

our plate, and it will be some years before the American people find out this will not work either, anymore than it did in 1986, and it will be up to the next President, or the next President, and they will be the ones who will have to answer for it, but we will not pay a price. That is just the way they think it is going to be.

Although I believe the American people deeply and strongly and intelligently are committed to a lawful immigration system that is compassionate and will work, I am not sure the leadership in the Congress is, or the White House. Indeed, we have not had a President committed to enforcement of immigration laws in the last 40 years.

Those are the fundamental questions I have.

Let me talk about some of the loopholes. With regard to the trigger, in 1986, amnesty was given. No one disputed it. They said it would be the last amnesty we ever had and that enforcement would occur. Promises were made about enforcement. Those promises for enforcement in the future were never kept. That was the problem. We had 3 million people claim amnesty in 1986; today we have, they say, 12 million prepared to claim amnesty in the United States today. What happened? The promised enforcement did not occur, so more people came illegally.

Some will say you cannot really enforce immigration law. Of course you can enforce immigration law; we just have not been willing to do the things necessary to do that. I reject that concept. But this time bill supporters are saying if we give amnesty, we are going to try to ensure the enforcement does occur and we are going to do that by having a trigger mechanism. This enforcement mechanism will say if you do not comply with the requirements of Border Patrol agents and fencing and other matters, if you do not comply with those, Mr. President, the amnesty does not occur.

That idea made some sense. People believed that was a good idea. I think I originally suggested it in committee last year. Senator ISAKSON offered a full amendment on the floor in the last year's debate—that amendment was defeated, so last year's bill did not include a guarantee to have any enforcement first. Why would the trigger fail last year? Why would it fail? Does that suggest some people are not serious about enforcement? I think it does.

But look at this trigger this year. The guys who were promoting the bill last year opposed a trigger, no trigger they said—but this year they say we will accept one, they are telling the American people not to worry we are going to have a trigger this bill.

I want to briefly mention some things about it. The amnesty benefits simply do not wait, under this trigger, for the enforcement to occur. After the filing of an application by a person here illegally, under this legislation, and waiting for only 24 hours, illegal

aliens will immediately receive probationary benefits. They will be lawfully in the United States, complete with the ability to legally live and work in the United States, to travel outside the United States and to return, and to have their own Social Security card. That is what happens within 24 hours.

Astonishingly, if the trigger requirements are never met—that is these requirements that are supposed to be met first—and green card applications or permanent residents' applications are never approved by the Department of Homeland Security, the probationary benefits granted to the illegal alien population never expire, the cards issued to the population are never revoked, and they will be able to stay in the country indefinitely, forever maybe. After this bill passes, the Department of Homeland Security has 180 days to begin accepting Z visa amnesty applications. They will accept them for 1 year and can extend to accept them for another year and so forth.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SESSIONS. I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. I say to my colleague Senator BINGAMAN, there is not 30 minutes but an hour equally divided. I will be pleased to yield to the Senator at this time and thank him for his amendment to contain the guest worker—the temporary worker program that was in the bill as introduced earlier, before we recessed. His amendment, as he knows—although I am not sure a lot of people know—brought the new temporary guest worker program from 400,000 a year to 200,000 a year. Some think that is all it is. But if you read the bill carefully, you knew it was 400,000 for the first year and they got to stay for 2 years; another 400,000 for the second year with an accelerator clause in it, and for both years a certain number got to bring in family members, so in 2 years there would have been almost a million people in the country under that new temporary worker program—far more than it appeared on the surface. I am glad the amendment of Senator BINGAMAN was agreed to. I think it brought the numbers more in line.

I am pleased to yield the floor at this time.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

IMMIGRATION REFORM

Mr. BINGAMAN. Mr. President, first, I thank my colleague from Alabama for his strong words and strong support for the amendments we offered a few weeks ago on the guest worker program. Let me thank my colleague from Alabama for his support particularly for that amendment 2 weeks ago.

I want to take a few minutes in morning business today, before the Senate gets into its busiest period of the week—which we all know begins on Tuesday, usually—to talk about two other amendments I have filed to this bill, and I hope I will have a chance to have the Senate vote on before the bill is completed.

Let me first talk about one of those amendments that is addressing a provision in the immigration bill that I think is impractical and I don't think makes any sense, the provision I am trying to correct.

Before addressing the specific provision, let me once again put this in context. This bill, the underlying legislation, calls for three so-called temporary worker programs. There is an agricultural temporary worker program, and I am not suggesting any change to that program. That is part of the underlying bill. There is a seasonal temporary worker program, where people can come in for up to 10 months and then have to leave the country for 2 months and then come back the next year. That one I do have a second amendment on, which I want to talk about in a minute. Then there is the new temporary worker program that was the subject of my amendment 2 weeks ago.

Let me briefly describe how this third so-called temporary worker program works. It contemplates a new guest worker program. It says guest workers would be permitted to come to this country and work for 2 years. At the end of the 2 years, they have to leave the country for a year. Then that same worker could come back for another 2 years and then leave the country again for another year; then come back and work 2 more years and then have to leave the country permanently. So over a period of, I guess it would be 9 years—during that period the worker could be here up to 6 years, but there would have to be two periods of a year each during which the worker was outside the country.

My amendment, which is cosponsored by Senator OBAMA, would remove the requirement that guest workers leave the United States before they renew their visas to work under this program. It would not modify the total period they could stay here, which would still be limited to 6 years. It would not change the terms of their visa. But the amendment I am offering would provide that guest workers would be given a 2-year visa they could then renew twice and do their full 6 years of work and then their visa would no longer permit them to stay.

Requiring these workers to leave the country for a lengthy period of time between each 2-year work period is a problem for several reasons. It is bad for the employers, first. It is also bad for American workers who might also want to have some of these jobs—and these are generally construction type jobs. These are not agricultural jobs. These are not jobs for teenagers in seasonal employment.

Obviously, another problem with this provision is it is extremely difficult and costly to enforce. I doubt seriously if we have the capacity to enforce it at this point. It increases dramatically the likelihood that individuals are going to overstay their visas.

First, let me talk about the employers. It would be very costly and burdensome to require that employers rehire and retrain new workers every 2 years. Employers are not going to give an employee a 1-year vacation. When one of these so-called guest workers leaves the job in order to comply with this provision of law, the employer will have no choice but to find somebody else to bring on. The 1-year leave provision would be especially harmful to small businesses, and it would cause enormous instability in the workforce if they actually depended upon guest workers for some of that work.

Governor Napolitano from Arizona recently wrote a column in the *New York Times*. Let me quote a couple of sentences from that column.

She says:

The proposed notion that temporary workers stay here for two years, return home for a year, then repeat that strange cycle two more times makes no sense. No employer can afford this schedule, hiring and training, only to have a worker who soon will leave. It will only encourage employers and workers to find new ways to break the rules.

Now, that was on June 1 in the *New York Times*. In my view, Governor Napolitano is absolutely correct. The current bill is also bad for American workers. American workers will be forced to compete with a constant flow of guest workers who would always be at the low end of the salary scale by virtue of the fact that they would have to leave every 2 years.

So if guest workers are kicked out of the country every 2 years, wages cannot increase, there will always be a justification to pay those workers the lowest possible wage. The requirement that these guest workers leave the country every 2 years would also result in an increase in the number of individuals who overstay their visas in order to avoid having to leave the United States for that lengthy period of time. It would also create additional costs in terms of tracking those individuals and ensuring that they, in fact, do leave the country. These costs, of course, would have to be borne by the taxpayer. It also assumes that we even have the administrative capacity to track all these people. Here we are talking about at least 1.2 million so-called guest workers under only this program. I am not talking about the other two so-called temporary guest worker programs. But under this so-called temporary guest worker program, we are talking about 1.2 million workers.

So we are saying that we would then have administrative responsibilities somewhere lodged in the Federal Government to keep track of the comings and goings of these workers every year.

I have real doubts about our ability to do that. Obviously, that is an assumption. It is assumed, as part of the underlying bill, that we do have the ability to do that. So if the program is designed in a manner that is bad for employers, it is bad for employees, it is difficult and costly to implement, it will lead to an increase in the number of individuals who overstay their visas, then obviously the question arises: What is the justification for keeping this provision in the bill?

I think, unfortunately, the only justification I have been able to find is that it is being kept in the bill in order to fit this political mantra that we have been hearing now for months about "temporary means temporary," rather than to implement any sound policy.

When you look at these guest worker programs, unlike the other existing guest worker programs, such as the H-2B seasonal program for non-agricultural workers, the H-2A agricultural program, which were designed to fill jobs that, in fact, are of a temporary nature, the new Y-1 program, which we are talking about here, is designed to fill jobs throughout the economy that are permanent jobs. These are jobs in the construction industry, primarily. The 2-1-2 requirement, which is in the underlying bill, artificially tries to turn these workers into temporary workers by kicking them out of the country every 2 years, even though they will be filling jobs that are not temporary, they are permanent jobs.

Last year's immigration bill, S. 2611, allowed new guest workers to stay in the United States for a period of 3 years to renew that visa for a total of 6 years. There was no requirement that the individuals leave the country before they renewed that visa. I think that type of framework is much more sensible.

One of the primary goals of comprehensive immigration reform is to create a new and workable system that would ensure that we are not in the situation we are in now once again 20 years from now. I do not believe the current framework of this so-called temporary worker program advances that goal.

Let me also take a moment to address concerns that the adoption of this amendment will somehow kill the immigration bill. During debate on the immigration bill, questions keep arising about whether a particular amendment being offered by one Senator or another is consistent with the so-called "grand bargain" that has been reached.

I commend the Senators who worked tirelessly to come up with an agreement on this difficult issue. This agreement was reached between a handful of Senators. That should not be considered, in my view, a substitute for deliberation by the full Senate. One of the first amendments I offered was the one the Senator from Alabama referred to, an amendment that reduced the num-

ber of guest workers under this program to 200,000 per year—the number of new guest workers, I should say.

Despite the fact that amendment was adopted by or supported by 74 Senators, I have heard repeated questions about whether this was a deal killer. It is interesting to me that a measure which garners the support of three-quarters of the Senate somehow is considered a threat to the prospects of passing the legislation. Frankly, I believe we are focused on the wrong set of issues. We ought to be trying to concentrate on getting a bill that has the broadest bipartisan support in the Senate. I think that each of those amendments, the one I offered 2 weeks ago and this amendment I have been talking about, will help us to achieve that. I urge my colleagues to carefully consider the consequences of leaving the existing procedures in place for Y-1 guest workers.

I strongly believe that if we keep this provision in its current form, we are going to create an expensive and unworkable program for employers, a system that harms American workers, and an incentive for guest workers to overstay their visas. For that reason, I hope, when the opportunity comes for a vote, my colleagues will support our amendment.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The majority has 18 minutes.

Mr. BINGAMAN. Mr. President, I would then continue to speak as in morning business for another few minutes to talk about another amendment.

I have also today filed an amendment on another part of the bill. The second amendment is aimed at addressing a different issue related to the Y-2 temporary worker program. Now, the Y-2 program is a temporary worker program, and it revises and incorporates the existing H-2B seasonal non-agricultural program.

As I mentioned earlier, this amendment would address the problem of people whom we bring into the country for up to 10 months, allow them to work here, whether they are working at resorts or working at some kind of seasonal employment, nonagricultural seasonal employment, and then we require them to go home for 2 months. Then they can do that each year.

As Senators have discussed this program, and as it has been discussed in the press, its been stated that the underlying substitute amendment provides for an annual allocation of visas from 100,000 initially to up to 200,000 each year, depending upon the market demand.

I have a chart I can put up that I think will describe what the Y-2 guest worker program—if, in fact, the 15 percent increase is triggered in the years, the first 4 years of the program, and how you get from 100,000 up to 200,000.

Well, that is the description. This chart is a fair description of this program as it has been reported in the

paper. However, before the substitute amendment was filed, the underlying bill—I call it a substitute amendment because that is the technical, correct name for it—a provision was handwritten into the bill that provides that in any year from now on, the returning Y-2 workers who are present in the United States in any of the preceding 3 fiscal years would not count against the cap.

So the whole idea of 200,000 is not right. The yellow represents the 200,000, the increase from 100,000 to 200,000. But the red on the chart represents the potential pool of returning workers. You can see this is taken from an analysis that was done for me by the Congressional Research Service. We asked them to please look at the provision and give us their analysis of what is the size of the group that could come in under this program with this provision in it.

They said: Well, it could be up to about 1.6, 1.7 million people over 10 years; they would be eligible to come in every year. Now, that is not cumulative, that is every year that many people would be able to come in.

The impact of this little-noticed provision is quite profound. Obviously, this is the high end of the approximation because we would not expect that every single worker who came here to work for 10 months during 1 year, or for some period during 1 year, would choose to come back the next year. But I think a reasonably high percentage of them might choose to come back.

Today, we have about 135,000. This year, in 2007, we have about 135,000 workers in the country or connected in this country this year under this seasonal temporary worker program. I have no problem seeing that increased to 200,000. That is what the initial draft of the bill contemplated. I do have a problem when it might increase by well over a million. I think that is not what many Members of the Senate understand is going to happen under this bill. I do not think it is what should happen under this bill. I think it is reasonable to require that the numerical limitation already in the bill actually means something; that is, the 200,000 limit.

The amendment I am offering does not eliminate the returning worker provisions, not by any means. It says: If you want to change the number from the current law, which is 66,000 up to 100,000, fine. If you want to then say it can grow from 100,000 to 200,000 per year, fine. But let's not also say that anyone who has worked here in any of the 3 preceding years can come in on top of that because that is when your numbers get totally out of control.

The amendment is aimed at ensuring the bill does what I believe a majority of Senators believe it does; that is, it would allow the issuance of up to 200,000 Y-2 visas each year for these seasonal workers. I think that is something which I can support as a matter of policy.

Again, my amendment merely brings the underlying language of the bill into line with what I believe most Senators think the bill now provides; that is, keeps it under 200,000.

That is a description of the two amendments I have filed today. I think they are both meritorious amendments. I urge my colleagues to look at them, to consider them. I hope very much that I have an opportunity to get votes on those amendments this week before we conclude action on the bill because I think both amendments would improve the bill and make it much better public policy.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator for his work on this. It is obvious he has read the legislation and attempted to see what it actually means, which is a good thing, and done too little in this Senate, but it is important especially in this legislation where it is so critical.

Let me say what I understood the whole deal was supposed about. It was put very simply to me how we were going to have a new immigration system, in this new legislation that was going to be better than last year's bill. The way I understood it, from the talking points that were suggested and floated around and that we were briefed with, there would be a temporary worker program that would actually be temporary. To me that means a person would come for less than a year but could come back repeatedly after that, as long as their employer is happy and they have work to come to and they have not gotten in any trouble. And, they would not bring their families with them.

That is what I thought we were talking about. Then we were told that there would be a separate second flow for people who enter America permanently, coming into America to go on a citizenship track. And we were told that track would be evaluated using a different system, it would be more skill based.

In other words, a person would apply, and they would compete for the slots based on the skills they had and that we have in the United States. So I am concerned and share the concern of Senator BINGAMAN that the temporary worker program which allows 2 years' entry, then says go home and come back 1 year from now for another 2 years and then go home for a year, and come back for the final 2 years and never come back again seems less workable than the temporary seasonal worker program we have today. I am concerned about that.

Remember, we are still going to have the constant flow of people who come in on the citizenship track and get a green card and become permanent citizens. They will also be workers, their family members will also be workers. We are not stopping that. But this bill

creates a separate temporary worker program. I believe a system of temporary workers needs to work, needs to make sense, needs to be consistent with common sense, and ought to be in a way that is practical. I am not sure the legislation as introduced does that.

Senator GRASSLEY spoke before we recessed and asked this question: Why is it nobody has said this time, as they did in 1986, that there would be no more amnesties? He said he was here in 1986. He remembered what they said. It was admitted that they were having amnesty and they made a promise we wouldn't have amnesty anymore. People said: If we do it this one time, we won't do it again. He asked why we weren't hearing it said again. Of course, he answered his own question. The answer is, because bill sponsors can not make that promise. How can we say we are not going to have it anymore, after having said we would not do it again, and doing it again, and presumably we would be doing it again after that?

I mentioned the enforcement trigger. This was designed to make sure if we give amnesty, enforcement would occur. We put some things in the trigger that had to be done before some of the benefits of this program would accrue, but a lot of things were left out, and the things left out were quite troubling. They make you wonder how serious we are about creating a lawful system in the future, for example. The enforcement trigger that has the requirements that must be met before the new temporary worker program begins does not require the exit portion of the US-VISIT system, that is the biometric border check-in, checkout system first required by the Congress in 1996, be working. That is a cause for concern because it is already well past the year 2005, when this bill required that the U.S. visa exit system be in effect.

In other words, in 1996, we said: OK, we are passing a law, and we are going to have an exit-entry visa system at the border that will clock you in when you come in with a biometric card, and it will clock you out when you go out, just as you do when you are working at a job. Just like a lot of employment agencies and businesses have those kind of things. OK? It was due to be completed in 2005. Without the U.S. visa exit portion, the United States has no method to ensure that the workers or their visiting families, who are allowed under certain circumstances to visit them, do not overstay their visas.

Senator BINGAMAN has been talking about his concern over the temporary worker program. Let me ask this: How do we know they are going to go home when their time is expired if the exit portion of the US-VISIT system is not up and working? We don't know. It is a fundamental loophole of monumental proportions, and I am surprised it is not in there. Once again, it suggests those promoting this legislation may not be serious about creating an immigration system that works. They may

like a system that allows virtually anyone determined to come here to come here.

There is another matter I wanted to mention in the trigger requirement. If it is not in the trigger, there is no way to say the bills sponsor really intend for it to happen. The example of the U.S. VISIT system indicates something about the nature of the Senate. Remember, in 1996, this Senate passed legislation that required the US-VISIT exit system be in effect by 2005. Then 2005 came and went. That did not occur. What does that mean? It means you can pass any law here and say you are going to do something in the future, but if you don't fund it or future Congresses don't fund it or future Presidents don't fight for it, it may not ever occur. That is all I am saying. That is why the American people need to be concerned about amnesty coming before all of the needed enforcement items.

Another matter that involves what we are doing here involves having enough bedspace to end catch and release at the border. We passed a law in 2004 that requires 43,000 beds to be in place by the end of 2007. This is to end the catch-and-release section of the bill. Those beds have not been completed. In this legislation, it only required 27,000 beds. We had already required 43,000, but as I said, we are going to have to have 27,500. Then Senator GREGG offered an amendment to increase that to 31,500. We passed legislation in 2004, as part of the Terrorism Prevention Act of 2004, to require much more bed space than this, and they have not been completed. Because we pass legislation doesn't mean it is going to happen.

There is another loophole I will mention. I have 25. I should have added the problem Senator BINGAMAN just mentioned. I could have added many more than 25. Let's look at No. 4. Aliens who broke into this country a mere 5 months ago are provided permanent legal status in our country and are treated better than foreign nationals who legally applied to come to the United States more than 2 years ago. Aliens who can prove they were here illegally in the United States on January 1 of this year are immediately eligible to apply from inside the United States for amnesty benefits, while foreign nationals who filed applications to come to the United States after May 1 of 2005, over 2 years ago, must start the application process all over again from their home countries.

The bill sponsors continue to claim this bill is necessary because illegal aliens have deep roots in the United States and are, therefore, impossible to remove. They claim that they have families here. They have been working here for many years. They can't be asked to leave. There is some truth in some of those situations, for sure, but it simply is not true in all cases. It is simply not true in many cases. The young man who ran past the National

Guard out at the border somewhere last December is going to be given amnesty here in this country.

The American people want us to treat the illegal alien population compassionately, I do believe, but there is no reason to lump all illegal aliens, regardless of when and how they got here or how deep their roots are, into the same amnesty program. Last year's Senate bill would have given illegal aliens amnesty if they could prove they had been in the United States since January 7, 2004. A lot of people want us to believe that this is a tougher bill than last year's bill. At least last year they said you had to have been in the country by January 7, 2004. This year the bill expanded the amnesty window by 3 years to 2007. Under this year's bill, illegal aliens who have rushed across the border in the last few years, including those who came 5 months ago, will be given all the amnesty benefits as those who have been living here for decades, have U.S. citizens in schools, and have been good workers.

The January 7, 2004 date, why was that date selected last year as a cutoff date? It was important because that was when President Bush first gave his speech saying we needed a lawful system of comprehensive reform of immigration in America. We knew that when he gave that speech—and he was talking about amnesty for people here illegally—that that would encourage more people to try to come into the country so they could be provided amnesty too. So they cut off the dates and said: If you came in after the President's speech, you can't get the advantage of the amnesty. That makes sense, I think.

Then even more significantly, last year, in May 2006, President Bush announced the beginning of Operation Jump Start. Do you remember that? That was the program to put the National Guard at the border. He called out the National Guard. So this bill says if you ignored our announcement that we are going to make a lawful system of comprehensive reform, if you ignored the announcement that the border is closed, if you ignored and ran past the National Guard we put on the border to create a lawful system there, as long as you got here by December 31 of last year, you get to apply for full amnesty. You are home free. You are in.

I don't think that is required. I don't think that is good policy.

The ACTING PRESIDENT pro tempore. The time of the minority has expired.

Mr. SESSIONS. I ask unanimous consent to speak for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. The bill's drafters say amnesty applicants will be at the back of the line and will not be treated preferentially to those who have followed the law. That is not true in a number of cases and in this case. The

bill allows the illegal aliens who got here 5 months ago to cut in line in front of people in the family green card backlog who filed their applications after May 1, 2005, 2 years after. Illegal aliens who came to the United States 5 months ago will get probationary Z visa status 1 day after filing a Z visa application. I suppose those who followed the law, who made their application properly, who waited in line may wonder why they didn't come illegally also. Isn't that the message we are sending? So this provision in the bill does not restore respect for the rule of law. It erodes it. At a minimum, no illegal alien should be treated better than a foreign national who applied to come legally. The amnesty date should be moved back to May 1, 2005. I will have an amendment to that effect.

I see my colleague here, Senator DORGAN. I appreciate his insight into these issues and his willingness to ask some tough questions about the system and the bill before us and to point out some of the weaknesses in it. That has been helpful to the debate.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for such time as I may consume, and to the extent that exceeds the limit of the majority in morning business, I would ask that the minority be accorded the same amount of time if they so desire.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SESSIONS. I am not sure I quite understand that.

Mr. DORGAN. How much morning business remains on our side?

The ACTING PRESIDENT pro tempore. There is 1½ minutes.

Mr. DORGAN. Mr. President, I ask to be recognized in morning business for as much time as I may consume. My understanding is we will be going to the bill as soon as I finish speaking.

Mr. SESSIONS. I wondered if the Senator was going to continue and how long he might speak.

Mr. DORGAN. It is my intention to speak for perhaps 20 minutes.

Mr. SESSIONS. I have no objection, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, this issue of immigration is a very passionate issue and raises the passions in this country in a significant way. I understand all of that. I have described often on the floor of the Senate the circumstances of what has brought us to this point.

This country we live in is a remarkable country. If you have a globe in front of you, and spin the globe, and take a look at all the land that exists on your globe, you will see there is just one little spot called the United States of America, but it is a very different spot than much of the rest of the world.

We have raised incomes in this country, expanded the middle class, created a standard and a scale of living that is pretty unusual and pretty remarkable. Because of that, because we have dramatically expanded the middle class and have created a country that is very different than many other countries on this Earth, there are many who live on this planet who want to come here.

Last week, I described being in a helicopter, flying between Honduras and Nicaragua, up in the mountainous jungle areas some long while ago, and we ran out of gas. I discovered on a helicopter when you run out of gas, you are going to be landing very soon. We were not hurt, of course, but the red lights and the alarm bells were ringing and going off, and our pilots put us down in a clearing.

While we were there, I heard from some campesinos who came up to see who had landed in these helicopters. Through an interpreter, I visited with the campesinos. I heard from them what I have heard in virtually every part of the world in which I have traveled. I spoke with a young woman in her early twenties. She had three children with her. I asked her—after we visited—through an interpreter: What do you want for you and your children?

She said: Oh, I want to come to the United States of America.

That is not unusual. I have heard that all over the world: I want to come to the United States of America. I asked her why.

She said: Well, there is opportunity there—an opportunity for a better life for me and my children.

We have built something quite unusual in this country, and many from around this planet would like to come here. I understand that. Let me give you an example of why.

If you live in China, the average hourly wage for factory workers is 33 cents an hour. If you are in Bangladesh, 33 cents an hour is the average annual hourly wage, if you can find a factory job. If you are in Nicaragua, 37 cents an hour is the average annual hourly wage. In India, 11 cents an hour is the average wage. In Haiti, it is 30 cents an hour, if you can find a job. In Russia, it is 51 cents an hour. I could go on.

But my point is, there are people living in countries where, if they can find a job, they are going to be paid 30 cents an hour, 20 cents an hour, 11 cents an hour, and they take a look at this country, and they evaluate: Perhaps I need to go to the United States and be a part of that great country.

Well, because so many want to come here, we have immigration laws and quotas. We actually allow into this country, under legal quotas, a good many immigrants every single year. Well over 1 million people come into this country every single year legally as part of our immigration quota system. We have quotas for various countries and regions of the world, and we accept legal immigration from those

countries. We would have had last year over 2 million people come into this country legally, with both agricultural workers and also under the legal immigration system.

But think for a moment if we decided to do it differently, after what we have spent well over the last century building in this country to expand opportunity, expand the middle class, and create an economy that is the wonder of the world—the real economic engine of the world is this economic engine of ours. Think of the consequences if, in fact, we said this: We have a new policy on immigration. Our policy is that anybody in this world who wants to come here—to stay here, to live here, to work here, to be part of the American experience—come right ahead, with no restrictions. Come into this country and be a part of our great Nation.

If we said that, if, in fact, that were our country's policy, we would be literally overrun by those who wish to come to be a part of this American experience—an America with opportunity, an America that offers hope to people living in squalid poverty, people working for 11 cents an hour. We would be overrun. As a result, what we do have is a series of immigration laws that provide for legal immigration. It restricts numbers who come in, but we still have a pretty substantial number who come in legally into this country.

Now, we are told we have a new immigration proposal put together by a group of Senators in the Senate with, I understand, the assistance of the White House—or at least the involvement of the White House—and brought to the floor of the Senate saying: Here is a new plan. It is 20 years after the last plan, which was in 1986. It was called Simpson-Mazzoli. It was the immigration plan of 1986. That was a plan that, back then, promised it would end the problem of illegal immigration by choking off the demand for illegal labor through tough enforcement and guest worker programs and also through amnesty of people who were then in the country at that point in time.

Let me read some quotes for what was done in 1986. Here are quotes in the CONGRESSIONAL RECORD. Quote:

The guts of immigration reform are here. All of it. Employer sanctions, increased enforcement, worker authorization system, verification systems, and legalization is [all] there. . . .

That is what was promised 20 years ago. One Senator said:

This bill also . . . should help the Immigration and Naturalization Service to increase Border Patrol personnel by 50 percent.

Border enforcement, employer sanctions—well, they said: We are going to ramp up border security, provide employer sanctions, so you don't have the lure of a job and, therefore, we, at the same time, will provide amnesty—this is 1986—to about 1 million illegal immigrants. When amnesty was in fact granted following that, it turns out

there were 3 million or so. Everyone was pretty stunned to learn there was so little control over the borders then. But now, today—fast-forward 20 years—we have a bill on the floor of the Senate that promises almost exactly the same thing: tougher border enforcement, employer sanctions, guest workers, temporary workers—except now, 20 years later, after we solved the problem 20 years ago, we have 12 million—it is estimated 12 million—people who came here without legal authorization. We do not know that for sure. We think it is somewhere around 12 million people. So we have “comprehensive immigration reform.”

Well, let me go back for a moment and show you that this issue of border enforcement and employer sanctions is all a matter of enforcement and will. I have just taken the period from 1999 to 2004. The current administration, as you can see, has had almost no work-site enforcement. In fact, in 2004 there were three cases in the entire Nation brought against employers who hired illegal aliens. Think of that. In the year 2000 there were 213 cases out of all of this country; out of the millions and millions of employers in this country, there were 213 cases. In 2004, it dropped to three, which meant there was no enforcement at all—no will, no interest, nothing.

Is it surprising, then, that the employers in this country would decide: Why don't I just risk it, just hire illegal aliens because nobody is checking?

Here on this chart are the fines that have been levied with respect to employer sanctions. As you can see, \$118,000 for the entire country. You can see what has happened under this administration. They apparently decided: We are not going to enforce this at all. The result is a dramatic increase across the border of illegal immigrants.

Now, I know some do not like the term, and I do not mean the term as a pejorative term, but it is what it is. We have immigrants who come into this country—some legally and some illegally. That is just a fact. So there has been virtually no enforcement by this administration or really any administration, although the previous administration did much better.

But now we are told this new plan has an ability to solve this problem. We are going to have employer sanctions, we are going to have border enforcement—sound familiar? Yes, it was 20 years ago that was promised—and we are going to have temporary workers. They now call them guest workers, but they are temporary workers.

Last week I was interested that some of my colleagues, when they defeated an amendment I had by a one-vote margin—an amendment I had that would deal with the temporary worker issue. First, I wanted to abolish it. That lost by a broader margin. Then I wanted to at least subset it, and that lost by one vote. Incidentally, there was a lot of arm twisting to get that

vote. I have not seen any casts or anything on arms, but I know there was a lot of arm twisting.

We were told during the debate on the guest worker provision the following: The manager of the bill and the manager on the minority side said the same thing. They said: Look, if you do not have a temporary worker provision to allow those who are not now in this country—even as we legalize 12 million who are here with a work permit immediately—if you do not allow millions more to come in—600,000 a year; now 200,000 a year—if you do not allow additional people to come into this country, they will come anyway. They will come as illegals across the border.

So I asked the question: Wait a second. You are saying we have to have a temporary worker program to bring people into this country who are not now here and declare them legal to take American jobs because if we don't have a temporary worker program, they will come anyway? I thought you said you had border enforcement. What you appear to be saying is, you do not have border enforcement, so for those who would come illegally, let's just see if we can label them as legal under temporary workers.

You cannot have it both ways. There either is border enforcement or there is not. You cannot say to me we must put in a temporary worker program because if it is not there we will have illegal immigration, and then in the next breath—while thumbing your suspenders—say, and by the way, we really have effective border control. If you have effective border control, why then would you have illegal immigration that necessitates you to say there are millions who live outside this country who now must be allowed in? That is on top of the 12 million people who, under this underlying bill, will be declared legal, to have legal status.

Anyone who came across by December 31 of last year—across an ocean or across a river or across any border—anyone who entered this country by December 31 of last year would be told: You now have legal status in this country and will be able to work.

My colleague, a while ago, asked a very important question: What about the people in other parts of the world who thought this was all on the level and there was an immigration system and they applied through the quota system and have waited now 8 years to see if they would be allowed to come to this country and they are near the top of the list, but now they discover something that makes them feel as if they made a big mistake? What they discovered is, while they waited all of those years to get toward the top of the list under the legal immigration system we have, with the quotas we have, they should have snuck across the border on December 31 because those who did will have been declared, by this piece of legislation, as legal. And those who went through the process and have waited years—7 years, 8 years—and are near

the top of the list are told: You are just out of luck.

That does not make any sense to me. It just does not make any sense. Let me describe some quotes from the week before last.

... this legislation has tough border security and tough interior enforcement provisions.

Even if you have a secure border—we are hopeful of having secure borders—it won't stop illegal immigration.

That is from a Senator on the floor of the Senate 2 weeks ago in support of this bill.

The fact of the matter is, some workers will come here illegally, or legally, one way or the other they come in.

That is where the temporary worker program comes in . . . if we eliminate this program, you will have those individuals that will crawl across the desert . . . or you can say, come through the front door and you will be given the opportunity to work. . . .

That is unbelievable. This is from the architects of the proposal before the Senate who come here boasting it has real security on America's borders, and then say: By the way, if we do not allow—in addition to legalizing 12 million people who came here illegally—a substantial additional number of people who do not now live here to come and take American jobs, they will come anyway because they will come as illegal immigrants—which suggests to me, at least, there is not meaningful border protection or border security in this legislation.

Let me describe for a moment the guest worker provision. These are temporary workers—I do not know why you call them guests—but these are temporary workers who would come in and take jobs at the low end of the economic scale and, by and large, put downward pressure on income for American workers. But here is how it would work.

It seems to me, you could not sit down and think of what kind of an approach we could use to put together a guest worker provision and come up with this sort of Rube Goldberg scheme. There is just no way you could possibly put this together and believe it to be serious. Here is what they say. In the case of the original proposal, which was 600,000 a year, and now it is going to be 200,000 a year, it will amount to 1.2 million over the first 10 years, and here is what they say: You can come for the first 2 years; you can bring your family if you come for the first 2 years. Then you have to go home for a year and take your family with you, then come back for 2 more years. Then you leave again. If you never brought your family to begin with, you can then come back for 2 more years. So you can be here for a total of 6 years and you can only have your family here for 2 years and you all have to leave this country twice. That is unbelievable. Who on Earth can sit in a room and construct that sort of nonsense?

Aside from the fact that we shouldn't have that provision in the bill, we are

told, this is the way it will work. How many believe you will have 1,200,000 people come for 2 years, with their families, if they wish, and then all of them will go home? Let's assume they all went home, they get to go home for a year and come back for 2 years and then again go home for a year and then come back for 2 years, how many of you believe they are all going to leave? They are not.

Let me emphasize that the guest worker program has nothing to do with agricultural work. These are non-agricultural workers. These will be in manufacturing and in other areas.

Also, the guest worker program applies in sectors of our economy where the vast majority of the jobs are done by U.S. citizens. That is a fact. They say this is necessary because you can't find U.S. workers to take these jobs. That is not the case. These jobs are not picking strawberries. Those jobs are in the agricultural worker provisions. But these temporary workers are in construction, manufacturing, transportation, all of which have a wide majority of U.S. workers—80, 90 percent of the workers are U.S. workers. So don't tell me you can't find U.S. workers to fill these jobs. In all of these cases—construction, transportation, manufacturing—80 to 90 percent of them are already U.S. workers.

What does immigration do to American workers? One of the points I have made is this is a way of putting downward pressure on wages in our country. This is from Professor George Borjas, John F. Kennedy School of Government at Harvard. He says, on average, the impact of 1980 through 2000 immigration on U.S. wages, on average, it has reduced wages by about 3.7 percent. I don't think there is much question that if you bring in a lot of people through the back door to compete for low-wage jobs, you are going to put downward pressure on wages. That is a fact.

Here is an example of my concern and one of the things that persuades me we ought to do better. Hurricane Katrina hit on the gulf coast and we had a lot of cleanup to do. When Hurricane Katrina devastated that gulf coast, FEMA and others began to let contracts to try to see how we could create this cleanup, and here is what happened October 22, 2005: Sam Smith was an electrician. He lost his house. He lost a lot during the hurricane. His house was in the ninth ward. It was destroyed by Hurricane Katrina. He was an electrician, age 55, who returned to the city for the cleanup, the promise of a \$22-an-hour wage, and guaranteed work for 1 year, a qualified electrician. He lost his job within 3 weeks—within 3 weeks. Let me show you why these folks—Sam Smith lost his house, lost his job, and here is who the subcontractor brings in. Take a look at the barracks: Illegal workers brought in living in these squalid conditions. Can you get them to work for less? Sure, you can. Is it the right thing to do? No,

of course, it is not because an American worker who lost his house and then lost his job—Sam Smith—deserves better. But that is a small example of what we face with respect to the downward pressure on income for those who work at the bottom of the economic ladder.

Now, the Wall Street Journal ran a very interesting story in January of this year. It showed that in an area where there is a sudden drop in the availability of illegal immigrants, the wages for U.S. workers then rise. There was a series of raids by Federal immigration agents in Stillmore, GA, and this is again quoting from the Wall Street Journal:

A local poultry processing company called Crider Inc. lost 75 percent of its 900 member work force when they were found to be illegal aliens—

Illegal workers. The company apparently, according to the story, had a pretty good idea that a good number of its workers had been illegal.

One worker—

It says in the story—

arrived at the plant in 2004. As she filled out an application, she tried to use the Social Security number, a tax payer identification number that started with the numeral 9. The company clerk stopped her and said valid Social Security numbers never begin with a 9.

The clerk kept saying: Maybe you want to put down a 4 or a 6. So the illegal immigrant wrote down a 6, and of course the application was accepted.

After the raid, almost 75 percent of the workers were determined to have been illegal immigrants and the company decided it needed to find workers, so they decided to raise wages. An advertisement in the weekly newspaper titled "Increased Wages" at Crider, starting at \$7 to \$9 an hour. That was more than a dollar an hour above what the company had paid many immigrant workers. It began offering free transportation from nearby towns, free rooms in company-owned dormitories near the plant, and for the first time in years, the company aggressively sought workers from the area State-funded employment office, which is a key avenue for low-skilled workers to find jobs.

Continuing again to describe the Wall Street Journal article, it said: Hundreds of local workers, many of them minorities, accepted the higher wages and were happy to take these jobs. Pretty soon this Georgia company was apparently hiring back some additional illegal immigrant workers who had been previously caught up in the raid. They turned to a "temporary labor provider" who began to provide the company with the same illegal immigrant workers who had been caught in the first raid. So the immigration officials conducted a second raid and the company then finally agreed to stop working with temporary labor.

The point of this story is very simple: If you have substantial amounts of illegal immigrant labor coming in, it puts downward pressure on wages.

Eliminate that illegal labor from the marketplace, and what happens is you raise wages at the bottom of the economic ladder.

Robert Samuelson wrote an editorial in the Washington Post some while ago. He said: It is simply a myth that the U.S. economy needs more poor immigrants. He pointed out that in March the unemployment rate for college graduates in this country was 1.8 percent. The unemployment rate for the 13 million U.S. workers without a high school diploma is over 7 percent. Those 13 million U.S. workers without a high school diploma compete directly with the immigrant workers who come here illegally and who do not have a high school diploma. That is what puts downward pressure on wages in this country.

This is, as I indicated earlier, a very difficult issue, filled with passion, and I understand that. I think there are a lot of immigrant families living in this country, perhaps many who came here without legal authorization, and many came here 5 years ago, 10, 15 years ago, 20 years ago. They have lived model lives. They have gone to school here. They have gotten jobs. I understand all that. I think we should deal with that in a sensitive way. There are many who should not be expelled from this country. We are not going to round up 12 million people and deport them. We are not going to do that. So we need to find a way to deal appropriately with these issues. But that appropriate way does not say anyone who came across illegally into this country on December 31 of last year is deemed to have come here legally. That is not the right approach. You can't do that.

Second, you should not be oblivious to the needs in this country of the low-income workers. We have a whole lot of people today who got up this morning who are going to work hard all day long and come home with very little to show for it, in many cases two and three jobs. You know the people. They are the ones who know about being second. The people who know about secondhand, second mortgage, second job, second shift. They are always in second place. They are the ones who have the least opportunity in this country to get a decent wage because their productivity goes up and their wage does not. As long as there are employers who are able to bring in across the border—a border that leaks like a sieve when it comes to illegal immigrants—as long as there are employers who are willing to put downward pressure on income for American workers, we are going to see people at the bottom of the economic ladder in this country continuing to struggle. That is a fact.

The question is: Are we going to do something about it? When we deal with immigration, we ought to do 2 things. First and foremost, we ought to have a bill on the floor of the Senate that deals with border security. You can't deal with this issue without stopping illegal immigration. After all, we allow

nearly a couple million people in this country every single year under a legal system. But if you don't stop at the border this unbelievable avalanche of illegal immigrants, you don't have any hope of dealing with this issue. First and foremost, you have to deal with border security. That ought to be the bill on the floor of the Senate. Then, after we have dealt with border security, we ought to deal with the question of the 12 million people who are here without legal authorization. I would be the first to join those who say let's be sensitive and let's be thoughtful about that. We are not going to round up 12 million people. There are some who have been here a long while and raised families here who have contributed to this country and we need to understand that. That is a different issue than the issue of border security. If we don't do border security and do it right, this is another way to say: Let's provide amnesty this time for 12 million people; we did it for 3 million people 12 years ago. By the way, let's meet again. In fact, let's set a date right now. We will meet again in 10 years, if, in fact, those who wrote this bill were telling me what they believe 2 weeks ago and that is if you don't have a temporary worker program, you are going to have people come here illegally anyway. What that means is they don't have real border security or the least bit of confidence in the border security and their bill. That is a fact.

There is a generous amount of discussion on the floor of this Senate about issues that are completely devoid of the well-being and the best interests of people in this country who work very hard and show very little for it. I would love to see a long discussion on the floor of this Senate about international trade and the \$830 billion trade deficit, and American companies being given a tax break by this Congress and previous Congresses, American companies who shut their manufacturing plant, fire all their workers, and ship their jobs to Chinese or Bangladesh or Sri Lanka or Indonesia. They actually get a tax break for doing it. I have tried four times to shut it down. I have been unsuccessful. I would love to have a debate about that. In fact, it is the same coin, just the reverse side. Shipping American jobs overseas is the reverse side of the coin of bringing cheap labor through the back door. That is a fact.

I understand where the impulse comes from. It comes from many large enterprises, many big businesses who have convinced this Congress—or too many in this Congress—that you can't fill jobs with Americans, you have to bring in people from across the border or from around the world. There aren't enough Americans to assume these jobs.

I don't believe that. I believe as long as you keep a constant supply of cheap labor coming into this country, you keep downward pressure on wages, and the person across the convenience store counter, the person who made the bed

in your hotel room where you stayed last night, the person who works in all of those jobs at the lower end of the economic ladder, they will never, ever see a better income.

It took us nearly 10 years to pass an increase in the minimum wage in this Congress. One of the reasons for that is the same influence in this Chamber that exists in support of this bill. The biggest businesses in this country didn't want an increase in the minimum wage and they blocked it for nearly 10 years. The biggest interests in this country that want to shift jobs overseas, want to continue to bring cheap labor through the back door, and that is the genesis of this kind of legislation.

I am not averse to resolving the status of the 12 million who are here without legal authorization, but I wouldn't do it this way. I certainly wouldn't point to December 31 and say: By the way, if you got here last December 31, good for you, we declare you to be legal. That is a thoughtless approach, not a thoughtful approach, to dealing with these issues.

Mr. President, one final point: It is the case that I come to the floor of the Senate on this issue concerned about a lot of people in this country who work hard and get little for it. We have seen a dramatic increase in the largesse of this country going to the top 1 percent of the income in this country—the top 1 percent, I should say, of the people who earn income in this country have seen dramatic increases in their income. Yet the bottom 20, bottom 40 percent, in many cases, have seen that they have not been able to increase their income at all.

I think an aggressive debate about how we improve the lot of all Americans would be helpful. But we don't improve the lot of Americans who have done the work they wanted to do, to go find a job and get educated, we don't do their bidding and help them by deciding we are going to keep downward pressure on their wages. This is exactly the wrong approach.

I know the Chair and the ranking member are here. They wish to get to the bill. I know there will be many amendments this week. Let me say this. I would be very interested in voting for a piece of legislation that I thought was on the level, that will provide real border security. That is the first and most important need in dealing with immigration. But 2 weeks ago, the very people who wrote this bill said if we don't have temporary workers coming in under the temporary worker program, they will come in illegally anyway.

I think that unmask the fallacy of this bill. There is not border protection here that will work. There has not been a will to enforce it in the past. This legislation will continue to put downward pressure on the income for American workers. That is exactly the wrong thing for us to do.

I yield the floor.

COMPREHENSIVE IMMIGRATION REFORM ACT OF 2007

The PRESIDING OFFICER (Mr. DURBIN). Under the previous order, the Senate will resume consideration of S. 1348, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1348) to provide for comprehensive immigration reform, and for other purposes.

Pending:

Reid (for Kennedy-Specter) amendment No. 1150, in the nature of a substitute.

Grassley-DeMint amendment No. 1166 (to amendment No. 1150), to clarify that the revocation of an alien's visa or other documentation is not subject to judicial review.

Cornyn modified amendment No. 1184 (to amendment No. 1150), to establish a permanent bar for gang members, terrorists, and other criminals.

Dodd-Menendez amendment No. 1199 (to amendment No. 1150), to increase the number of green cards for parents of U.S. citizens, to extend the duration of the new parent visitor visa, and to make penalties imposed on individuals who overstay such visas applicable only to such individuals.

Menendez amendment No. 1194 (to Amendment No. 1150), to modify the deadline for the family backlog reduction.

McConnell amendment No. 1170 (to amendment No. 1150), to amend the Help America Vote Act of 2002 to require individuals voting in person to present photo identification.

Feingold amendment No. 1176 (to amendment No. 1150), 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.

Durbin-Grassley amendment No. 1231 (to amendment No. 1150), to ensure that employers make efforts to recruit American workers.

Sessions amendment No. 1234 (to amendment No. 1150), 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 antipoverty 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.

Sessions amendment No. 1235 (to amendment No. 1150), 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 antipoverty 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.

Lieberman amendment No. 1191 (to amendment No. 1150), to provide safeguards against faulty asylum procedures and to improve conditions of detention.

Cornyn (for Allard) amendment No. 1189 (to amendment No. 1150), to eliminate the preference given to people who entered the United States illegally over people seeking to enter the country legally in the merit-based evaluation system for visas.

Cornyn amendment No. 1250 (to amendment No. 1150), to address documentation of employment and to make an amendment with respect to mandatory disclosure of information.

Salazar (for Clinton) modified amendment No. 1183 (to amendment No. 1150), to reclassify the spouses and minor children of lawful permanent residents as immediate relatives.

Salazar (for Obama-Menendez) amendment No. 1202 (to Amendment No. 1150), to provide a date on which the authority of the section relating to the increasing of American competitiveness through a merit-based evaluation system for immigrants shall be terminated.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, the Senator from Colorado is here. He and I are in the unenviable position on a Monday evening of managing this bill for a little while. Senator SALAZAR will speak on behalf of the majority. I do think it is the majority's desire that no amendments be laid down this evening. We would like to get Members to come to the floor first thing tomorrow morning to begin laying down amendments, and we will work out an order for the amendments, voice votes and rollcall votes, and advise Members of when those will occur tomorrow. We hope to do that later this evening.

We wish to encourage our colleagues to bring their amendments to the floor and get them pending after this evening, so that we can work as much as possible this week in getting the bill concluded.

I have several things I would like to say in response to the Senator from North Dakota.

Let me yield at this point to the Senator from California.

Mr. SALAZAR. Mr. President, as we resume the immigration reform debate in the Senate this week, I am mindful of the fact that we have indeed come a very long way and that this Senate has spent a significant amount of time dealing with the issue of immigration. Last year, we were on the issue of immigration for over a month. This year, through the dialog and discussion of immigration, we have been working on this for the last several months. We were on the bill through last week and will continue to work on it this week. Hopefully, at the end of the week, we will be able to act on comprehensive immigration reform for our country.

As I have often said, from my point of view, this is an issue of national security. It would be an abdication on the part of the Senate in Washington today if we were not able to move forward with comprehensive immigration reform. Since in the days after 9/11, it has become clearer and clearer to us that we need to secure the borders. Our legislation does, in fact, secure the borders.

Secondly, the legislation makes sure that we move forward to enforce the laws of America. The legislation we have proposed is a tough law-and-order piece of legislation that will make sure we have the resources, that the United States doesn't look away from the enforcement of our laws, and that we enforce them.

Third, our legislation also deals with the economic realities that are so much of the immigration debate, the components of the economic realities relating to the guest worker program, as well as the agricultural job workers,