

the 101st Senator. I think his passing from prostate cancer will make a deep indentation and mark on this body and will serve as a signal for action to attack cancer, attack prostate cancer, to find a cure for cancer. His passing leaves a very deep mark on his family, three children, his widow, four grandchildren, and many friends, many of whom are in this body. His record is truly that of an extraordinary jurist and a great American.

I yield the floor to my distinguished colleague from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I am honored to have been here this evening to hear the remarks of Senator SPECTER about his friend Judge Becker. I came to know him and respect him greatly myself. I remember it was Judge Becker this and Judge Becker that as we wrestled with the asbestos litigation. Senator SPECTER, I knew, had such extraordinary respect for him. I guess it probably would be fair to say that in the last year, if there had to be a 101st Senator, he might have been the one we would name because he met time and time again with Senators and groups and interests and people to try to work out an asbestos bill that would be effective.

I came around to the thinking that he was exactly correct and agreed that he and Senator SPECTER had the right approach to that historic piece of legislation.

I am very sad we never could move it forward, but Judge Becker provided a great and extraordinary contribution to the legislation. In getting to know him, talking to him about other judges, he talked about Bill Pryor, a judge from Alabama who was recently confirmed. He knew and studied his record. I came to feel that he was a fine and decent person who loved his country and just didn't want to retire and sit around. He was right in the middle of things to his last days on this Earth.

I thank Senator SPECTER for allowing us the opportunity to get to know him. I hope he will convey to Judge Becker's family our admiration and respect for him.

Mr. SPECTER. Mr. President, if the Senator will yield, I thank him for those very generous comments. I kept Judge Becker fully informed as to our work on the asbestos legislation. The leader has stated his interest in bringing the legislation back to the floor. I continue to lobby our colleagues one by one. I gave Judge Becker a report a few days before his passing, and he said: Let's pass one for the Gipper.

Mr. SESSIONS. I am not surprised. I am not surprised at all that he would be focused on policies that are important for America, even during his suffering.

I thank Senator SPECTER for letting us get to know him.

IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, cloture has been filed on the immigration

legislation, and I suspect cloture will be obtained on the immigration bill. We will have a vote later on in the week. The train is moving. People simply want to do something, and I suppose that is where we are headed.

I wish to make a couple comments about it. First, the difficulty we faced was that the bill which came out of the Judiciary Committee to the floor of the Senate, which was essentially the Kennedy-McCain bill, was not good legislation. In fact, it was so broadly problematic that I thought and said from the beginning there was no way we could file amendments to fix that bill. It was unfixable. It had too many basic problems that had not been evaluated carefully, that should have been thought through carefully before it was ever filed.

Senator SPECTER just left the Chamber. He supports immigration. We started in the Judiciary Committee a few months ago—really just a couple of months ago—and his bill was a lot better than the bill that came out of the Judiciary Committee. The chairman's mark had a number of provisions in it. It did not have an automatic path to citizenship, for example. So we spent several days talking around at the committee. Senator FRIST said he wanted this bill on the floor a certain date. That was a Tuesday. He wanted the bill out of committee. On Monday, we were still talking about various technical, complex legal issues and debating them and worrying about law enforcement issues, and, boom, the Kennedy-McCain bill is offered as a substitute to the Specter bill in committee. With about an hour's debate, this several-hundred page bill became the bill in committee.

A few minutes later with very little debate, the agriculture jobs part was added to the bill, and that is what came out of committee. It was incredibly broad, huge in its increase in legal immigration into the country, as well as I think inadequate enforcement and overreaching in amnesty and a lot of other issues.

So here we are trying to pass this legislation. I guess we have done it now. I spent some time pointing out some of the difficulties, and I will continue to do so. I will say this: The legislation that will hit the floor presumably this week and will be up for a vote should not be passed by us.

I have four amendments on which I would like to have votes. I know what is going to happen. Cloture has been filed, and I will be lucky to get one vote on the four amendments I will be filing tonight, to get legislative council to approve them and worry about germaneness and a lot of other things, but I am ready to file these amendments and will file them.

I want to talk about those amendments, and I ask the American people and my colleagues to think about some of the issues in these four amendments and ask: Should not, when we set about establishing a new immigration policy

for America, which has consistently been a 20-year policy—we did one in the sixties and we did another one in 1986. Here we are 20 years later in 2006 passing another one. We are going to pass a bill that could set policy for quite some time. It ought to be a good bill. It should be a bill of which we are proud.

It should be a piece of legislation that considers the relevant issues facing our country and tries to fairly and decently and justly treat people who want to come here in a legitimate way, but fundamentally what we should be asking ourselves is how many people this country can accept and what kind of skill levels should they have, what expectation do we have that they will be successful when they come to this country and be able to take advantage of the opportunities that are here, to be able to pay taxes to the Government more than they draw from the Government, and those kinds of questions. That is what we are about. I submit that the legislation fails in that regard.

I have four amendments. One is a numerical limit amendment. It would cap the immigration increases caused by the bill to the numbers CBO and the White House tell us to expect, 7 million under amnesties and 8 million in new immigrations in the next 10 years. We had somewhat of a dispute. This bill is 600 pages. It is exceedingly complicated. It has a host of different categories. It has caps that apply and numbers that don't apply to caps and are exempted from caps. It is hard to figure out how many people might actually come.

The Heritage Foundation and my staff have concluded that we are looking at four times the current rate of immigration. It was 5 to 10 times the current rate of immigration until we discussed these huge numbers at a press conference last Monday, and Tuesday we adopted an amendment to knock that down. We think the immigration in that country will range from 73 million to 93 million people over the next 20 years. That represents approximately four times the amount we now allow in, which is a little less than 1 million a year, so it will be a little less than 19 million over 20 years, five times current rate, four times current rate at a minimum, we think.

The administration and CBO say some of those numbers were not good enough, and they came up with some figures.

That amendment would be designed to say: OK, we will look at your numbers and see if we can just make that the law so it won't be confusing. At least we will know what the numbers are. If the administration numbers are correct and the CBO numbers are correct, they are too high, way too high, but at least we would know what they are. At least we wouldn't have to worry that they might go and explode out of reason.

Another amendment we will be offering is the amendment to eliminate the

earned income tax credit for illegal aliens and those who adjust status under this bill. Once illegal aliens become citizens, they will once again be eligible for the earned income tax credit, which is nothing more than a Government payment. It is a Government subsidy to low wage American workers, and it is very large. I will talk about that in a minute.

Chain migration. We will offer an amendment that would eliminate certain chain migration provisions in this bill. If we want to admit more skill-based immigrants, we must reduce the right of immigrants to bring in certain categories of relatives automatically and they have an automatic right on the list to be able to come in. We need to make that choice. Why is this Senate dodging that issue? I don't know. Other countries, as I have noted just a few moments ago, are going in exactly the opposite direction. They are focusing less on some sort of connections and more on work skills.

Then I will offer an amendment that deals with green cards for future flow H-2C workers. This would be an amendment to make sure that H-2C workers who come in the future—not those given amnesty under this bill—will be subject to the annual numerical limits on employment-based green cards when they apply. There is some dispute about that. We were told originally: Oh, yes, they apply, the caps apply, these limits apply. And then we read the legislation carefully, and under that provision, it says: If you qualify for a green card, the Secretary shall give you the green card. And it appears that “shall” means you will get it whether the caps apply or not, or whether the caps would apply.

I shared earlier thoughts about the large numbers and the CBO numbers in that amendment. I have discussed it. I would like to take a few moments to discuss the earned income tax credit limit.

This amendment would do two things. One, it would clarify existing law that makes illegal aliens ineligible to claim the earned income tax credit and postpones the ability of illegal aliens who are given status by this bill to claim the earned income tax credit until they become citizens. So the amendment is clearly a moneysaver. It is also a way to make sure that illegal aliens are more likely to contribute more in taxes than they are taking out. The inability to claim the earned income tax credit should be one of the things added to the list of items illegal aliens will have to agree to do in order to receive the benefits of the amnesties contained in title VI of the bill. Other items on the list include a background check, a medical check, and payment of back taxes, and being required to not claim the EITC until the illegal alien becomes a citizen is a natural addition to that list.

The EITC tax credit was established in 1975. It is a refundable tax credit for families that can offset income taxes

or provide a tax credit directly to the family. According to IRS data for 2003, 22 million households received \$39 billion in EITC payments, an average of \$1,782 per household or \$2,100 for any families with children.

Now, let me just repeat that. This is a huge Government program. And most of the low-income people don't owe any taxes. If you are making below \$20,000 a year, you are unlikely to pay any income taxes. If you have children, you certainly are not going to be paying any income taxes. So how do you get a tax credit if you don't pay any taxes? Well, they send you a check. That is what they do. You file your tax return at the end of the year, and if you have worked and your income was lower, they send you a check. We looked at the numbers. If you are a minimum wage worker and you make around \$14,000 a year, that family would receive a check, a subsidy from the Government of 4,700-and-some-odd dollars.

So this was designed to encourage Americans to work. It was a plan to make work more attractive for people on welfare. Do you remember all that talk: Well, you can make more money on welfare than you make working. So a brilliant Congress, a number of years ago, came up with this idea that we would just give people extra money if they would work. It will be less than welfare, so why not do it? OK. That is what we did. But it was not designed to reward illegal aliens for coming into the country illegally, for heaven's sake. But that is what this bill does. As soon as they get that regularized status, they get it.

Now, this would allow them to get the earned income tax credit if they become a citizen but not before. That is not required of us. It is not required of the Senate that we should provide a \$2,000 bonus check to individuals who work in our country, who seem to be happy to get the wages they are being paid, a \$2,000 bonus check from Uncle Sam as a result and as an incentive for coming into the country illegally. That is a really big issue.

To qualify for the credit, married couples filing jointly who earn certain sums of money would qualify. For example, a single mother with two children, the earned income tax credit provides a tax credit for 40 percent of every dollar earned, up to \$11,340. A family that earned between \$11,000 and \$14,000 received a maximum credit of \$4,536, not \$4,700. After the floor of \$14,810 is reached, the credit is slowly reduced until the income cap of \$36,000 is reached. It is only then that it is eliminated. For 2006, the maximum amount of the earned income tax credit is \$4,556 for a worker supporting two kids and \$2,747 for a worker with one child, \$4,012 for a child of eligible employees and adjusted for inflation.

Now, a Social Security number is required in order to reap the benefits of this tax credit, and those applying must have a valid Social Security number and be a resident alien. Valid So-

cial Security numbers are given out to all legally working people in the United States—legally working aliens. Legal permanent residents and citizens have Social Security numbers.

Under the tax law, resident aliens are citizens of a foreign country who are either lawful permanent residents of the United States or have been physically present in the country for at least a certain specified amount of time during the past 3 years. They are taxed in the same manner as U.S. citizens, and thus they qualify for the refundable tax credits.

According to the IRS, under the residency rules of the Tax Code, any alien who is a nonresident alien—an alien will become a resident alien in one of three ways: No. 1, by being admitted to the United States as or changing in status to a lawful permanent resident under the immigration laws; No. 2, by passing a substantial presence test, a numerical formula which measures days of presence in the United States; or No. 3, by making what is called the first year election, a numerical formula under which an alien may pass the substantial presence test 1 year earlier than under the normal rules.

Under these rules, legally present work-authorized aliens who pass the substantial presence test will be treated, for tax purposes, as resident aliens. They are able, then, to claim EITC. Under these rules, even an undocumented illegal alien who passes the substantial presence test will be treated for tax purposes as a resident alien. If they are using a fraudulent Social Security number, they can apply for the EITC. If they are using a legal IDIF number, they cannot apply.

Under S. 2611, the bill before us today, if illegal aliens pay their taxes legally today, they do so with an individual taxpayer identification number they are given for tax purposes. The ITIN cannot currently be used to get the EITC because a Social Security number is required to claim the EITC. They are not eligible to get a Social Security number.

So under S. 2611, illegal aliens will become legally present and work authorized immediately upon passage of the act. They would then be given Social Security numbers and will pass the substantial presence test, making them automatically, at once, eligible to claim the very generous benefits of the EITC.

The Congressional Budget Office has looked at this and tried to figure out what the cost would be. American taxpayers would pay this. This would be a new cost on the taxpayers, created by the very bill that is before us today. Under the current legislation, in S. 2611 as initially offered and came out of the Judiciary Committee, the preliminary CBO score revealed the following about directed spending contained in the compromise. They say this:

CBO and Joint Tax Committee estimate that direct spending outlays would total about \$8 billion for the first 5 years, 2007

through 2011, and \$27 billion for the first 10 years. Most of those costs are for the earned-income tax credit and for Medicaid and food stamp programs. Costs in subsequent decades would be greater than in this first 10-year period.

“Costs in further decades would be greater than the first decade.” Mr. Robert Rector of the Heritage Foundation has worked on numbers like this. He was the architect of the welfare reform. He said to us recently, a group of Senators: Senators, this is how this Government gets out of control. This is how things go wrong. You don’t start out to pass a bill that is going to cost \$29 billion. You don’t think it through. You pass the legislation, and a new Congress 20 years from now wakes up and says: How did this ever happen? We don’t have the money to pay for this. We made this obligation way long ago. How are we going to get out of it? Maybe we should cut back.

Then all the protests start because you can never cut a program, it seems.

He warned us about that. That is exactly what is happening with this particular provision in the legislation.

Once the Hagel-Martinez bill became S. 2611, I, along with five other Senators, asked CBO to provide a comprehensive score so we would know how much this amnesty provision would cost the taxpayers. The final CBO score estimates that, of the 2007–2016 period, 10 years, this bill would increase outlays for refunding tax credits \$29.4 billion, the largest direct expenditure in the bill—\$29 billion.

I had a conversation a few moments ago with a fine Senator who is concerned about spending. He was sincerely asking me about the cost of enforcement at the border and at the workplace in our country. Where are we going to get this money so we are not just putting it to our grandchildren? I don’t know how much it is going to cost. We spend \$40 billion now on homeland security every year. Maybe this is going to cost \$5 or \$6 billion. A lot of it will be one-time costs, setting up computer systems and border barriers and in purchases of equipment. A lot of that will be repetitive, like border patrol and bed spaces or removing people from the country. But it will not exceed \$29 billion, trust me. It will be a fraction of that.

Mr. President, \$29 billion is a lot of money under any circumstances, I have to tell you. You can buy three aircraft carriers for \$29 billion. They have 4,000 people on them. Mr. President, \$29.4 billion will be added. These refundable tax credits will include EITC and child tax credits, where most of the cost is clearly attributable to the EITC. To clarify, the credit first reduces an individual’s tax liability. If the credit exceeds the tax liability, the excess is sent to the individual in the form of a check from Uncle Sam. These refunds are classified as outlays in the Federal budget. They are classified as outlays. They are not classified as tax deductions because they are, in fact, outlays.

They are, in fact, payments from Uncle Sam sent in the form of a check to individual Americans.

In conclusion, I would note the bill increases the amount of refundable tax credits by increasing the number of resident aliens, people who are illegal today, converted to resident aliens. Although this bill grants amnesty to those who came illegally, it is not required, in my view, that they be absolved from all consequences of coming here illegally nor be provided every benefit we provide to those who come legally. Certainly nothing is strange or unusual in that.

If we decide to give certain benefits to people who came here illegally and not give them to others, what is wrong with that? For example, we are going to allow them to stay in the country. At least overwhelmingly, they will be able to stay in the country. We are going to forgive them for being prosecuted. Do we have to then also reward them for their illegal activity by providing a sizeable check every year from the Federal Government? No, you don’t have to do that. If they become a citizen one day, fine, they are entitled to the same benefits of every other American citizen. But not in the interim.

My amendment clarifies existing law to make sure that illegal aliens—existing law—who pass the substantial presence test cannot use fraudulent Social Security numbers to claim the earned-income tax credit, and it postpones the ability of illegal aliens at a given status, some sort of legal status by the bill, to claim the earned-income tax credit until they become citizens. I believe that is the right approach. It is unthinkable that we would provide this kind of incentive when it really has no necessity.

Mr. President, I would like to share some thoughts about another amendment. It deals with chain migration. It would reduce chain migration by eliminating the provisions in the Immigration and Nationality Act that allow parents and adult brothers and sisters to immigrate to the United States based solely on their family connections. Chain migration refers to the mechanism by which foreign nationals have the right to immigrate to the United States by virtue of one single characteristic: they are related to someone who previously immigrated to the United States. Chain migration does not refer to spouses and dependent children of immigrants. That does not encompass wives and children. Nothing in this amendment would say that a green card holder, a legal permanent resident or citizen would not be able to bring spouses and children. That will remain the law under this amendment. No changes are made whatsoever. But for immigrants who become citizens, chain migration refers to their ability to bring in parents, brothers and sisters, and spouses, and children of their brothers and sisters.

You get to bring in your parents, your brothers and sisters, and the

spouses and children of your brothers and sisters. People who immigrate based on this family relationship are in no way evaluated for their skill levels, their age, their English proficiency, or if they are needed by the American economy whatever skills they have. How they will benefit the United States is completely irrelevant to this process. The only relevant characteristic is their family connection.

Until the late 1950s, American family immigration policy focused solely on the nuclear family; only spouses and minor dependent children of the immigrant were allowed to immigrate solely on their family connection.

In the late 1950s, family migration policies of the United States began to extend beyond children and spouses. Immigrants were allowed to bring in their adult unmarried children. You are here, you can bring in adult children from that foreign country. But they are unmarried, and you can bring them. Immigrants who became citizens were allowed to bring in their married adult children and their parents and their brothers and sisters, parents and brothers and sisters, and adult children can bring in their own spouse and their children. If the extended spouse has parents and siblings, they, too, can get in line to immigrate to the United States based solely on the family connection.

To show you a little bit how this works—it sounds a bit complicated. By viewing the charts behind me, maybe we can make this a little bit clearer.

Here are the people in green. That means they possess a green card. You can get green cards in any number of ways if you come in under the language of this legislation that is so inaccurate. Let me say it that way.

Under the rubric they call a temporary guest worker, the first day you are here, your employer can apply for a green card, and within a month presumably you will get that green card. Once you become a green card holder, you become green on that chart, but you also became a permanent resident of the United States, not a citizen.

What happens when you become a permanent resident? You can immediately bring in your spouse and your children, maybe half a dozen children. You can bring in all of those children.

One thing about this amnesty is this: There are a lot of people who are working in our country today who have not brought their families. They have not been that interested in bringing their wives and children here, but under the bill, we give them legal status. We allow them to become a green card holder in short order, and then they are automatically allowed to bring in their spouses and children.

Five years after they get the green card, they can apply to be a citizen. So 5 years, they become a citizen. Here is the family now, this group here, green. They come over. This is the nuclear family: Father, mother, and two children. The mother is now legal. She can

bring in her parents; he can bring in his parents.

What about brothers and sisters? Each one gets to bring in their brothers, and then they can bring in their wife and their children.

This lady has one brother. She allows that brother to come in as a relative within the category, and then he can bring his wife and his children.

What about her? She probably has brothers and sisters, too. Once she gets in and gets in the system, she can bring her brothers and sisters and her parents into the system. The father here can bring in his brother or sister, and she can bring in her husband and her two children, or however many they have.

I believe somebody detailed once on the floor of the Senate that one family brought in 85 under this system. It is not at all impossible to imagine. Can you see how it can happen? One person comes in, and as a result of the family connections he brought in 85. I think that was Senator Allen Simpson in the debate 20 years ago in 1986.

It is a remarkable story, how the nuclear family, 5 years after they become citizens, can bring in their parents.

What can the parents do? The parents can bring in their parents, if they are still alive. They really can. Maybe they are 90. They can bring in their brothers and sisters. All the uncles can come in through the parents. The wife can bring in brothers and sisters. Then the wife brings in her brother, who brings in his wife and two children, and she brings in her parents. It just goes on and on.

We would like to do the right thing. We would like to be generous. Someone made the argument, I guess at one point in time it seemed like a good idea to have that policy. But every now and then, when we review a bill once in 20 years, you would think we would have discussed this. It has not been discussed, to my knowledge. Not a single

Senator has discussed it on the floor of the Senate, to my knowledge. No amendment has been offered on it. It was not discussed, I don't think, but maybe just in passing in some of the Judiciary Committee debate of which I was a member. It is a serious matter.

Obviously, we ought to do a better job of thinking through who should come to America. I keep thinking about a valedictorian in the Dominican Republic, some small town in Colombia, Peru, or Brazil, top of his class, learned English, speaks it well, and wanting to come to the United States of America. We have a limited number of people who come. He can never get in because grandparents, great-grandparents, brothers and sisters and grand-nephews are coming in under migration, crowding those numbers out. With regard to all of these people, there is no requirement of any educational level, no requirement of any job skills or any other capability.

I think we need to make progress. There is no reason in the world we shouldn't be discussing that in an effective way. Over the past 5 years, approximately 950,000—almost 1 million—extended family members immigrated to the United States and immediately received a green card—lawful permanent resident who will never have to leave.

The numbers equal about 20 percent of all aliens who immigrated to the United States in the last 5 years. Immigration, therefore, makes up a significant portion of family-based immigration.

If we want to discuss the percentage of family-based immigration and increase the percentage of skill-based, it makes sense that we would deal with this issue. I think this amendment needs to be considered. I am disappointed that we really have not had time, with cloture being filed we will not have time to seriously discuss that.

Let's talk about one more issue. I don't mind saying I cannot be sure that

we have dealt in years with a bill more important than this one. Mr. Rector of the Heritage Foundation said this bill is so significant it compares with the passage of Social Security and Medicare, in his opinion. He has been a student of these things for several decades. This is a huge piece of legislation.

What has happened, a group has gotten together. They have reached a compromise. We were told flatout the other night that one of the amendments could not be accepted because the people who put the compromise together would not accept it. They would not accept the amendment because they said it violated the compromise, the compromise would fall apart, and we could not amend it in that fashion. And it failed. The machinery around here is working.

We will have an opportunity to talk about this additional issue tomorrow. I will plan to do that then. I am proud at least to have had the opportunity to talk about this. The fact is, we are not going to be able to vote on this. We will be lucky to get a vote on one of them, and then this will be voted on. I assume it will be passed and sent to the House of Representatives. If we are fortunate, the House of Representatives will say it has to be better; we will not accept it; we are going to insist on that before we pass it.

Who knows what will happen in the political processes of our country?

ADJOURNMENT UNTIL 9:45 A.M.
TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:22 p.m., adjourned until Tuesday, May 23, 2006, at 9:45 a.m.