recession. I have said it before, and I will say it again. Mark Zandi, JOHN MCCAIN's chief economic adviser, has said that for every $1 of unemployment money we send to the States, it creates $1.61.

We passed other good bills too—for example, the HIRE Act. That was very good for business. I saw the fruits of that legislation in Nevada a week ago last Saturday. I went to a restaurant. All 24 people working there took advantage of the HIRE Act. What part of that bill did they take advantage of? They hired everyone who had been out of work for at least 60 days. They hired them for at least 30 hours a week, and they didn't have to pay the money for withholding. At the end of the year, they will get a $1,000 tax credit for every one of those employees. They will get $24,000 in tax credits for that small business.

The HIRE Act did other things. It extended the highway bill for a year, saving 1 million jobs. It also allowed those small businesses to write off purchases up to $250,000 that they previously had to depreciate. It added money to the Build America Bonds, which has worked so well across the country.

I wish we could have done more. I wish our small business jobs bill, which we are working on now, could have passed when we brought it up the first time. It would create a lot of jobs. The Presiding Officer is one of those who have worked hard on that legislation. I think we see the light at the end of the tunnel. We should be able to get that done this year.

Having said all that, we have a lot more to do, and we acknowledge that. Unfortunately, most of what we have accomplished has taken longer than it should have. The minority has made it clear it will say no, no matter the question, no matter who suffers, and no matter how much of the American people's time they waste. These procedural votes we have gone through have been unnecessary. They have been only to kill time. At every turn, we have met more unprecedented and unnecessary delays from our friends on the other side.

Nowhere was that more painfully plain than the refusal to work with us last month on a bill that would have put half a million more hard-working Americans to work in small businesses. It would have helped those businesses get capital and get tax cuts and would have allowed them to hire and to grow. Karen Mills, the head of the Small Business Administration, has been traveling the country the last 2 weeks, alerting small businesses that we need to pass this bill so she can do some things to help small businesses. Right now, there is no money to do that.

I am very sad to report that this has not been the most bipartisan work period in Senate history. Quite the contrary. But it is still our responsibility to do right by our constituents. We still need to do that, and we still have time to do that, and I hope we can start today.

I hope we can come together and show the country that all Senators have at least one basic belief: we have to do all we can to make sure our children have teachers in the classrooms and police officers and firefighters on the streets. That is what the vote tonight at quarter to 6 is all about. We will vote in a few hours on that amendment that will keep teachers, firefighters, and policemen from being laid off, and it does that in a fiscally responsible way. It protects jobs while cutting spending elsewhere. Every penny spent with the vote at 5:45 will be paid for.

First, let's talk about teachers. The stimulus we passed last year kept hundreds of thousands of educators from losing their jobs. But as States continue to sacrifice education funding, school districts in Nevada and all across the country face the very real prospect of having to lay off thousands of teachers just weeks before the school year begins. Twelve hundred jobs are at risk in Nevada. Nearly twice as many teachers are at risk in Kentucky. In Kentucky, as many as 3,000 could lose their jobs as teachers. In California and Texas, those highly populated States, the number of jobs reaches over 10,000 for sure. All told, as many as 140,000 teachers could lose their jobs across our country. That would be tragic, especially considering we have the ability to prevent it.

Today's amendment would essentially extend the Recovery Act support that has worked so well—for teachers and for FMAP. States such as Nevada would get more than $80 million to help keep teachers in the classroom, and every penny would be offset by cutting spending elsewhere. It is fully paid for and doesn't interfere at all with the Department of Education programs—for example, Race to the Top—or funding for charter schools or ongoing education reform.

But what is at stake today is not just teachers. They are not the only ones who lose out when they lose their jobs. We also need to think about the scores of students they teach, mentor, help, and inspire. When we vote to save teachers' jobs, we are also voting to save our students' future.

Second, let's talk about public safety. The Medicaid Program ensures that the poorest of the poor in our communities can afford to see a doctor when they are sick. We know how States have been hammered with people moving into the need for Medicaid—people losing their jobs. It has been so necessary that these Medicaid Programs include more people. But the program does a lot more than just that. It benefits everyone by stimulating the economy. It is a source of money that is spent all over a community—in doctors' offices, hospitals, and other places. When the States get this money, it is fungible and they can use it for other things.

But just as we see in education, cash-strapped States are looking for places to save money. If they don't get the help they are counting on, if States don't get the money for which they budgeted, they are going to cut critical services such as police officers and teachers and firefighters. Nevada stands to lose as much as $80 million. Again, Kentucky stands to lose twice as much, and California and New York stand to lose $2 billion each. Across the country, $16 billion is at stake.

That is what is in this simple legislation before us—simple but extremely important. But let's be clear. This vote, like the principle behind it, is simple. It is about saving jobs—not just to keep unemployment from growing but because of how important those jobs are in our society. When our children go back to school at the end of this summer, there should be a teacher standing in front of the classroom. Without this bill, there might not be. Our teachers strengthen our future, and the least we can do is secure theirs.

Another thing: This money is not going to go to a State unless the Governor asks for the money. That is what the legislation says.

When a crime is committed in our communities or a fire breaks out in a family's home, we all expect enough police officers and firefighters to be on call. Without this bill, they might not even be on the job. They always look out for us. The least we can do is look out for them.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Arizona.

IMMIGRATION REFORM

Mr. KYL. Mr. President, I would like to speak for a few moments about a memorandum that was received in the offices of Senator CHARLES GRASSLEY, pursuant to a request of the Department of Homeland Security, which has, unfortunately, raised a lot of questions about the administration's commitment to enforcing congressional law. It is undated, but the memorandum is 11 pages. It is on the stationery of U.S. Citizenship and Immigration Services. It is a memorandum to Alejandro N. Mayorkas, the Director, from four individuals within the USCIS. The subject matter is described as ''Administrative Alternatives to Comprehensive Immigration Reform.''

After reading these 11 pages, I have to ask the question whether this administration, frustrated by the fact

that Congress has not acted to pass comprehensive immigration reform, is now considering an end-around the Congress by administrative action through reinterpretations, definitions, rules, and regulations, changing guidelines and the like—in other words, administrative actions to accomplish what cannot be accomplished because Congress is in no mood right now to adopt comprehensive immigration reform—in effect, to use the phrase in the memorandum, a ''nonlegislative version of amnesty.''

I hope this memorandum, which is designated a ''draft,'' will be thoroughly explained by the administration and will be disavowed in terms of an intention to do an end run around Congress. I am hopeful that some hearings can be held so the authors of the memorandum, or the Director, can explain why this memorandum would be written in the first place and what they intend to do about it.

The purpose of the memorandum is described as follows:

This memorandum offers administrative relief options—

To, among other things—

reduce the threat of removal for certain individuals present in the United States without authorization.

In other words, illegal aliens.

The summary of the memo reads:

In the absence of comprehensive Immigration Reform, USCIS can extend benefits and/or protections to many individuals and groups by issuing new guidance and regulations, exercising discretion with regard to parole-in-place, deferred action and the issuance of Notices to Appear and adopting significant process improvements.

Then they go on to summarize a variety of changes by which they can accomplish these purposes. Just to quote a few here: ''USCIS could reinterpret two 1990 General Counsel Opinions. . . .'' They could change the definition of ''dual intent.'' They could modify removal procedures in the public interest—strategically, they note. They could ''issue guidance or a regulation lessening the 'extreme hardship' standard.''

I quote from the ''Options'' part of the memo:

The following options—used alone or in combination—have the potential to result in meaningful immigration reform absent legislative action.

Indeed, they do. This would be a way for the bureaucrats within the administration to change Congress's intent by redefining terms, issuing guidelines, rules and regulations, and practices which would result in the same thing they would like to achieve in the form of comprehensive immigration reform, including, among other things, amnesty for illegal immigrants. But they could do all of this without Congress ever having passed a single law.

Just to go through some of the other things they talk about here, they could allow certain TPS applicants who entered without inspection—that means they entered the country illegally—to adjust their status. They could expand the meaning of ''urgent humanitarian reasons.'' One of the things they could—and I will quote it here:

To address these issues, OP&S is currently examining the feasibility of policy options so that individuals would not be deemed to have triggered the bar upon departure with prior authorization from DHS. These options include possibilities reexamining past interpretation of terms such as 'departure,' and 'seeking admission again.' ''

I know these are terms we can find in the dictionary, but these creative bureaucrats are in effect saying: We can define these terms in a more creative way and therefore allow a lot more illegal immigrants to stay in the country indefinitely.

They say:

To increase the number of individuals applying for waivers and improve their chances of receiving them, CIS could issue guidance or regulation specifying a lower evidentiary standard for extreme hardship.

If you don't like the law, you simply lower the bar. We could do that, they say, and allow more people to stay here.

They do note a couple of problems in doing these things. On page 10, they say:

While it's theoretically possible to grant deferred action to an unrestricted number of unlawfully present individuals, doing so would likely be controversial, not to mention expensive.

Well, they are right about that; it would be controversial indeed. One of the reasons they note is in the final page of the memorandum, when they say—and I am quoting again:

Rather than making deferred action widely available to hundreds of thousands and as a nonlegislative version of amnesty, USCIS could tailor the use of this discretionary option for particular groups such as individuals who would be eligible for relief under the Dream Act, an estimated 50,000; or under section 249 of the act, registry, who have resided in the U.S. since 1996; or, as of a different date, designed to move forward the registry provision now limited to entries before January 1, 1972.

In other words, pick a date and say that everyone after that date can stay in the United States legally even though they gained entry illegally.

Mr. President, this is highly disturbing. Because what you have is the administration explaining that well, A, this is only a draft; and, B, we have not adopted any of these recommendations yet; and, C, we probably would not do it for everyone who is here illegally.

Well, I would hope not, but I would hope the administration would be a little more forthcoming about its intentions. This is what fosters suspicion among the American people that the administration is not serious about enforcing our laws and that they want to try to accomplish an end run around the Congress by administrative fiat.

It is the kind of situation that fosters a lack of confidence in the transparency of this administration, which was supposed to be the most transparent in history, when we have to find out only through a process of a member of the Judiciary Committee literally forcing them to cough up this memo of what they are thinking about.

It is obvious from the language of the memo that a great deal of thought has been put into this, and it has gone throughout the Department of Homeland Security, when they talk about different groups having studied different options. This is the kind of thing that causes people to wonder about the administration's commitment to enforcing the law.

Finally, it is one of those things which ironically—or paradoxically—has caused people to back away from the notion of comprehensive immigration reform, because of the notion that the administration has been less than anxious to secure the border and enforce the law and, as was told to me on one occasion, the theory being that if we ever secure the border, then there will be less impetus to pass comprehensive immigration reform.

If your goal is comprehensive immigration reform and amnesty or you call it whatever term you want to there, letting people stay in this country who came here illegally, if that is your goal, and it does not appear the Congress is going to act on that anytime soon, then you resort to the tactics that are employed here by these employees at DHS. Let's figure out ways by reinterpreting commonly used phrases, by issuing new guidelines, by changing 1990 legal opinions, by other means that can be accomplished administratively, we will accomplish, in their words, a nonlegislative version of amnesty for at least specific groups of people, depending upon what date you want to use or what specific phraseology you want to use. This is why the American people do not trust Washington in general and why they have grave reservations about this administration's commitment to enforcing the law relating to illegal immigration.

A final point I would like to make is the decision that was rendered by the Federal district judge in Arizona on the now infamous Arizona law. I was troubled by one of the aspects of it because it reflected an argument the U.S. lawyers presented in court, which, in effect, was Arizona has no business trying to help the Federal Government enforce our immigration laws, among other reasons, because the Federal Government has decided—bear in mind, this is the executive branch of the Federal Government, not Congress, but this administration has decided to enforce the law selectively; that is to say, using its discretion; that is to say, not always enforcing it.

What would be some of the reasons you would not enforce it? Well, one of the main arguments they used—and the judge referred to this—is that we have to keep in mind the sensitivities of other governments—what do they think about our enforcement of our law; that there are legitimate foreign policy reasons why the administration might not want to enforce a congressionally enacted statute.

I find this to be remarkable. Of course, in dealings with foreign nations, every State Department, every President has to be careful to try to win friends and influence people. But I do not think that you make a deliberate decision not to enforce a law that Congress has passed, which the American people clearly want enforced, simply because people in the Government of Mexico are unhappy if the law is enforced. That is obviously the country we are talking about because the Mexican Government itself intervened in the litigation to make exactly that point.

So, again, is it any wonder the American people wonder about this administration's commitment to enforcing the law, when one of the key arguments it raises in the litigation is that we do not want to have to be under a standard of complete enforcement of the law because we have some other considerations we need to take into account.

The judge says: I will agree with that and therefore say that the State of Arizona cannot insist on complete enforcement of the law because the Federal Government may have reasons not to totally enforce it. That is a troubling proposition to me, among other things, because Congress has not interpreted the law in any way other than we wrote it; namely, enforce it.

That brings up the final point. Congress passed, as part of our immigration laws, a requirement that the Department of Homeland Security respond to inquiries by Federal, State, and local officials who call in about the status of individuals whom they have stopped, for example, at a traffic stop or who they may have reason to believe are in the country illegally, and they respond to about 1 million of those inquiries a year. They have 152 employees to do it.

The Federal Government actually argued in the case, believe it or not, that the reason Arizona had to butt out and not try to help the Federal Government enforce the law was because it would result in a lot more inquiries about the legal status of people and they could not handle anymore inquiries; their capacity was only 1½ million a year; they are up to 1 million; and they only have 152 people in this unit responding to these inquiries, so they could not possibly accept this burden.

As a result, the judge ruled that the U.S. Government would be harmed in such a way that she had to grant an injunction. It would be irreparably harmed as a result of Arizona enforcing the statue. The question, obviously, occurred to me: Well, why do we not hire a few more people to answer these inquiries? I calculated it might cost about $15 million to double the number of people, and certainly this law is not going to double the number of inquiries. But say you doubled the number of people to 300 instead of 150. That solves that problem.

In other words, people in the U.S. Government, under this administration, seem to be looking for reasons not to enforce a law. That is wrong. We take an oath to uphold the law. When Congress passes a law, we intend it to be enforced. Yet you have this administration, this Justice Department, making arguments as to why the law cannot or should not be completely enforced. Is it any wonder my fellow citizens in Arizona and others around the country want someone to do what they can to try to enforce the law? If the U.S. Government will not do it, then maybe we should start to get our States involved. I agree, it is better to have the U.S. Government do it. It should be our obligation.

But if our own administration is not willing to do it to the letter of the law, and if they are willing to abide by employees who spend their time writing memos such as this, to show how to get around the law, to grant a ''nonlegislative version of amnesty,'' then clearly something is wrong, and I think Congress has to speak up.

If you reward illegality, you are going to get more of it. When this administration tries to find ways to keep people in the country who came here illegally by virtue of redefinitions and guidelines and changing opinions that go back to 1990, it suggests to me we are simply inviting more illegality, and we should not do that.

So I am going to join my colleagues on the Judiciary Committee in asking for hearings on this matter, to find out why this is being done; hopefully, to confirm that they do not intend to move forward with this but, in any event, to try to reestablish with the American people that their government in Washington does represent them, it does want to carry out their intent expressed in properly enacted legislative laws, and that, once and for all, we can make a commitment in this country that the American people have been asking for for a long time now that when it comes to our immigration laws, the Federal Government is committed to enforcing them.

Until that is done, we are not going to make progress on all the other issues relating to immigration reform that so many people have asked for. As a result, we would do well to examine this issue carefully and then reach the appropriate conclusions. If we need more money, if we need more personnel, $15 to $20 million is a drop in the bucket of this administration's $3 trillion budget. We can clearly afford to hire a few more people to do the job, if that is the government's real concern about the immigration laws; otherwise, we should have these employees come and explain why they think it is within their purview to get around the law, in the absence of congressional action.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. I ask unanimous consent to speak for 15 minutes as in morning business.

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

ENERGY POLICY

Mr. DORGAN. Mr. President, I wished to talk for a moment on the subject of energy policy.

This week is our last week prior to the August break, and it is a very important week. We will likely see on the floor of the Senate the Clean Energy Jobs and Oil Company Accountability Act that was brought to the floor by the majority leader, Senator REID.

I wish to commend him for what he has proposed. He has proposed a piece of legislation that includes a number of very important issues, including issues that deal with the oil spill and oil companies' accountability for the Deepwater Horizon spill, issues that will enhance the use of natural gas in our truck fleet in this country, provisions for electric vehicles and infrastructure, provisions that will provide substantial consumer savings in the HOME Star Program, and provisions to protect the environment and create substantial new jobs.

But I wished to also say that this is but a first chapter of the book of energy changes that are essential to this country's future. I wished to chat about why it is important this week to start a process that I hope will last through September, and perhaps through the lame duck session as well. I hope there will be opportunities that will allow us to achieve the objectives we sought beginning last year, when we spent 12 weeks in the Senate Energy Committee trying to write an energy bill and finally reported out a bipartisan energy bill from that committee.

That committee product includes a lot of very important things. First and foremost, people might say: Well, what is the urgency?

Why are we concerned about energy? We have people exploring the globe trying to figure out where they can punch a hole in the planet and suck oil and gas out. We have been pretty successful in doing that. Each day we take about 85 million barrels of oil out of the Earth. Each day about one-fourth needs to come to the United States because that is our prodigious appetite for oil. Some call it an addiction. Whatever it is found around the globe, one-fourth of all the oil that is extracted every day has to be delivered to this little place called the United States. Seventy percent of all the oil we use, from foreign oil to domestically produced oil, is used in the transportation fleet.