does is ensure that the public has a full accounting of what happened. We should be proud of our victory over Nazism, as I am. But we should not let that pride cause us to overlook what happened to some Americans and refugees during World War II. I urge my colleagues to join me in supporting the Wartime Treatment Study Act that is an amendment to this immigration legislation, and I hope the managers of the bill can accept it.

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

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

Mr. KENNEDY. Madam President, we are in the process where we will begin to make comment on the amendment of the Senator from Louisiana. We will address that very shortly. I am finding that the amendment of the Senator from Wisconsin is enormously compelling. I would have thought it would be generally accepted. We are in the process of trying to get a review of that amendment.

But for the notice of our colleagues, we expect that we will probably have two votes, if we are unable to get clearance, and we will probably have that somewhere in the relationship of probably about—hopefully about 4 o'clock. I haven't had the chance to clear this time with Senator VITTER, but that is generally sort of the plan we are looking at, at the present time. I am not asking unanimous consent on that, but that is just in terms of information for our colleagues.

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. DEMINT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1157 TO AMENDMENT NO. 1150

Mr. DEMINT. Madam President, I rise to speak in favor of the Vitter amendment No. 1157, which strikes title VI of the bill, the title that authorizes Z visas for illegal immigrants.

Z visas are amnesty, pure and simple. They allow illegal immigrants to stay here permanently without ever returning home to their countries. This is the provision that has so many Americans upset.

By removing Z visas from the bill, illegal immigrants will be able to go home and get right with the law. Once they have returned, they can apply for legal entry, just like everyone else, but they would not be allowed to violate our laws.

I know many will say this amendment will be too disruptive to the illegal workers who would ultimately be forced to return to their home countries, but I disagree. Last year, 51 million people traveled to and from the United States from abroad, and 13 million of these travelers were from Mexico alone. People are very mobile, and moving this number of people around is relatively easy today. In fact, this bill acknowledges this very point by requiring them to go home to apply for citizenship.

I have also heard some say the opposition to amnesty is being driven by an anti-immigrant bias. This is also untrue. Americans are extremely pro-immigrant, but they are upset that their Government has lied to them for 20 years on this issue, and they have lost confidence in our ability to control our borders.

Let me be clear: I am pro-immigrant. I believe in legal immigration. I want people to come here, respect our laws, embrace our values, and become American citizens, but we must reject amnesty if we ever expect that to happen.

That is why eliminating the amnesty provision in this bill is the most compassionate and pro-immigrant thing we can do.

By striking the Z visas from this bill, this amendment will allow us to uphold the rule of law, create fairness for millions of people who want to come here legally, and allow us to focus on securing our borders.

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

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

Mr. KENNEDY. Madam President, we are working with our colleagues and trying to go back and forth, trying to be bipartisan. We have gone to Senator VITTER, to FEINGOLD, to HUTCHISON, and then to SANDERS. We expect votes and reasonably short debate. We are trying to get votes on all of those before the debate starts on the supplemental. I thank the Senator from Vermont for his patience.

Mrs. HUTCHISON. Madam President, I would appreciate the Senator from Vermont going first, after which I will offer mine.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 1223 TO AMENDMENT NO. 1150

Mr. SANDERS. Madam President, I ask unanimous consent to set aside the pending amendment. I have an amendment at the desk and I ask for its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS] proposes an amendment numbered 1223 to amendment number 1150.

The amendment is as follows:

(Purpose: To establish the American Competitiveness Scholarship Program)

At the end of title VII, insert the following:

Subtitle C—American Competitiveness Scholarship Program

SEC. 711. AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this section as the ''Director'') shall award scholarships to eligible individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, health care, or computer science.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a scholarship under this section, an individual shall—

(A) be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), an alien admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), or an alien lawfully admitted to the United States for permanent residence;

(B) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(C) certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, nursing, medicine, or other clinical medical program, or technology, or science program designated by the Director.

(2) ABILITY.—Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(c) AMOUNT OF SCHOLARSHIP; RENEWAL.—

(1) AMOUNT OF SCHOLARSHIP.—The amount of a scholarship awarded under this section shall be $15,000 per year, except that no scholarship shall be greater than the annual cost of tuition and fees at the institution of higher education in which the scholarship recipient is enrolled or will enroll.

(2) RENEWAL.—The Director may renew a scholarship under this section for an eligible individual for not more than 4 years.

(d) FUNDING.—The Director shall carry out this section only with funds made available under section 286(x) of the Immigration and Nationality Act (as added by section 712) (8 U.S.C. 1356).

(e) FEDERAL REGISTER.—Not later than 60 days after the date of enactment of this Act,

the Director shall publish in the Federal Register a list of eligible programs of study for a scholarship under this section.

SEC. 712. SUPPLEMENTAL H-1B NONIMMIGRANT PETITIONER ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) (as amended by this Act) is further amended by inserting after subsection (w) the following:

''(x) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Supplemental H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this Act, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(15).

''(2) USE OF FEES FOR AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—The amounts deposited into the Supplemental H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 711 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 for students enrolled in a program of study leading to a degree in mathematics, engineering, health care, or computer science.''.

SEC. 713. SUPPLEMENTAL FEES.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) In each instance where the Attorney General, the Secretary of Homeland Security, or the Secretary of State is required to impose a fee pursuant to paragraph (9) or (11), the Attorney General, the Secretary of Homeland Security, or the Secretary of State, as appropriate, shall impose a supplemental fee on the employer in addition to any other fee required by such paragraph or any other provision of law, in the amount determined under subparagraph (B).

''(B) The amount of the supplemental fee shall be $8,500, except that the fee shall be ½ that amount for any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).

''(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(x).''.

Mr. SANDERS. Madam President, I will begin by quoting from an article today in Congress Daily by Bruce Stokes. He sets up in one paragraph pretty much what we are going to talk about in this amendment:

The immigration deal under consideration in the Senate raises the number of H–1B visas, a long-sought boon for the high-tech industry that will provide Silicon Valley firms with skilled workers at rock-bottom salaries, who will bolster company profits.

This amendment I am offering now is supported by the AFL–CIO. I will read the few paragraphs of the letter they sent today:

Dear Senator SANDERS:

On behalf of the AFL–CIO, I am writing to offer strong support for your amendment to the Secure Borders, Economic Opportunity and Immigration Reform Act.

Your amendment would provide scholarships in math, science, engineering, and nursing for our domestic workforce by increasing fees on H–1B employers.

The last paragraph, signed by William Samuel, director of the Department of Legislation for the AFL–CIO, writes this:

It is completely irresponsible for Congress to increase yet again the total annual number of available H–1B visas without addressing the myriad well-documented problems associated with the H–1B program, or considering long-term solutions involving access to training and educational opportunities for domestic workers.

That is William Samuel, director of the Department of Legislation for the AFL–CIO.

The amendment I am offering today also has the support of the Teamsters, the Programmers Guild, and the International Federation of Professional and Technical Engineers.

The Comprehensive Immigration Reform Act is a long and complicated bill. It touches on a number of very important issues, and some of those issues I strongly agree with, no question. The time is long overdue that we control our borders. No question, the time is long overdue that we begin to hold employers—those people who are hiring illegal immigrants—accountable. Those items are long overdue, and we have to deal with them. This legislation does that. I support that.

In my view, this bill is also responsible in how it deals with the very contentious and difficult issue of how we respond to the reality that there are some 12 million illegal immigrants in this country today. This bill carves out a path which eventually leads to citizenship, and that is something I also support.

But—and here is the but: There are a number of provisions in this bill I do not support, that I think are going to be very harmful to the middle-class and working families of this country.

The amendment I am offering right now concentrates on only one aspect of this very long bill and of that problem. That point centers on the state of the economy for working people in our country and the negative impact this legislation will have for millions of workers—low-income workers and professional workers as well.

The fact is there is a war going on in America today. I am not talking about the war in Iraq and I am not talking about the war in Afghanistan; I am talking about the war against the American middle class, the American standard of living and, indeed, the American dream itself.

The American people understand very well that since George W. Bush has become President, an additional 5.4 million Americans have slipped into poverty out of the middle class—5.4 million people who are poor. Nearly 7 million Americans have lost their health insurance. Income for the average American family has fallen by over $1,200 since President Bush has been President, and some 3 million Americans have lost their pensions.

All over this country, from Vermont to California, people get up in the morning and they are working incredibly long hours. People need two incomes in a family to try to make ends meet. Yet, at the end of the day, they are falling further and further behind. There are a lot of reasons for that, but I think this bill, and what this bill proposes to do, is part of the problem.

During the debate over NAFTA and permanent normal trade relations with China, we were told by President Clinton and many others that, well, yes, globalization and unfettered free trade, such as our trade relations with China, yes, they will cost us blue-collar factory jobs, and the result is that because of our trade agreements, we have lost millions of good-paying blue-collar factory jobs and, in fact, today there are fewer people working in manufacturing than since President Kennedy was in office in the early 1960s.

Yes, we have lost millions of good-paying manufacturing jobs, but what people told us is: Look, don't worry about that. Yes, we are going to lose blue-collar manufacturing jobs, but not to worry because your kids are going to become very sophisticated in terms of using computers, and the future for them is white-collar information technology jobs. We don't need those factory jobs anymore; we have white-collar information technology jobs, and those are the kinds of jobs which are going to be growing. Unfortunately, that has not quite occurred. From January 2001 to January 2006, we lost over 600,000 information technology jobs.

Alan Blinder, the former Vice Chair of the Federal Reserve, has told us that between 30 and 40 million jobs in this country are in danger of being shipped overseas. In other words, what we are looking at right now is not just the loss of blue-collar manufacturing jobs, but we are looking at the loss of significant numbers of white-color information technology jobs. I know that in my State—and I expect in Senator KENNEDY's State and all over this country—we have seen white-collar information technology jobs heading off to India and other countries. There is nothing more painful than to see people in my State—I have gone through this experience—having to train people to do their jobs as those people return to India.

Some of the leading CEOs and information technology companies have told us point blank—this is not a secret—that the new location for high-tech jobs is going to be India and China; it is not going to be the United States of America.

John Chambers, the CEO of Cisco, has said:

China will become the IT center of the world, and we can have a healthy discussion about whether that's in 2020 or 2040. What we're [in Cisco] trying to do is outline an entire strategy of becoming a Chinese company.

The founder of Intel predicted in the Wall Street Journal that the bulk of our information technology jobs will go to China and India over the next decade. That is the reality. That is what the heads of the information technology industry are telling us.

Over the last few days, a number of us have expressed the concern about the impact of bringing low-wage workers into this country and what that

would mean to Americans at the lower end of the economic ladder. Today, I wish to address a concern I have about what language in this bill could do to the middle class and, indeed, the upper middle class, people who hold professional jobs and who often earn a very good income.

The bill we are discussing today substantially increases the number of well-educated professionals coming into the United States from overseas. This bill, in fact, would allow 115,000 new professionals to come into this country each year, and that number could go up to 180,000.

This program which allows well-educated professionals to come into our country is called the H–1B program. It is currently capped at 65,000 visas a year. Under the language in this bill, the number would increase at least by 50,000 and by as much as 115,000.

The argument that corporate America is using in supporting this increase is that there are just not enough highly educated, highly skilled Americans to fill available job openings in the high-tech industry and in various science fields. Proponents of the H–1B visa program also say it allows us to bring in the ''best and the brightest'' from around the world to help America's competitiveness position. That sounds good on its face, and it may also have the benefit of being true in some cases, but there are those in this Chamber and across the country who are very concerned that in many instances the H–1B program is being used not to supplement American high-tech workers when they might be needed but instead is being used to replace them with foreign workers who are willing to work for substantially lower wages.

First, we should be clear that H–1B visas are not being used only in the high-tech and highly specialized technology and science fields. That is the argument often made, but it is really not true. The reality is that a whole host of jobs in various categories are going to H–1B visa holders.

Let's take a look at some of the jobs that corporate America is telling us that there are just not enough Americans who are smart enough, who are educated enough to perform. Here they are: information technology computer professionals—I guess we can't do that kind of work; university professors—oh, my word, I guess we just don't have enough people to be university professors; engineers, health care workers, accountants, financial analysts, management consultants, lawyers—lawyers, I love that one. Is there anyone in America who doesn't think we have too many lawyers? I guess we need to bring some lawyers in as well. Architects, nurses, physicians, surgeons, dentists, scientists, journalists and editors, foreign law advisers, psychologists, market research analysts, fashion models—Madam President, fashion models—teachers in elementary or secondary schools. In America, we do not have enough people to become teachers in elementary or secondary school. Does anyone really believe that we cannot, with proper salary inducements, bring people into secondary and primary education?

Given that we all know there are many Americans who have college degrees and advanced degrees in these fields who cannot find work, why is it that we need to bring in more and more professional workers from abroad? For those who believe that the law of supply and demand applies to labor costs, the evidence shows there is no shortage of college-educated workers in America. What we learn in economics 101 is if you cannot attract people for certain jobs, you pay them higher wages and you give them better benefits. Unfortunately, in America today, from 2000 to 2004, we have seen the wages of college graduates decline by 5 percent. So on one hand, corporate America says: Oh, my goodness, we can't find people as professionals to fill these jobs, but amazingly enough, wages have gone down for college graduates from 2000 to 2004 by 5 percent. Maybe somebody is not trying hard enough to find American workers to fill these jobs.

In truth, what many of us have come to understand is that these H–1B visas are not being used to supplement the American workforce where we have shortages but, rather, H–1B visas are being used to replace American workers with lower cost foreign workers.

There are studies which conclude that H–1B workers earn less than what U.S. workers make in similar jobs at similar locations. According to the Center for Immigration Studies, wages for H–1B workers average $12,000 a year below the median wage for U.S. workers in computer fields. Another study by Programmers Guild found that foreign tech workers who came to the United States with H–1B visas are paid about $25,000 a year less than American workers with the same skill.

According to the GAO:

> Some employers said that they hired H–1B workers in part because these workers would often accept lower salaries than similarly qualified U.S. workers.

What is very important to mention here is that some in corporate America are giving the impression that most of the jobs within the H–1B program are for highly specialized technical work which just can't be found in the United States. The truth is that most of the H–1B visas go to people who do not have a Ph.D., who do not have a master's degree, but only have a bachelor's degree, a plain old college degree.

In today's Congress Daily, there is a very insightful article on H–1B visas which is relevant to this debate:

> As Ron Hira, a professor at Rochester Institute of Technology, points out . . . the Labor Department acknowledges that ''H–1B workers may be hired even when a qualified U.S. worker wants the job, and a U.S. worker can be displaced from the job in favor of a foreign worker.''

The article goes on to state:

> The median wage for new H–1B computing professionals was $50,000 in 2005, far below the median for U.S. computing professionals, according to the annual report of U.S. Citizenship and Immigration Services.

These findings are extremely troubling given the promises made to the American people that the future for our economy was with high-skilled, high-paying, high-tech jobs. What we have found is that in the last 4 years, wages for college graduates are going down, and we are finding that people from abroad are coming in and doing jobs American professionals can do and they are doing them for lower wages.

To bolster their argument for increased H–1B visas, proponents point to a study by the Bureau of Labor Statistics about the jobs of the future. That is what it is entitled, ''Jobs of the Future.'' According to the Bureau of Labor Statistics, over the next decade, 2 million jobs will be created in mathematics, engineering, computer science, and physical science. That equates to about 200,000 jobs a year times 10—2 million jobs. Under this legislation, the number of H–1B visas would increase to as many as 180,000 a year. That means virtually every job—about 90 percent—that will be created in the high-tech sector over the next 10 years could conceivably be taken by a H–1B visa holder. What sense does that make? What are we telling our young people? We are saying: Go to college, get the best education you can, and we have all kinds of jobs available to you, except those jobs in a significant way are going to be taken by people from another country.

We would hope that companies in the United States would have just enough patriotism, maybe just a little bit of patriotism so they would work to hire qualified American workers. But if you look at the statements and conduct of some of these companies, you realize that patriotism, love of country is becoming a dated concept for those who are pushing extreme globalization.

Let me take one case study, and that is Microsoft. In 2003, Microsoft's vice president for Windows engineering was quoted in Business Week as saying:

> It is definitely a cultural change to use foreign workers. But if I can save a dollar, hallelujah.

The CEO of Microsoft, Steven Anthony Ballmer, has said, and this is an interesting quote, very relevant to today's discussion:

> Lower the pay of U.S. professionals to $50,000, and it won't make sense for employers to put up with the hassle of doing business in developing countries.

In other words, if we lower wages for professionals in this country, maybe our companies won't outsource and go to India or China.

The economic benefit of H–1B visas, though, is not limited to American companies. The truth is, as my colleagues, Senator DURBIN and Senator GRASSLEY, have pointed out, the top companies applying for H–1B visas are actually outsourcing firms from India, known in the industry as ''body shops.'' According to a February 7, 2007, article in BusinessWeek:

Data for the fiscal year 2006, which ended last September, showed that 7 of the top 10 applicants for H–1B visas are Indian companies. Giants Infosys Technologies and Wipro took the top two spots, with 22,600 and 19,400 applications respectively.

In fact, 30 percent of the H–1B visas approved last year went to nine Indian outsourcing firms. In other words, the very same companies that are involved in the H–1B program of supplying American companies with cheap foreign labor are exactly the same corporations that are involved in outsourcing, providing cheap labor to these very same companies when they move to India. Two sides of the same coin.

In my view, the H–1B system is working against the best interests of the American middle class. It is displacing skilled American workers, it is lowering our wages, and it is part of the process by which the middle class of this country continues to shrink. Meanwhile, it is creating huge profits for foreign companies that traffic in H–1B visas.

I do wish to commend Senators DURBIN and GRASSLEY for their work to reform the H–1B program and their efforts to include in the substitute some provisions that strengthen protection for American workers. But as important as these strengthened protections are, the H–1B program, which will be increased from 65,000 slots to 115,000 slots, and potentially even 180,000 slots, continues to pose a threat to American jobs and American wages.

The question is: Where do we go from here? What is our response to this problem? I could certainly offer an amendment to remove the increase in H–1B visas or even to restrict them below the current 65,000 level. But that amendment would be defeated. So where do we go? What is the sensible thing to do? How do we bring people together around this issue?

I think the author of the Congress Daily article I referred to earlier said it quite well when he wrote:

More importantly for the American taxpayer, the current allocation system for H–1B visas conveys a valuable resource—access to talented workers who add value to a company's bottom line—at almost no cost. This is a subsidy in violation of market principles for firms that are too quick to appeal to market forces when they are fighting Washington over export controls or other issues.

The amendment I am offering has two goals. First, raising the H–1B visa fee from $1,500 to $10,000 will go a long way in telling corporate America they are not going to be able to save money by bringing foreign professionals into this country, and they may want to look at the United States of America to find the workers that they need. If they have to pay $10,000, that will cut back on their margin.

Secondly, to the degree it is true that the United States does not have a significant number of skilled workers in certain categories—and in certain categories that may well be true—this new revenue will be dedicated toward providing scholarships to students who are studying in areas where we currently lack professionals.

Specifically, my amendment would create a new American Competitive Scholarship program at the National Science Foundation that would provide merit-based scholarships of up to $15,000 a year, and which are renewable for up to 4 years, to students pursuing degrees in math, science, engineering, medicine, nursing, other health care fields, and other extremely important fields vital to the competitiveness of this Nation. These new scholarships would create the incentive for the best and the brightest of American students to enter these fields where there is reputedly a shortage.

In other words, we have the absurd situation today where we are bringing people from all over the world into this country to do this job, yet we have large numbers of middle-class, working-class families who can't afford to send their kids to college or to graduate school. Well, maybe we ought to pay attention to American workers and American families first.

How will this program be paid for? Under current law, companies applying for H–1B visas pay a $1,500 fee. That fee is split up in a number of ways, with some of it going to scholarships and retraining programs. Unfortunately, it is too small to effectively create a scholarship program of the scale needed to address the claimed shortage in math, science, and technology specialists. This amendment imposes an $8,500 surcharge on those companies seeking H–1B visas. This fee would only apply to those who are required to pay the current $1,500 fee. Therefore, universities and schools would be exempt, as they are under current law. Companies with less than 25 employees would pay only half the fee.

I am sure corporate America will tell us this $8,500 fee is too expensive; that they can't afford it. After all, many of these people are the same exact people who opposed raising the minimum wage above $5.15 an hour. However, this fee represents a very small amount compared to the incredible economic benefits that companies realize from bringing in foreign H–1B visa workers.

H–1B visas are valid for 3 years. So the $8,500 surcharge on an annual basis is only $2,800. Compared to the median $50,000 wage of a new H–1B computing professional, it is only about 5.5 percent of that wage. For this small fee, what would be the benefit to American students and our families? If there are 115,000 H–1B visas issued for which fees are paid, we could provide over 65,000 scholarships each year to our students—65,000. If the number of H–1B visas goes to 180,000, we could provide scholarships to over 100,000 American students.

If the Members of this body believe we need H–1B visas to compensate for a shortage of skilled American professionals, this amendment will attract tens of thousands of America's best and brightest to those fields.

One of the reasons I am offering this amendment, which will provide much needed scholarships for the American middle class, is I was very interested in reading an article that appeared in BusinessWeek on April 19, 2004. In that article, BusinessWeek reported that:

To win favor in China, Microsoft has pledged to spend more than $750 million on cooperative research, technology for schools, and other investments.

If Microsoft and other corporations have billions of dollars to invest in technology for schools, research, and other needs in China and other countries, these same companies should have enough money to provide scholarships for middle-class kids in the United States of America.

Another major supporter of the H–1B program is IBM. Last year, IBM made $9.5 billion in profits. Meanwhile, IBM has announced it will be investing $6 billion in India by 2009 and—get this—IBM has also signed deals to train 100,000 software specialists. Where? In Massachusetts? In Vermont? In California? No, in China, according to an August 4, 2003, article in BusinessWeek.

Other major supporters of increasing H–1B workers include Intel, which made $5 billion in profits last year; Bank of America, Caterpillar, General Electric, Boeing, and Lehman Brothers. All of these companies, making billions and billions of dollars in profit, can't afford to pay American workers the wages they need. Well, if they can't do that, at least let them contribute to an important scholarship program.

Let me conclude by saying a vote for this amendment is a vote for preserving American competitiveness in the 21st century, it is a vote for giving our children a brighter future, and it is a vote—unfortunately all too rare—to help middle-income families in this country who are struggling so hard to make sure their kids can have the education they need.

Madam President, I am not quite sure of the proper legislative approach, but on this amendment, I will be calling for the yeas and nays.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. We had intended, Madam President, to vote on the amendment. We are working out the sequence at the present time.

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. CORNYN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 1184, AS MODIFIED

Mr. CORNYN. Madam President, by way of housekeeping, I wish to submit a modification of my amendment that is pending, amendment No. 1184.

The PRESIDING OFFICER. Is there an objection to the modification?

Mr. DURBIN. Reserving the right to object——

Mr. CORNYN. If I may explain to my colleagues, there is a problem with the pagination in the original draft of the bill. I noticed the original amendment appears to be off. This is to reconcile the problem with the handwritten note on page 224, which was added on the floor.

Mr. DURBIN. Would my colleague from Texas yield for a moment?

Mr. CORNYN. Surely.

Mr. DURBIN. If he would be kind enough to share with us a copy of the modification, if it is routine, there will be no problem. I object at this moment until he does. I will be glad to work with him and the chairman once we have seen a copy.

Mr. CORNYN. Absolutely. I am glad to do that and withhold until that time. I do have some other comments I wish to make.

Mrs. HUTCHISON. Madam President, could I ask my colleague, and also the Senator from Massachusetts, when the Senator from Texas is finished with his remarks, I wish to be recognized for 5 minutes—just to speak, not to offer my amendments, but I wanted to speak on the bill. I ask unanimous consent to do that, after he speaks. Then we will talk about my amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Will the Senator yield for a minute, for a point of information?

Mr. CORNYN. Certainly. I yield without losing my right to the floor.

Mr. KENNEDY. I will make a unanimous consent request in a few moments to vote at 5 o'clock on the Vitter amendment, and then the amendment of Senator SANDERS. Then, at that time, we have been told, those who want to address the supplemental will begin that debate—a discussion on the Senate floor.

I thank the Senator from Texas. She has an amendment on Social Security. She has been kind enough, as always, to cooperate with us, and indicated a willingness to work out an appropriate time. It is a substantive amendment. We will look forward to considering it. I want to give her every assurance we will consider this and will deal with it. If not today, we will do the best we can to deal with it on the Tuesday we get back. There are members on the Finance Committee, since it is dealing with Social Security, who wanted to at least have an impact. This in no way will delay the consideration of this amendment. We want to give her those assurances.

I know the Senator from Alabama, Senator SESSIONS, is on his way over. He wants to be able to enter an amendment as well. We certainly will look forward to that. We had hoped we might have been able to get an earlier consideration. He has been over in the Armed Services Committee.

Members have been extremely cooperative, incredibly helpful. We have made good progress here today. We want to make some brief comments at an appropriate time, when the Senator finishes, on the Vitter amendment. Then, hopefully, we will have an opportunity to vote on these amendments. Then those who are dealing with the supplemental will have a chance to address the Senate.

I thank the Senator. We look forward to his comments.

Mrs. HUTCHISON. Madam President, could I also have 5 minutes following Senator CORNYN?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered; 5 minutes following the junior Senator from Texas.

The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I understand now, talking to the majority whip, there is no objection to the modification of my amendment, No. 1184.

As I was explaining, we checked with the legislative counsel last night and this morning we were told the problem was with the handwritten page, No. 224, that was added on the floor. So it is a matter of pagination. I appreciate the accommodation of my colleagues to allow that modification to go forward. Also, legislative counsel corrected a technical error in the text which this modification corrects.

I have two things I want to speak on, briefly. First, on my original amendment, No. 1184, as you recall, this is composed of two parts. The first part is what I would assume to be technical errors in the underlying bill. In the haste of writing the bill, I think there were some errors made that we pointed out in the amendment, errors that need to be corrected. I do not expect there will be a lot of controversy about that.

What is more controversial, what I want to address, is the second part. That has to do with excluding from the benefits under this bill individuals who have already come into our country in violation of our immigration laws, who have been detained, who have had due process, a trial, who have had their day in court and then, once they were ordered deported, rather than agree to show up and be deported, they simply went on the lam and went underground and melted into the great American landscape. A second category is people who have had their day in court, who have been deported but then who have reentered illegally. Under section 234 of the Immigration and Naturalization Act, both of those actions would constitute felonies. I think it would be a grave error for this bill to reward individuals who have committed that sort of open defiance of our laws. For, whatever you can say about other people who have entered the country in violation of our immigration laws, certainly those who have had a day in court, who have been ordered by court to exit the country but who have gone on the lam, or those who have reentered after they were deported, represent a different type of lawbreaker. I do not believe we should reward those by conferring upon them a Z visa, outlined in the underlying bill.

The Senator from New Jersey, Senator MENENDEZ, argued my amendment would amount to an unconstitutional ex post facto rule because of its retroactive application. This is a misreading of the bill. In order for any immigration provisions to have immediate effect, it is imperative that they apply to conduct and convictions that actually occurred before enactment. If prior conduct and convictions were not covered, you would have an immigration regime that essentially welcomes the following people—this is not how the U.S. immigration should operate. Consider an immigration regime where a known criminal gang member could not be removed unless the Department of Homeland Security can show he was a member after the statute was enacted, even if the DHS had videotaped evidence, or even a confession from last month, showing the alien involved in gang activities. Surely that could not be construed as unconstitutionally retroactive or ex post facto.

Another example would be an undisputed terrorist fundraiser who would not, unless we agree to this amendment, be barred from naturalization on terrorism grounds. Not only would the citizenship application of someone who has been engaged in terrorist activity not be barred for that reason, unless the terrorist activity occurred after the date of enactment, but this effective date could also be used to call into question the use by the Department of Homeland Security of existing discretionary authority to determine a terrorist did not possess good moral character. To create a regime that turns a blind eye to these known facts would be foolish and would not be in our country's national interest.

To avoid such perverse and unintended consequences, Congress has on many occasions enacted grounds of deportability and inadmissibility that are based on past conduct and criminal convictions. For example, section 5502 of the Intelligence Reform and Terrorism Prevention Act made aliens who committed acts of torture or extra judicial killings abroad a ground of inadmissibility and a ground of deportability. That provision applies to offenses committed before, on, or after the date of enactment.

The Holtzman amendment, enacted in 1978, rendered Nazi criminals excludable and deportable. It applied to individuals who ordered, advocated, assisted, or otherwise participated in persecution on behalf of Nazi Germany or its allies at least 33 years earlier, between the years of 1933 and 1945.

It is clear from past experience, as well as common sense, that the only actions we would be taking in this legislation would be to say to those who have had their day in court, who literally thumb their nose at our legal system and at our court system, you

will not be rewarded with the benefits under this act; that you will be excluded. You have had your chance, you have blown it, you have defied the American legal system and, in fact, this is not the kind of acts from somebody we would expect to be a law-abiding citizen in the future.

I also want to speak briefly on an amendment Senator MENENDEZ has offered. Ironically, I find myself in opposition to him on amendment No. 1184, the amendment I have offered, but I find there is a lot to like in his amendment. I want to explain why. This is what I would call the line-jumping amendment Senator MENENDEZ has offered. I have heard the proponents explain that the underlying bill is not an amnesty because it does not allow anyone to jump in line. This is a fundamentally important concept. It is a matter of fundamental fairness and crucial to the integrity, not only of our immigration system, but to our entire legal system. It would be extremely unfair to allow someone who has not respected our laws to be able to obtain a green card as a legal permanent resident before someone who has respected our laws and waited in line for a chance to legally enter this country.

Please understand, I am not just talking about the fact that those who wait in line legally have to do so in their home country while someone who has entered our country in violation of our immigration laws and obtains Z status can wait in our country. That certainly is an issue, that those here are getting the advantage over those who are observing our laws.

I point to a story in today's USA Today, where the Secretary of the Department of Homeland Security, Secretary Chertoff, admits there is ''a fundamental unfairness'' in allowing undocumented immigrants to stay in the country while those who have respected our laws wait patiently outside the country. Should we make what even Secretary Chertoff admits is ''a fundamental unfairness'' that much more unfair?

To the proponents' credit, they have attempted to craft a proposal that would not allow anyone who came here illegally obtain their green card until everyone who chose to follow the law gets their green card. But the problem with the bill is this: The compromise bill arbitrarily sets the cutoff date for being in line legally at May 1, 2005, while setting the date for the end of the line for those illegally here at January 1, 2007. I understand the reason why that was done. It was so there would not have to be added a huge number of additional green cards in order to clear the backlog of people who have been waiting patiently, legally, in line to clear before Z visa holders would get the benefits under the law.

But the problem is this: What this means is someone who chose to respect the law, chose not to enter illegally, and filed the proper immigration paperwork on, for example, June 1, 2005, is not considered to be ''in line'' under the terms of the bill, while someone who decided not to respect the laws and entered illegally on the very same date can obtain Z status and ultimately obtain citizenship.

Family groups such as Interfaith Immigration Coalition, Jewish Council for Public Affairs, the U.S. Conference of Bishops, and MALDEF, have written to my office to explain that those people who played by the rules and applied after May 1, 2005 will not be cleared as part of the family backlog pursuant to the terms of this bill and will lose their chance to immigrate under the current rules and be placed in line behind the Z visa applicants. Some of these family groups reported that more than 800,000 people who will have patiently waited in line will, in essence, be kicked out of the line.

I ask unanimous consent that the letters I just referred to from these organizations, the Conference of Catholic Bishops, Interfaith Immigration Coalition, Jewish Council for Public Affairs, and MALDEF, be printed in the RECORD following my remarks.

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

(See exhibit 1.)

The PRESIDING OFFICER. With respect to the earlier modification of the Senator's amendment, is there objection?

Without objection, it is so ordered.

The amendment (No. 1184), as modified, is as follows:

AMENDMENT NO. 1184, AS MODIFIED

(Purpose: Establishing a permanent bar for gang members, terrorists, and other criminals)

On page 47, line 25, insert '', even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements,'' after ''15 years''.

On page 47, beginning with line 34, strike all through page 48, line 10, and insert:

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) by striking the undesignated matter following subparagraph (U);

(6) in subparagraph (E)—

(A) in clause (ii), by inserting '',(c),'' after ''924(b)'' and by striking ''or'' at the end, and

(B) by adding at the end the following new clauses:

''(iv) section 2250 of title 18, United States Code (relating to failure to register as a sex offender); or

''(v) section 521(d) of title 18, United States Code (relating to penalties for offenses committed by criminal street gangs);''; and

(7) by amending subparagraph (F) to read as follows:

''(F) either—

''(i) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense), or

''(ii) a third conviction for driving while intoxicated (including a third conviction for driving while under the influence or impaired by alcohol or drugs), without regard to whether the conviction is classified as a misdemeanor or felony under State law,

for which the term of imprisonment is at least one year;''.

(b) EFFECTIVE DATE.—The amendments made by this section shall—

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

(2) apply to any act that occurred before, on, or after such date of enactment.

In title II, insert after section 203 the following:

SEC. 204. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended by inserting after paragraph (1) the following:

''(2) one who the Secretary of Homeland Security or the Attorney General determines, in the unreviewable discretion of the Secretary or the Attorney General, to have been at any time an alien described in section 212(a)(3) or 237(a)(4), which determination—

''(A) may be based upon any relevant information or evidence, including classified, sensitive, or national security information; and

''(B) shall be binding upon any court regardless of the applicable standard of review;''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) any act that occurred before, on, or after the date of the enactment of this Act, and

(2) any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws, pending on or filed after the date of enactment of this Act.

SEC. 204A. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED OF AGGRAVATED FELONIES OR OTHER SERIOUS OFFENSES.

(a) INADMISSIBILITY ON CRIMINAL AND RELATED GROUNDS; WAIVERS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by adding at the end of subsection (a)(2) the following new subparagraphs:

''(J) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the essential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

''(K) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

''(L) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS; CRIMES AGAINST CHILDREN.—

''(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits having committed or admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. For purposes of this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person

as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

''(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a independent order in another proceeding.''; and

(2) in subsection (h)—

(A) by striking ''The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)'' and inserting ''The Attorney General or the Secretary of Homeland Security may, in his discretion, waive the application of subparagraphs (A)(i)(I), (III), (B), (D), (E), (J), and (L) of subsection (a)(2)'';

(B) by striking ''if either since the date of such admission the alien has been convicted of an aggravated felony or the alien'' in the next to last sentence and inserting ''if since the date of such admission the alien''; and

(C) by inserting ''or Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(b) DEPORTABILITY FOR CRIMINAL OFFENSES INVOLVING IDENTIFICATION.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding after subparagraph (E) the following new subparagraph:

''(F) CRIMINAL OFFENSES INVOLVING IDENTIFICATION.—An alien shall be considered to be deportable if the alien has been convicted of a violation of (or a conspiracy or attempt to violate) an offense described in section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any act that occurred before, on, or after the date of enactment, and

(2) to all aliens who are required to establish admissibility on or after the date of enactment of this section, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

(d) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to create eligibility for relief from removal under former section 212(c) of the Immigration and Nationality Act if such eligibility did not exist before the amendments became effective.

On page 48, line 36, insert ''including a violation of section 924 (c) or (h) of title 18, United States Code,'' after ''explosives''.

On page 49, lines 7 and 8, strike '', which is punishable by a sentence of imprisonment of five years or more''.

On page 49, beginning with line 44, through page 50, line 2, strike ''Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any'' and insert ''Any''.

On page 50, lines 20 through 22, strike ''The Secretary of Homeland Security or the Attorney General may in his discretion waive this subparagraph.''.

On page 283, strike lines 32 through 38, and insert:

(A) is inadmissible to the United States under section 212(a) of the Act (8 U.S.C. 1182(a)), except as provided in paragraph (2);

On page 285, strike lines 1 through 7, and insert:

(I) is an alien who is described in or subject to section 237(a)(2)(A)(iii), (iv) or (v) of the Act (8 U.S.C. 1227(a)(2)(A)(iii), (iv) or (v)), except if the alien has been granted a full and unconditional pardon by the President of the United States of the Governor of any of the several States, as provided in section 237(a)(2)(A)(vi) of the Act (8 U.S.C. 1227(a)(2)(A)(vi);

(J) is an alien who is described in or subject to section 237(a)(4) of the Act (8 U.S.C. 1227(a)(4); and

(K) is an alien who is described in or subject to section 237(a)(3)(C) of the Act (8 U.S.C. 1227(a)(3)(C)), except if the alien is approved for a waiver as authorized under section 237 (a)(3)(C)(ii) of the Act (8 U.S.C. 1227(a)(3)(C)(ii)).

On page 285, line 21, strike ''(9)(C)(i)(I),''.

On page 285, line 41, strike ''section 212(a)(9)(C)(i)(II)'' and insert ''section 212(a)(9)(C)''.

On page 286, between lines 2 and 3, insert:

(VII) section 212(a)(6)(E) of the Act (8 U.S.C. 1182(a)(6)(E)), except if the alien is approved for a waiver as authorized under section 212(d)(11) of the Act (8 U.S.C. 1182(d)(11)); or

(VIII) section 212(a)(9)(A) of the Act (8 U.S.C. 1182(a)(9)(A)).

On page 287, between lines 10 and 11, insert:

(5) GOOD MORAL CHARACTER.—The alien must establish that he or she is a person of good moral character (within the meaning of section 101(f) of the Act (8 U.S.C. 1101(f)) during the past three years and continue to be a person of such good moral character.

Now, Madam President, I wanted to express the concerns I have just expressed and say that I am still studying the amendment from Senator MENENDEZ. I know it adds new green cards on top of all the green cards this compromise has already provided. I will listen carefully to the arguments of Senators MENENDEZ and HAGEL, the main cosponsors of that amendment, as well as arguments of the opponents of the amendment before deciding finally how to vote. But I am troubled by those this bill disadvantages simply because they chose to abide by our laws as opposed to those who chose not to abide by our laws.

I, too, have an amendment, but my amendment does not increase the number of green cards. The effect of my amendment will be to cause the 8-year time period to clear family backlogs to slip a few years. But my amendment speaks to an important principle, one I have been speaking to here for the last few minutes, which is, no one who came here illegally should be placed ahead in the citizenship path in front of someone who has played by the rules.

Finally, let me just say that I anticipate there may be an argument that Citizenship and Immigration Services discontinued taking applications in May of 2005. However, we are told that the State Department has currently approved petitions dated after May 2005 for family members who are just waiting for an immigrant visa.

EXHIBIT 1

U.S. CATHOLIC BISHOPS URGE SENATE SUPPORT FOR FAMILY REUNIFICATION AMENDMENTS TO S. 1348

The U.S. Conference of Catholic Bishops strongly urges senators to vote ''For'' the following family reunification amendments to S. 1348, Comprehensive Immigration Reform Act of 2007:

Menendez/Hagel Backlog Reduction Amendment. The Menendez/Hagel amendment would bring equity to the backlog reduction contained in the substitute amendment to S. 1348 by establishing the same cut-off date for backlog reduction visas as is contained in the substitute for legalizing undocumented aliens. Unless amended by Menendez/Hagel, the substitute amendment would kick all relatives of U.S. citizens and permanent resident aliens who filed petitions after May of 2005 for family reunification visas out of line, thus providing better treatment to undocumented aliens than would be given to persons who have followed the law.

Dodd Parents of U.S. Citizens Amendment. The Dodd amendment would mitigate the damage done to parents of U.S. citizens by the substitute amendment. It would do this by increasing from 40,000 to 90,000 the number of such parents who can be admitted to the United States each year as permanent residents. Under current law, there are an unlimited number of such parents who can immigrate to the United States each year.

Clinton/Hagel Spouses and Unmarried Children Amendment. The Clinton/Hagel amendment would categorize spouses and unmarried children (under the age of 21) of legal permanent resident aliens as ''immediate relatives.'' This would ensure that longterm residents in the United States have the opportunity to reunite with their immediate family members.

Menendez/Obama Sunset Amendment. The Menendez/Obama sunset amendment would sunset the new, untested and little-considered point system provision in the substitute amendment to S. 1348 after 5 years in order to enable lawmakers to assess whether the consequences of the experimental program are unacceptable and warrant a return to the existing family- and employment-sponsored preference systems.

Dear Sir: The Interfaith Immigration Coalition is a coalition of faith-based organizations committed to enacting comprehensive immigration reform that reflects our mandate to welcome the stranger and treat all human beings with dignity and respect. Through this coalition, over 450 local and national faith-based organizations and faith leaders have called on Congress and the Administration to enact fair and humane reform. Members of the coalition are extremely concerned about the provisions of S. 1348 that would undermine family reunification, and therefore urge Senators to VOTE YES on the following amendments that will reaffirm the United States' longstanding commitment to family values and fairness.

Vote ''Yes!'' Menendez Amendment on Family Backlog Cut Off Date. Currently, the compromise legislation will clear the backlog under our existing family and employer based system, but only for those who submitted their applications before May 1, 2005. As a result, an estimated 833,000 people who have played by the rules and applied after that date will not be cleared as part of the

family backlog and will lose their chance to immigrate under current rules. The Menendez amendment would change the ''cut-off'' date for legal immigrant applicants who would otherwise be handled under the backlog reduction part of the bill from May 1, 2005 to January 1, 2007, which is the same cut-off date that is currently set for the legalization of the undocumented immigrants. It would also add 110,000 green cards a year to ensure that we don't start creating a new backlog or cause the 8 year deadline for clearing the family backlog to slip by a few years.

Vote ''Yes!'' Clinton Amendment to Include Minor Children and Spouses of Lawful Permanent Residents in ''Immediate Relative'' Category. Current immigration law limits the number of green cards available to spouses and minor children of lawful permanent residents (LPRs) to 87,900 per year. For these spouses and minor children, quota backlogs are approximately 4 years and 9 months long. The inequitable treatment of minor children and spouses who are dependent on the status of their U.S. sponsor has devastated thousands of legal immigrant families. The Clinton amendment will re-categorize spouses and children of LPRs as ''immediate relatives,'' thereby lifting the cap on the number of visas available to these close family members, allowing permanent residents of the U.S. to reunite with their loved ones in a timely fashion.

Vote ''Yes!'' Dodd Amendment Related to Foreign-Born Parents of U.S. Citizens. Currently, the compromise legislation would set an annual cap for green cards for parents of U.S. citizens at 40,000 (less than half the current annual average number of green cards issued to these parents). It would also create a new parent visitor visa program that only allows parents to visit for 100 days per year and includes overly harsh collective penalties. The Dodd amendment would increase the annual cap of green cards from 40,000 to 90,000, extend the duration of the parent visitor visa from 100 days to 365 days in order to make it easier for families to remain together for a longer period; and make penalties levied on individuals who overstay their S-visa only applicable to that individual and not collectively applied to their fellow citizens. This amendment is essential to making sure that our permanent legal immigration system is fair to US citizens and their parents, and facilitates family reunification.

MAY 22, 2007.

DEAR SENATOR CORNYN: The Jewish Council for Public Affairs (JCPA) applauds the Senate's commitment to finding a workable compromise on Comprehensive Immigration Reform and supports S.1348 as a starting point for the debate. The introduction of a comprehensive framework that secures our borders, clears much of the current family backlog, and provides a path to citizenship for the estimated 12 million undocumented workers in the United States is a step in the right direction toward fixing our broken immigration system.

As the umbrella body for policy in the Jewish community, representing 13 national agencies and 125 local community relations councils in 44 states, the JCPA has long been active in supporting comprehensive immigration reform that is workable, fair and humane.

However, JCPA holds serious reservations about other aspects of the bill, particularly those that address family-based immigration.

For example, the JCPA believes that several aspects of Title V of the Senate compromise are unworkable and unjust. Cutting entire categories of family-based immigration and restructuring our current immigration system to favor employment-based ties over family ties not only undermines the family values that our central to our national identity, it is also detrimental to our economy.

Immigrant families bring an entrepreneurial spirit to our country. Family-based immigration allows newcomers to pull their resources together, start businesses, integrate more easily into their communities and be more productive workers. In addition, using education, English proficiency and job skills as the basis for obtaining a green card does not necessarily meet the economic need, as the U.S. Department of Labor predicts that the U.S. economy has a higher demand for low-skilled workers.

Therefore, the JCPA urges you to:

Vote ''Yes'' on the Clinton/Hagel Amendment to Include Minor Children and Spouses of Lawful Permanent Residents in the immediate Relative'' Category, thereby lifting the cap on the number of visas available to these close family members.

Vote ''Yes'' on the Dodd/Hatch Amendment related to Foreign-Born Parents of U.S. Citizens, which would increase the annual cap of green cards for parents from 40,000 to 90,000, extend the duration of the parent visitor visa from 100 days to 365 days, and not impose collective punishment on families when one member overstays their visa.

The JCPA is also concerned about the Title V provision that arbitrarily sets the date of May 1st, 2005 as a cut-off for clearing the backlog of applicants who have gone through legal channels to try to reunite with their families in the United States. Excluding individuals who have filed family-based applications and paid fees after May 2005 sends the wrong message that playing by the rules is not rewarded. Unless this provision is fixed, the 800,000 applicants that applied after the May 2005 cut-off will be re-directed to the new application process, where they will have to compete in an untested point system that is stacked against them, in order to reunite with their family members.

Therefore, the JCPA urges you to:

Vote ''Yes'' on the Menendez/Hagel Amendment on Family Backlog Cut-off Date, which would change the May 1, 2005 cut-off date to January 1, 2007, the same cut-off date set for the legalization for undocumented immigrants. The Menendez amendment would also add 110,000 green cards a year to avoid creation of a new backlog or cause families who went through legal channels to wait longer than 8 years to reunite with their loved ones in the United States.

The JCPA applauds the Senate's commitment to passing a comprehensive immigration reform package this year. The alternative is the status quo, which has proven to produce suffering, exploitation, family separation and chaos. However, the JCPA maintains serious reservations due to the concerns outlined above. We therefore urge you to support the above amendments to the agreement that reflect family values, workability and fairness.

If you have any questions, please do not hesitate to contact me at hsusskind@thejcpa.org or 202–789–2222 X101.

Sincerely,

HADAR SUSSKIND,
Washington Director,
Jewish Council for Public Affairs.

MALDEF—PROMOTING LATINO CIVIL RIGHTS SINCE 1968

IMMIGRATION DEBATE STARTS IN THE U.S. SENATE—POSITIVE AND NEGATIVE DETAILS EMERGE; FIRST VOTES BEING TAKEN

MAY 22, 2007.—On Monday, the U.S. Senate, by a vote of 69–23, voted to begin debate on comprehensive immigration reform. Contrary to the original plan to complete action by Memorial Day, Senate leaders acknowledged that deliberations will continue into June after the Memorial Day recess. MALDEF will work with local organizations and leaders to organize meetings and events while Senators are in their home states to highlight the need for comprehensive immigration reform. We encourage you also to work with local coalitions in your area.

MALDEF is working to restore family reunification, support realistic employment verification systems, and remove unnecessary obstacles to legalizing the immigration status of otherwise law-abiding people already in the United States. In addition to drastically limiting the ability of U.S. citizens to be reunited in the U.S. with their brothers, sisters, and parents, the Senate bill arbitrarily terminates family reunification petitions filed after May 1, 2005. Urge your Senator to support Senator MENENDEZ's effort to restore the hope for reunification for families whose applications were filed after May 1, 2005. Over 800,000 legal immigrants currently waiting in line will be harmed if this provision is not improved.

A key provision in the Senate bill requires all employers to use a new government database to verify the employment eligibility of every new hire within 18 months and every existing employee, U.S. citizen or not, within three years. Based on our experience with employer sanctions, we expect significant discrimination to result against Latino workers. The bill would bypass the existing Department of Justice Civil Rights office and require discrimination victims to complain to the Department of Homeland Security. The bill also shields the implementing rules from class action challenges and bars a court from awarding attorney fees to those, like MALDEF, that would challenge the regulations. These features must be changed.

The legalization program makes unauthorized immigrants eligible for a new ''Z'' visa if they entered the United States as late as December 31, 2006. The program would start six months after the bill is enacted and individuals (and heads of households on behalf of their spouse and minor children) would have up to a year and potentially two years to apply. If they are eligible, unauthorized immigrants would have an immediate interim stay of removal even before they applied. These are the most positive features of the compromise. MALDEF is working to strengthen other features such as the costs, timing and eligibility restrictions.

One of the first amendments expected, as early as today, may be offered by Senators Feinstein (CA) and BINGAMAN (NM). It would reduce the number of future ''temporary workers'' by 50% and permit 200,000 instead of 400,000 to enter per year. This amendment does not address our key objections to the temporary worker provision, namely, that it would be costly to the workers and complicated for employers; it would allow the families of only higher income workers to join them in the United States; and it would require workers to leave after two years and remain outside the U.S. for a year before returning. The United States needs more workers than are currently available in the domestic workforce. The flaws in the program relate not to the number of workers but to the conditions upon their entry and in their work environment.

While the U.S. Senate is in session debating the immigration bill, you will be receiving a special daily edition of The MALDEFian.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I had originally come to the floor to

offer two amendments on Social Security. However, I have yielded to the request from Senator KENNEDY to withhold, and he has told me that I will be able to offer those amendments on the first day we return and take this bill up on the floor again.

Madam President, I did wish to speak, however, on what I hope to do with this bill. I think there are some very good features of this bill. It has been negotiated really for years. The good features are the border security and we do have benchmarks that are required to be done before any temporary worker program or dealing with the backlog of people who are in our country illegally begins.

We will have benchmarks that are finite for border security. That is a good feature of this bill. It also has a temporary worker program going forward. I think it is essential, if we are going to have border security in the future in this country, that we have a temporary worker program that works. If we do not have a temporary worker program that works, we will not have border security. Many people are not putting that together, but it is essential that you put it together because if we do not have a way for people to come into this country and fill the jobs that are being unfilled because we do not have enough workers who will do those jobs, then we will never be able to control our borders.

I am supportive of those parts of the bill. What I cannot support in this bill and what I am going to try to make a positive effort to change are basically two areas. First is the amnesty portion of the Z visa. It would allow people to come to this country illegally, stay here, and if they do not wish to have a green card, they would never have to return. And that visa would be able to be renewed as long as the person wanted to stay here and work. I will offer an amendment at the appropriate time that will take the amnesty out of the bill and require that before a person can work in this country legally, if they are here illegally, they would have to go home and apply from outside the country. We will have a time that will allow that to happen in an orderly way, probably 2 years after the person gets their temporary card when they register to say they are in our country illegally, which they will be required to do. Then they would have 2 years from the time they get that first temporary card to go home and register at home to come in our country legally.

I think taking out the amnesty part of this bill would be a major step in the right direction, to say, for people who are here illegally today, they can get right with the law by applying from home, just as all future workers will have to do. So there would not be an amnesty for people who would be able to work here, stay here, and never go home. That would be my amendment which I would like to offer at the appropriate time.

The second area I think must be fixed is in the Social Security area. We all know our Social Security system is on the brink of failure. We know that in the year 2017, the system will start to pay out more than it receives. By 2041, the trust fund will be exhausted.

Now, in 2017, under the present law, we will have to make adjustments that will either increase Social Security taxes or decrease payments to Social Security recipients. If we put more people into our system who have gotten credits illegally working in this country, it is going to bring forward the year in which we have to start either lowering the payments or raising the taxes. I don't think that is right. I do not think we should give Social Security credits to people who will be Z visa holders in this country for the time they have worked illegally.

In the underlying bill, they do address the issue of fraudulent cards. I commend them for putting that in the bill. If you have paid Social Security with a fraudulent number or a card that is not yours, you will not be able to get credit for Social Security. To be very fair and honest, that is a good part of this bill, but it does not deal with the people who have a card in their own name, but they have worked illegally.

That is what one of my amendments will attempt to address, that we will also not give credit to people who have a card in their name, but they either obtained it illegally or they have overstayed a visa. So I hope we can also not give credit for that illegal time they have worked even if the card is in their name, but it was not their legal right to work. If we can do that and then start a person, when they are on the proper visa, toward getting credit, I think the American people will feel that is a fairer system.

The second area I hope to address is the new future flow of temporary workers. Now, under the bill, the temporary workers who will be coming in after the backlog of the illegal workers is dealt with, those people should not ever go into the Social Security system because, according to this bill, they will be limited to a 6-year period. It is very important that in dealing with those temporary workers, that they will not ever be eligible for Social Security, nor should they be, because they will not have the requisite number of quarters.

What my second amendment does is allow them to take what they have actually put into the Social Security system through the employee deduction. It will allow them to take that home when they leave the system. We think—I think that is a fair approach for both the person working and also the Social Security system itself, that they would get back what they put in, but they would not be eligible for our Social Security system, which would be much more costly down the road.

In addition, the Medicare deduction which is taken from the employee would also go into a fund which is already a fund in place that now allows compensation for uncompensated health care to a county hospital or to a health care provider that delivers a baby of an illegal immigrant who cannot pay or does any emergency service for an illegal immigrant today.

We know many hospitals—I know that in my home State of Texas, my hospitals in my major cities always talk about how much they are having to raise taxes on the taxpayers who live in their districts because there is so much use of the health care facilities by illegal immigrants who cannot pay. So the Medicare deduction would go into a fund that would compensate health care providers for service to foreign workers who would not be able to pay.

Those are the two amendments which I think would assure that the taxpayers of our country and the contributors to the Social Security system who have earned the right to have that safety net would not be unfairly taxed for people who have not been legally in the system or people who do not have the quarters that would be requisite. I hope we can take these amendments up. I hope they will be acceptable. If we can take the amnesty out of this bill by assuring that everyone who is here illegally will have to apply outside of our country to be able to come in legally to work, then we have set the precedent of the rule of law which we have always prided ourselves on in this country. If we can assure that the Social Security system is not also unduly burdened with quarters given for illegal work, then I think the American people will accept that we have to address this issue in a responsible way.

I have heard the outcry of people about this bill, and I think some of that outcry is justified. But I think we can fix the parts that are not in tune with the American people and also do what is right for our country going forward because there is one thing on which I think we can all agree; that is, we have a system that is broken when you have 10 to 12 million people—and that is an estimate because we do not know for sure—who are working in our country illegally. They are not being treated fairly, nor are the American people who do live by the rule of law being treated fairly. It is a system that is broken, and it is a very complicated and hard problem to fix, but that is our responsibility.

I respect those who have tried, in a bipartisan way, to put forward a bill. As a person who has written a book, as a person who has written legal briefs, I know that the person who puts out the first draft is always going to be the one who is under attack. But someone has to do it, and the people who have worked on this bill did step out and say: Here is the starting point.

Congressman MIKE PENCE and I, last year, when the House and Senate broke down in negotiations over this issue, did the same thing. We came out with

what we thought was a starting point that would be the right approach, and the principles we laid down were that we would have a guest worker program which would not include amnesty but would be a fair and workable guest worker program. It would have private sector involvement. It would have border security as our No. 1 goal. It would also preserve the integrity of our Social Security system. Congressman PENCE and I tried to do that last year. Many of the elements in the Hutchison-Pence plan are in the bill before us.

If we can perfect this bill and take the amnesty out by requiring everyone to apply outside our country—and it can be done in a responsible way mechanically because you would have some amount of time—1 or 2 years—to do it so that it would not be a glut on the system. I regret the argument that you cannot do it. I think we can. I also think we need to make a responsible effort, and that is exactly what I am going to try to do.

I hope all our colleagues will work in a positive way to try to fix the parts that we think are bad, to admit that there are some good parts. The border security and the temporary worker program are very good, and the part about the Social Security protection for fraudulent cards is good. Let's try to make it better. Let's try to make it a bill that everyone will accept as fair for America, fair for foreign workers, helps our economy, and keeps our borders secure. That is what we owe the people. I hope to make a contribution in that effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I see my friend from Vermont on his feet. I know from conversation that he wants to modify his amendment. I hope the Chair will recognize him for that purpose.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 1223, AS MODIFIED

Mr. SANDERS. Madam President, I have a modification of my amendment at the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of title VII, insert the following:

Subtitle C—American Competitiveness Scholarship Program

SEC. 711. AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this section as the ''Director'') shall award scholarships to eligible individuals to enable such individuals to pursue associate, undergraduate, or graduate level degrees in mathematics, engineering, health care, or computer science.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a scholarship under this section, an individual shall—

(A) be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), an alien admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), or an alien lawfully admitted to the United States for permanent residence;

(B) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(C) certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, computer science, nursing, medicine, or other clinical medical program, or technology, or science program designated by the Director.

(2) ABILITY.—Awards of scholarships under this section shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(c) AMOUNT OF SCHOLARSHIP; RENEWAL.—

(1) AMOUNT OF SCHOLARSHIP.—The amount of a scholarship awarded under this section shall be $15,000 per year, except that no scholarship shall be greater than the annual cost of tuition and fees at the institution of higher education in which the scholarship recipient is enrolled or will enroll.

(2) RENEWAL.—The Director may renew a scholarship under this section for an eligible individual for not more than 4 years.

(d) FUNDING.—The Director shall carry out this section only with funds made available under section 286(x) of the Immigration and Nationality Act (as added by section 712) (8 U.S.C. 1356).

(e) FEDERAL REGISTER.—Not later than 60 days after the date of enactment of this Act, the Director shall publish in the Federal Register a list of eligible programs of study for a scholarship under this section.

SEC. 712. SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) (as amended by this Act) is further amended by inserting after subsection (w) the following:

''(x) SUPPLEMENTAL H–1B NONIMMIGRANT PETITIONER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Supplemental H–1B Nonimmigrant Petitioner Account'. Notwithstanding any other section of this Act, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(15).

''(2) USE OF FEES FOR AMERICAN COMPETITIVENESS SCHOLARSHIP PROGRAM.—The amounts deposited into the Supplemental H–1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 711 of the Secure Borders, Economic Opportunity and Immigration Reform Act of 2007 for students enrolled in a program of study leading to a degree in mathematics, engineering, health care, or computer science.''.

SEC. 713. SUPPLEMENTAL FEES.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15)(A) In each instance where the Attorney General, the Secretary of Homeland Security, or the Secretary of State is required to impose a fee pursuant to paragraph (9) or (11), the Attorney General, the Secretary of Homeland Security, or the Secretary of State, as appropriate, shall impose a supplemental fee on the employer in addition to any other fee required by such paragraph or any other provision of law, in the amount determined under subparagraph (B).

''(B) The amount of the supplemental fee shall be $3,500, except that the fee shall be ½ that amount for any employer with not more than 25 full-time equivalent employees who are employed in the United States (determined by including any affiliate or subsidiary of such employer).

''(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(x).''.

Mr. KENNEDY. Madam President, I see my friend and colleague from Illinois here, as well as my colleague from Alabama. I did wish to address the Vitter amendment briefly. We are very hopeful we may be able to accept the Senator's amendment. We will know that momentarily.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 1231 TO AMENDMENT NO. 1150

Mr. DURBIN. Madam President, I wish to first describe what I am going to try to do at this moment so all Senators will know. I am going to ask unanimous consent that we set aside the pending Sanders amendment for the purpose of offering an amendment which I am going to offer and then, after a brief comment of 3 to 5 minutes, I will ask unanimous consent to return to the Sanders amendment as the pending business before the Senate. I don't wish to mislead anybody about what I am doing. This should be a total of about 5 minutes, and we will be back where we started. My amendment will be at the desk for later consideration.

I make that unanimous consent request to set aside the pending Sanders amendment for the purpose of offering my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, I had understood there would be an opportunity for me to speak after Senator SANDERS and Senator DURBIN. Are we going to be in a situation where I may not be allowed to offer an amendment?

Mr. DURBIN. I say to the Senator from Alabama through the Chair, I will be completed in 3 to 5 minutes, and we will be in exactly the same place we started. The Sanders amendment will be pending with no other requirements under the unanimous consent request.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, and Mr. GRASSLEY, proposes an amendment numbered 1231 to amendment No. 1150.

Mr. DURBIN. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that employers make efforts to recruit American workers)

In section 218B(b) of the Immigration and Nationality Act, as added by section 403(a), strike ''Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment to which the Y nonimmigrant is sought, each'' and insert ''Each''.

In section 218B(c)(1)(G) of the Immigration and Nationality Act, as added by section 403(a), strike ''Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the Y nonimmigrant is sought—'' and insert ''That—''.

Mr. DURBIN. Madam President, I offer this amendment on behalf of myself and Senator GRASSLEY. The new Y guest worker program included in the immigration bill would require employers to recruit Americans before hiring a guest worker. That is our first obligation. If there is a job opening in America, an American should have the first chance to get it. That is the intent of the bill, but there is one loophole. The loophole allows the Secretary of Labor to declare a labor shortage and then waive the requirement of offering the job to an American. We don't define what a labor shortage is. This amendment removes that right of the Secretary of Labor.

What it means is, as there are job openings, they will always be offered first to Americans. Shouldn't that be our starting point, always offer the job first to an American, to see if an unemployed person or someone else wants to take it? Then if the job is not filled, we can consider other options. We know when it comes to H–1B visas, which are visas offered to skilled workers to come into this country to fill in gaps for engineers and architects and professionals, there have been abuses. When we had the openings for the H–1B visas, opportunities for people to come into this country, it turned out that 7 out of the 10 firms that won the right to offer H–1B visas were not American companies trying to fill spots where they couldn't find Americans. They turned out to be foreign companies that were outsourcing workers to the United States, exactly the opposite of what we had hoped for. We don't want that to happen with the temporary guest worker program. This amendment would eliminate this jobs shortage exception. It would require that in temporary guest worker positions, the first job offering always be to an American. It is simple. Senator GRASSLEY and I offer it. It is supported by the AFL–CIO and the building trades unions, the laborers and Teamsters, many other organizations. I urge my colleagues, when we return after our Memorial Day recess, to consider this amendment. It is a very important amendment to stand faithful to our first obligation, our people in America who are looking for jobs.

I ask unanimous consent to set my amendment aside and return to the Sanders amendment as the pending amendment before the Senate.

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

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I think we are in a position to accept the amendment of the Senator from Vermont as modified. What I propose to do is to speak very briefly on the Vitter amendment, and then it would be my expectation that we would move to Senator SESSIONS to have an opportunity for him to offer his amendment. He has been on the floor a great deal today trying to be recognized. He has been at a markup on Armed Services so he couldn't be here earlier.

I have been informed there are some objections to the amendment offered by the Senator from Vermont. We will have to process them and see what we will do. It is not unusual that the information given to us is that we can accept and then others come forward. But we will try to work it out.

AMENDMENT NO. 1157

Briefly, Madam President, I oppose the Vitter amendment. The core of the legislation is to provide for border security, employer verification, a guest worker program, and a way to handle the 12 million undocumented immigrants. The Vitter amendment strikes title VI, which provides for the way of handling the 12 million undocumented immigrants, which is, if not the heart of this bill, a vital organ of the bill. Without this provision, the bill doesn't have the import which is necessary to deal with the immigration problem.

The 12 million undocumented immigrants are going to be in the United States whether we deal with them in a systematic, appropriate way or not. The only question is whether we eliminate the anarchy, having them, as the expression is often used, living in the shadows, living in fear. If we systematize the approach, they come out of the shadows. They register. We will have an opportunity to identify the criminal element, deport a reasonable number when we identify those who can be, should be deported, and then deal with the balance as the bill provides with the Z visas.

Stated briefly, if you were to accept the Vitter amendment, there would be nothing left but a shell of this bill. The whole bill is an accommodation of border security, employer verification for what we do in the guest worker program, and the 12 million undocumented immigrants. For those reasons, I vigorously oppose the Vitter amendment.

I believe we are now ready for the Senator from Alabama to offer his amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, at the request of the leaders, we were in the process of trying to get some votes this afternoon. We were moving along as well because the Appropriations Committee had asked us if we would be finished by 5 o'clock. I see my friend from Alabama who has been extremely patient. He has been in the Armed Services Committee, where I should have been earlier in the afternoon. He was diligent there and arrived over here. He has important amendments on the earned-income tax credit and others. The Senator from Vermont has been here all afternoon. He has a good amendment. We had initially, at 2:15, said we would do the Vitter amendment. We were going to come back and do the Feingold amendment, but then we were told we couldn't vote on that.

We were told we couldn't vote on Vitter because there were some members of his own party who chose not to do so. But we wanted to vote on the amendment of the Senator from Vermont. Hopefully, he was going to be accepted, but that is not the case.

I hope we would have the opportunity to vote on that; then after that, to recognize the Senator from Alabama for whatever time he might need for the purpose of debate, rather than for voting. The request of the leadership is to do the supplemental. We give assurance to the Senator from Alabama that we will consider his amendment at the earliest possible time after we return.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. DURBIN. May I ask the Senator from Massachusetts and the Senator from Pennsylvania to consider the following—if we could enter into a unanimous consent request that would allow the Senator from Alabama to lay down his amendments, to speak, and then withdraw the amendments, returning to the Sanders amendment, and have unanimous consent at a time certain that we would have a vote on the Sanders amendment; would that be agreeable?

I would like to make that unanimous consent request, if the Senator from Alabama can tell us how much time he would need.

Mr. SESSIONS. Madam President, I would prefer to have a vote on my amendment tonight, if we could do so. I would be reluctant to have another vote if we can't have a vote on the amendment I will offer.

Mr. DURBIN. Madam President, the Senator from Vermont has been here all day waiting for this opportunity and has patiently waited as several suggested rollcalls have passed by. In fact, one was to be at 5 o'clock. Without prejudicing the Senator from Alabama, I have a pending amendment, too, or had one earlier, which I am willing to wait until after the recess to consider. I think it might be a gesture of fairness to allow the Senator from Vermont to have his vote this evening, whether the Senator and I get our chance or not. We will be back after Memorial Day.

Mr. SESSIONS. It is a tough life in the pit here. If I desire to have a vote tonight myself, what would be the difficulty with that? We could do that at the same time as the vote on the Sanders amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I think we have had a good debate and discussion on the Sanders amendment. It was the request of the leadership that we have the supplemental, which has been extremely important. There is going to be action on that later this evening. They had initially asked us if we could conclude at 4 o'clock. We have been trying to conclude so that Members who want to address the supplemental would be able to address the supplemental. That is basically the reason for that. We have been here, as the Senator from Pennsylvania knows, ready to do business since 9:30 this morning. We were glad to. I had hoped—and I apologize to the Senator from Vermont because we were all set to have a rollcall on that. Then it appeared it might have been accepted. I was asked, requested by Senators to hold for a few moments to see whether it could not have been cleared. I could ask unanimous consent that the amendments of the Senator from Alabama be considered on Tuesday at a time agreeable to him.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, there will be a number of amendments I would like to have considered and a number of others that need to be considered after we come back.

I would just reluctantly state that if we have a vote, I would need and request that my vote be also tonight; otherwise, I would object to the unanimous consent request.

Mr. DURBIN. Madam President, will the Senator from Alabama yield?

Mr. SESSIONS. I am pleased to yield.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I say to the Senator, I have been informed by staff that his amendment has not been filed, and we have not seen a copy of it. Senator FEINGOLD, who earlier had an amendment, stepped aside so Senator SANDERS would have his chance. I say to the Senator from Alabama, it appears some who have been waiting all day are looking for a chance for a vote, and the Senator from Alabama is asking for consideration of an amendment that has not been filed and we have not seen.

Madam President, I say to the Senator, could I ask unanimous consent that the Senator from Alabama be recognized to offer an amendment and that he then be recognized for up to 15 minutes; that following his remarks, the Senate resume consideration of the Sanders amendment and there be 2 minutes of debate prior to a vote in relation to the Sanders amendment, with no second-degree amendment in order to the Sanders amendment prior to the vote?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, if I would be allowed to make my two amendments pending and to speak for 15 minutes, I would forgo a request for a vote tonight.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, did the Senator say two amendments?

Mr. SESSIONS. Madam President, I have two amendments. They are both on the same subject. I would rather offer both. I am not sure which one—I would never ask the Senate to vote on both, but I would like to offer both.

Mr. DURBIN. Madam President, I will renew my unanimous consent request and see if the Senator from Alabama will find it acceptable.

I ask unanimous consent that Senator SESSIONS be recognized to offer two amendments and be given up to 15 minutes to speak to those amendments; that following his remarks, the Senate resume consideration of the Sanders amendment and there be 2 minutes of debate prior a vote in relation to that amendment, equally divided, with no second-degree amendments in order to the Sanders amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. I thank the Senator from Alabama.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Alabama.

Mr. SESSIONS. Mr. President, I salute the Senator from Illinois for his expertise in extracting that agreement from this confusion.

AMENDMENT NO. 1234 TO AMENDMENT NO. 1150

Mr. President, I ask that the pending amendment be set aside and I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 1234 to amendment No. 1150.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To save American taxpayers up to $24 billion in the 10 years after passage of this Act, by preventing the earned income tax credit, which is, according to the Congressional Research Service, the largest anti-poverty entitlement program of the Federal Government, from being claimed by Y temporary workers or illegal aliens given status by this Act until they adjust to legal permanent resident status)

At the appropriate place, insert the following:

SEC. _____. LIMITATION ON CLAIMING EARNED INCOME TAX CREDIT.

Any alien who is unlawfully present in the United States, receives adjustment of status under section 601 of this Act (relating to aliens who were illegally present in the United States prior to January 1, 2007), or enters the United States to work on a Y visa under section 402 of this Act, shall not be eligible for the tax credit provided under section 32 of the Internal Revenue Code (relating to earned income) until such alien has his or her status adjusted to legal permanent resident status.

AMENDMENT NO. 1235 TO AMENDMENT NO. 1150

Mr. SESSIONS. Mr. President, I ask that the pending amendment be set aside and I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 1235 to amendment No. 1150.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To save American taxpayers up to $24 billion in the 10 years after passage of this Act, by preventing the earned income tax credit, which is, according to the Congressional Research Service, the largest anti-poverty entitlement program of the Federal Government, from being claimed by Y temporary workers or illegal aliens given status by this Act until they adjust to legal permanent resident status)

At the appropriate place, insert the following:

SEC. _____. 5-YEAR LIMITATION ON CLAIMING EARNED INCOME TAX CREDIT.

Section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613) is amended by inserting ", including the tax credit provided under section 32 of the Internal Revenue Code (relating to earned income)," after "means-tested public benefit".

Mr. SESSIONS. Mr. President, one of the more significant ramifications of the immigration bill that is on the floor today is that it will confer immediately on persons in our country illegally the benefit of the earned-income tax credit. This is not a little bitty matter. The earned-income tax credit is the largest aid program for low-wage workers in America. Last year, the earned-income tax credit benefitted over 22 million people who. The average recipient who receives a benefit under the earned-income tax credit receives over $1,700 per year—a very generous event. Last year, we spent $41.2 billion on the Earned Income Tax Credit.

What this bill would do, for the people who are here illegally, is confer on them a Z status, a legal status, and under the impact of the legislation, these individuals would immediately become eligible for the earned-income tax credit.

Let me tell you why this is not good policy, it is not required by morality, and it certainly is not required of Congress as a matter of law or policy. The earned-income tax credit was created in 1975 to provide extra income to the working poor. Before welfare reform particularly, there was a widespread understanding that many people could not work, could stay at home, draw a panoply of welfare benefits, and end up making more money not working than working. It was creating a disincentive to work.

Back when President Nixon was President, Republicans—and I guess

Democrats—moved forward with the earned-income tax credit. It has grown and become a major factor for low-wage working Americans. The whole concept behind the earned-income tax credit was to encourage Americans to work, to affirm their work, to provide aid and assistance to them, unlike welfare. It is tied to their work. Now, I have to tell you, I have looked at it, and I do not think it is achieving quite what we want it to do. In fact, I would like to change that and have suggested it over the years but, regardless, that is the deal.

So how is it, then, that we would think we have an obligation to provide, as a reward to someone who came to our country illegally, a benefit they are not now receiving, did not expect to receive when they came to the country, legally or illegally, and then, just as an additional benefit and reward to their legalization, we provide a $1,700-per-year benefit? It does not make good sense to me. I think it is bad policy, and it has a huge impact on our bottom line in the budget we have to deal with.

I also note that in 1996, when we passed the Welfare Reform Act, after much effort and work—President Clinton vetoed it twice but finally signed it—an effort was made to ensure that persons who obtained a green card did not receive means-tested benefits until at least they had a green card for 5 years. In other words, if you were coming to our country as an immigrant, we wanted to be sure you were not coming for welfare benefits, but to work, and that you would not receive means-tested benefits until you had a green card for at least 5 years.

So what happened was, when they wrote that, it did not touch the earned-income tax credit. I guess that is a Finance Committee matter. It is a tax committee matter. It was not considered a normal welfare-type payment, and that was not included in the list of things a person was not allowed to get. But, in my own mind, I say to my colleagues, it is perfectly consistent in philosophy and in principle with that because the earned-income tax credit is a payment from the Federal Government to working Americans. You file a tax return and obtain the Earned Income Tax Credit after a year's work. When your work shows your income level was below a certain level in America, you reach a qualifying level, and you get a tax refund of $1,700, $1,000, $2,400, depending on the circumstances of yourself and your family. So that is what happens today for working Americans. The individuals who are in our country illegally at this moment have not been expecting to get that, have not been getting it unless they are filing fraudulently, and they should not get it. They should not get it as an additional benefit to receiving a Z visa, which allows them permanent residence in the United States and a pathway to citizenship.

That Z visa would also allow them to obtain quite a number of other benefits, such as food stamps—which would not be affected by my amendment—health care for children, and, of course, anyone who goes into a hospital who has an emergency need will be treated whether they have insurance or legal status or not. So their children would be educated in our school systems. All those things would occur. Nothing would impact those things. But it is not correct as a matter of law, as a matter of principle, and certainly it is not a matter of fiscal responsibility for this Congress to pass an immigration reform bill that confers another $18 billion to $20 billion in earned-income tax credit on people whom we just rewarded with permanent residence in our country. That is not required. There is no requirement of that.

The Congressional Research Service describes the EITC in this way:

> The earned income tax credit began in 1975 as a temporary program—

Typical of Washington, isn't it, that we start something that is temporary, and it is $40 billion a year now—

> to return a portion of the Social Security taxes paid by lower-income taxpayers and was made permanent in 1978. In the 1990s the program was transformed into a major component of Federal efforts to reduce poverty and is now the largest antipoverty entitlement program.

I bet most Americans did not know that the EITC is the largest entitlement program on the books.

Now, I have had a fairly positive view of the earned-income tax credit. I think in many ways it is a good philosophy to help Americans get out, get moving, make some work. They often start out at lower wage jobs, and it sounds bad sometimes for them, and they are not making enough to get by. This earned-income tax credit can really be a benefit to them, and if they stay at that job, if they work at it, if they are responsible and they come to work on time and do their duty effectively, most people in America get promoted. Their wages go up, and they do better and better. So I do not think it is a bad program, but it is a very expensive program, and for a number of reasons it could be operated better.

I will again say to my colleagues, I am not of the belief that it is required of us that we should confer on persons who came into our country illegally every single benefit we confer on those who wait in line and come to our country legally. I just do not think that is required. One of the things in particular I would suggest not to be conferred—should not be conferred—upon them is the extensive benefits of the earned-income tax credit.

In other words, we do not want to attract people to America on things other than their wages and salary. We have enough people who need help in America. We have a lot of people out there working who, frankly, maybe did not have a good home life. They have not been as reliable as they should have been. Maybe they have gotten in trouble a time or two. We need our American businesses to take a chance on those people. We need to help them get their lives together and establish a good work history and start making some money. The earned-income tax credit comes in as a refundable tax credit on top of that as a real bonus to them, and that is good. But it should not be an attraction to draw people into our country because most of the persons who come into America as an illegal immigrant, at least in the first years, tend to make the salary levels that qualify for the earned-income tax credit. So there will be a disproportionately high number of persons who will qualify for that.

I see my time is about up. I will reluctantly accept having a vote, as Senator KENNEDY suggested we can do early in the next week when we come back, if that will help move us along tonight. But I want to tell my colleagues to think about this amendment—really think about it. This is not a harsh amendment. This is not an amendment to hurt anybody. It is an amendment that says: OK, if you are in our country, just like the 1996 Welfare Reform Act said, and you qualify for the Z visa under this amnesty program, or whatever you would like to call what we have in this bill, you are not automatically eligible for the earned-income tax credit. We absolutely should not allow that to happen. It is not necessary. It is not right to do so. It is a raid on the Treasury of the United States. It draws money from people who have paid taxes for years.

I would have to note, under the bill that is on the Senate floor, the immigration bill before us, are individuals who have been here illegally, some of whom may have made nice incomes and are absolved from paying a portion of their back taxes. So they don't even pay all back taxes. Then we are going to give them, immediately, the next year, an earned-income tax credit that could be a very substantial amount of money, and that comes right out of the taxpayers' pockets, a billion here and a billion there and a billion here and a billion there. It does add up, and it is significant.

So I would urge my colleagues to consider this and hope that they will.

I also wanted to express my support for Senator HUTCHISON for the analysis on Social Security of persons who come here to work and who violate their stays and overstay, that they should not receive the full benefit of Social Security. One of the things you have to have if you are going to have an effective immigration policy is you must have a situation in which you don't reward people for bad behavior, for heaven's sake. We certainly are not very good at apprehending people who violate the law, who either came in illegally or overstayed and removed them from the country, but surely we ought to set up a system that says if you violate the law, the way you come or stay here, you don't get Federal taxpayer benefits and a reward as a result of

that illegal behavior. If we are not able to make those distinctions and stand with clarity on those kinds of questions, I suggest we are not able to take a stand on most any principle of law. So that worries me.

Senator CORNYN, who spoke earlier and very effectively, asked me to make this note for the record; that his modification corrected—he stated in his remarks that he made a modification to his amendment to correct the page number. He also wanted to make clear that he did also include a technical correction beyond that, and he didn't want to mislead anyone. He asked that I clarify that for him so that there would be no dispute about that.

Also, some people have suggested that the CORNYN amendment would amount to an unconstitutional ex post facto rule because of its retroactive application. Now, that is a pretty harsh thing to say about Judge CORNYN. Senator CORNYN served on the Supreme Court of the State of Texas and he would just suggest this: In order for any immigration provision to have immediate effect, it is imperative that they apply to the conduct and convictions that occurred before enactment.

The PRESIDING OFFICER. The Senator has used his 15 minutes.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 more minute, and I will wrap up.

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

Mr. SESSIONS. So, also, I would note on behalf of Senator CORNYN's amendment that if prior conduct and convictions were not covered, you would have an immigration regime that essentially welcomes the following people, and this is not how the immigration system should operate. For example, as recently as 2005—I see my time is up, and I won't go into that. I will just note that Senator CORNYN's amendment as he offered it will meet constitutional muster, and it is not subject to the criticism some have suggested, and please do support it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that I be able to proceed for 5 minutes.

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

Mr. KENNEDY. Mr. President, all of the men and women who would become legal residents of the United States under the terms of this legislation are required to pay income tax like every other worker in America. What the Sessions amendment would do is really quite extraordinary and grossly unfair. It would arbitrarily deny those immigrants who have become legal residents one of the tax benefits available to every taxpayer under the Internal Revenue Code. That provision is the earned-income tax credit, a provision designed to reduce the I tax burden on low income families with children.

It is fundamentally wrong to subject immigrant workers to a different, harsher Tax Code than the one that applies to everyone else in the country. An immigrant worker should pay exactly the same income tax that every other worker earning the same pay and supporting the same size family pays—no less and no more. We should not be designing a special punitive Tax Code for immigrants that makes them more than everyone else. Yet that is exactly what the Sessions amendment seeks to do.

The Session amendment would result in highly inconsistent treatment of legal immigrant residents, and would drastically increase the amount of tax that many of these families had to pay. They would be subject to income and payroll taxes in the same manner as other workers but would be denied the use of a key element of the Tax Code that is intended to offset the relatively heavy tax burdens that low-income working families, especially those with children, otherwise would face.

Most of the EITC is simply a tax credit for the payment of other taxes, especially regressive payroll taxes. The EITC was specifically designed to offset the payroll tax burden on low-income working parents. The Treasury Department has estimated that a large majority of the EITC merely compensates for a portion of the federal income, payroll, and excise taxes paid by the low-income tax filers who qualify to receive it.

A significant share of families that receive the EITC owe federal income tax before the EITC is applied, in addition to paying payroll taxes. Low-income working immigrant families in this category who would be denied the EITC under the Sessions Amendment would consequently face a dramatic increase in their income tax bill, requiring them to pay much higher taxes than other taxpayers with similar earnings.

Other families with even less income would not receive a refund to offset the disproportionately large payroll taxes they paid, unlike other workers with comparable wages and dependents.

To qualify for the EITC, under current law, a taxpayer must satisfy the following criteria: 1., Be a US citizen or legal resident; 2., have a valid Social Security number for both the worker and any qualifying children; 3., have earned income from employment or self-employment; 4., have total income that falls below a certain level, and; 5., file an income tax return.

Current law already clearly prohibits illegal immigrants from receiving the EITC. No immigrant can receive the earned income tax credit unless he or she is a legal resident who is a low wage worker paying payroll taxes and filing an income tax return. These are men and women who are conscientiously fulfilling their responsibilities to their adopted country and they deserve to be treated like all other workers in America.

This amendment would hurt children. The United States has more children living in poverty than any other industrialized country. We need to help children, not hurt them. And they should not have to pay for the sins of their parents.

SUPPLEMENTAL APPROPRIATIONS

Mr. President, this so-called compromise doesn't do nearly enough to end the war, and I intend to vote against it. I support our troops. They have fought bravely and with great courage under extraordinarily difficult circumstances. But it is wrong for the President to send our troops to war without a plan to win the peace, and it is wrong for Congress to keep them in harm's way on the current failed course.

The best way to protect our troops is to bring this war to an end, not to pour more American lives into this endless black hole our Iraq policy has become. It is wrong for Congress to continue to defer to a Presidential decision that we know is fatally flawed.

The American people know this war is wrong. It is wrong to abdicate our responsibilities by allowing this war to drag on and on and on while our casualties mount higher and higher. The President was wrong to get us into this war, wrong to conduct it so poorly, wrong to ignore the views of the American people, and wrong to stubbornly refuse to sign legislation requiring a timetable for the orderly and responsible withdrawal of our combat troops from Iraq.

It is time to end this continuing tragic loss of American lives and begin to bring our soldiers home.

For the sake of our troops, we cannot repeat the mistakes of Vietnam and allow this war to drag on long after the American people know it is a profound mistake.

Mr. President, how much time do I have?

The PRESIDING OFFICER. There is 3 minutes 20 seconds.

Mr. KENNEDY. Mr. President, before yielding so we can have a vote on the amendment of the Senator from Vermont, I would like to respond to my friend from Alabama regarding the earned-income tax credit.

The earned-income tax credit is to help children—help children. Of all the industrialized nations of the world, we have more children living in poverty than any other Nation in the world. The earned-income tax credit is to help the children. They are not the lawbreakers; the parents are the lawbreakers. Yet this amendment will take it out on the children.

We don't do it for those who have committed murder and gone to prison. We don't do it for those who have committed aggravated assault. We don't do it for those who commit burglary, but we are going to do it for those who have been adjusted in terms of their status of being illegal. That is what the