

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 13, 2005, at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a hearing on "Less Faith in Judicial Credit: Are Federal and State Marriage Protection Initiatives Vulnerable to Judicial Activism?" for Wednesday, April 13, 2005 at 2 p.m. in SD-226.

Witness List: Mr. Lynn Wardle, Professor of Law, Brigham Young University, J. Reuben Clark Law School, Provo, UT; Mr. Gerard Bradley, Professor of Law, University of Notre Dame Law School, Notre Dame, IN.; and Dr. Kathleen Moltz, Assistant Professor, Wayne State University School of Medicine, Detroit, MI.

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

SUBCOMMITTEE ON PERSONNEL

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel be authorized to meet during the session of the Senate on April 13, 2005, at 1:30 p.m., in open session to receive testimony on active and reserve military and civilian personnel programs, in review of the defense authorization request for fiscal year 2006.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on April 13, 2005, at 10 a.m., in open session to receive testimony on high risk areas in the management of the Department of Defense in review of the defense authorization request for fiscal year 2006.

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

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on S. 714—Junk Fax Prevention Act, on Wednesday, April 13, 2005, at 2:30 p.m.

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

PRIVILEGE OF THE FLOOR

Mrs. MURRAY. Mr. President, I ask unanimous consent that Linda

Jantzen, a Defense fellow in the office of Senator MIKULSKI, be granted floor privileges during the consideration of H.R. 1268, the emergency supplemental appropriations bill.

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

IMMIGRATION LEGISLATION AND THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

Mr. SESSIONS. Mr. President, I am very troubled that on this Defense supplemental bill, designed to provide the resources necessary for our soldiers in the field to defend themselves and execute the policy of the United States of America against a hostile force, we are now moving into a prolonged and contentious debate over one of the issues that all of us must admit is critically divisive and contentious and important in our country; and that is, the immigration question.

As we all know, the 9/11 Commission made several recommendations involving security issues affecting this country, particularly in identification and better control over those who would come into our country, particularly those trying to come in illegally. That was debated in the intelligence bill. Then an agreement was reached. The House decided to put in that REAL ID language, designed to be consistent with the recommendations of the 9/11 Commission for security purposes—not an immigration bill, security bill language, their version of it. This Senate has not put any such language in the bill at this time.

I will say this. That is one thing. I, as a prosecutor, and somebody who has served on the Judiciary Committee—and we have wrestled with this for some time—have come to the very firm conclusion that the Sensenbrenner language is important for our security. We need to do something like this. We have waited too long, I believe. That is my view.

But now on this floor I am advised we are going to have the Mikulski immigration bill offered, and then we are going to have the Craig-Kennedy AgJOBS bill, which is a bill breathtaking in its scope, an absolute legislative approval of amnesty in an incredible scope, and absolutely contrary to the very generous but liberal position President Bush has taken with regard to immigration. That is going to be run through on this Defense supplemental, and we are going to have to vote on it.

The committees have not studied it. We have not looked at all the alternatives that might be considered or other legislation that I am interested in, such as legislation that would empower our local law enforcement to be better participants in this entire activity. All of that will be swept away, and we will come through with a bill where we give a million-plus people, who are here in our country illegally—they would be granted temporary resident status, by proving that they worked at

least 100 hours illegally. And then, if they worked 2,060 hours during a period of 6 years, they then are adjusted to legal permanent residents, what most people call green card holders, a status that is a guaranteed track or pass to citizenship, and they can bring their families with them.

This bill will take 1 million people, and it will put them on a guaranteed track to citizenship, people who have come here illegally.

Now, what about the people who have followed these H-1B, H-2B visa programs who have worked here legally? Can they get advantage of this track? Do they get put on a process by which they become citizens? No. It is only the people who are here illegally.

This is a bad principle. It is a matter of very serious import for law. I was a Federal prosecutor for 15 years. It hurts me to see the indifference by which our Nation has handled our legal system regarding immigration.

Should we allow more people to come here under legitimate conditions? Absolutely. I am for that, legally. I am prepared to discuss that. But I am not for a plan that guarantees amnesty for people who have come here illegally and not providing the benefits to those who may be talented, maybe have the skills we need right now, those who do not have connections to criminal or terrorist groups. We ought to be working on that angle of it.

I am a team player and I want to see things done right, in this Senate. I want to see our leadership succeed. I want to see good policy executed. But we are not going to take this issue lightly. I suggest that it would be an abdication of our responsibility as Senators if we allow this to be rammed through, attached to a bill, without the American people knowing what we are doing. They need to know this. It is going to take some time for them to learn what is being considered here. Senators need to learn what is in this bill. They don't know yet.

This AgJOBS bill had 60-something cosponsors last year. Now I understand it is down to 45. Why? People are reading this thing. It is bad law, bad policy. You tell me—this will be the second time we have passed an amnesty bill, if AgJOBS were to become law. Passing another amnesty bill would do nothing more than send the signal to those around the world who would like to come to the United States that the best way to become a citizen is to come in illegally and hang on; they will never do anything to you, and eventually there will be another amnesty out there? That is why we are concerned about it.

Yes, there are hardship cases. Yes, we want to be fair to everybody. We want to be more than fair. We want to be generous. But we have to be careful if we have any respect for law. Sometimes people think in this body—maybe they have never had to deal with it as I have—that laws don't have much import. They do. They are important. They make statements. A society

that cannot set rules and enforce those rules is not a healthy society. If you would like to know why America is the greatest, most productive, most free country in the history of the world, it is our commitment to the rule of law.

This process is undermining respect for law in a way that I have not seen before, maybe since Prohibition. I think we can improve immigration law. We can be generous with people and try to help them and their families and create something. But it is going to take a good while. It is going to take some hard work.

I for one am not going quietly on this bill. We are going to take time. We are going to have debate. We are going to delay this important defense supplemental bill now to go off on this tangent. But I hope and pray that somehow our leadership and those who are interested in these issues can find a way to put this off for now. Let this bill get passed.

Let's talk about this issue as part of a comprehensive debate. If we did that, we would be serving our constituents a lot better than what we are doing today.

If we go forward and we ram this through without the kind of hearings, debate, taking testimony, studying data, do all that kinds of stuff, our constituents are not going to be happy with us. As a matter of fact, I think they are going to rightly be upset with us. It is a tactic that should not be done on a matter of this importance.

I wanted to make that comment. I know at some point we will be moving forward with the bill. Hopefully the leadership can work with those who are interested in these issues and create a mechanism at some point in the future where it can be fully debated. I am not prepared to allow such a tremendously significant piece of legislation as the AgJOBS bill to go through without a full debate. Every minute that is available to this Senate to debate it should be put on it. The American people need to know what is happening on the floor of the Senate right now. Maybe when we have a vote, we will have the right outcome.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant journal clerk proceeded to call the roll.

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

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

INTERNAL REVENUE CODE OF 1986 AMENDED TO PROVIDE FOR PROPER TAX TREATMENT OF CERTAIN DISASTER MITIGATION PAYMENTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1134 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant journal clerk read as follows:

A bill (H.R. 1134) to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAUCUS. Mr. President, today, we will pass legislation in the Senate that provides tax relief to all Americans receiving disaster mitigation grants from the Federal Emergency Management Agency, FEMA. I am pleased that my good friend, Senator GRASSLEY, and I, along with my colleagues, Senators LANDRIEU, BOND, FEINSTEIN, LOTT, MARTINEZ, NELSON, and VITTER could work together to add a necessary and important amendment to H.R. 1134, which exempts disaster mitigation payments from taxation.

For 15 years, FEMA has awarded natural disaster mitigation grants that assist citizens, businesses and communities to take steps to prevent or mitigate damages from future natural disasters. The grants go towards elevating buildings in floodplains, flood proofing, seismic reinforcement, acquisitions or relocations, wind protections for roofs and strengthening of window protections. These grants provide a long-term benefit to society by reducing future loss of life and increasing public safety. In addition to these life-saving benefits, mitigation grants also provide a net cost benefit to society. FEMA conducts a cost-benefit analysis prior to awarding a grant that ensures the cost of funding a project is less than the damages expected to occur in the event of a disaster. FEMA estimates that for every dollar spent on mitigation, an average of eight dollars is saved in the long run.

Let me take a minute to explain the history of the tax issue at hand. Prior to June of last year, recipients of FEMA mitigation grants generally excluded them from income. The tax code states clearly that post-disaster grants were not taxable. But the tax code doesn't specifically describe the tax treatment of mitigation grants. FEMA assumed mitigation grants were treated the same as post-disaster relief grants. However, on June 28, 2004, the Internal Revenue Service issued a legal memorandum stating these mitigation grants were taxable as income. That means that someone who took advantage of mitigation opportunities to prevent future losses would face a significant tax liability. The average mitigation grant is \$83,000. That means the average tax on a grant is tens of thousands of dollars. That isn't fair. It was never intended that taxes be collected under these mitigation programs, but under the legal memorandum issued by the Internal Revenue Service thousands of taxpayers may have to file amended tax returns and pay additional tax. Moreover, the Federal Gov-

ernment changed the rules and never made the recipients aware of the potential tax consequences.

I compliment the House for taking up this issue and passing legislation that helps taxpayers who receive mitigation grants after the date of enactment. However, there is a flaw in the House bill. The bill clearly provides tax relief to "amounts received after the date of enactment." What about taxpayers who received mitigation grants in 2004 or 2003 and before? The chairman of the Finance Committee and I have added an amendment that provides absolute certainty for all taxpayers who received grants in past years. Some have argued that the Department of the Treasury can provide tax relief for those who received grants prior to the date of enactment by using the intent gleaned from floor statements and letters from Members of Congress. Let me be clear, Congress writes laws and the clearest intent is in the letter of the law. If our intent is to provide tax relief for those who received grants before the date of enactment, we should write it into the law. And that is what the amendment my good friend Senator GRASSLEY and I have offered.

Before I finish, I want to thank Senators LANDRIEU, NELSON and FEINSTEIN for their tireless work. I can tell you firsthand there was a significant amount of pressure to pass this bill as it was sent from the House. We all wanted to pass this bill as quickly as possible, but we also wanted to be sure we got it right the first time. This bill does that.

I sincerely hope the House will do the right thing and pass this bill with the Senate amendment before the tax filing deadline on Friday.

Ms. LANDRIEU. Mr. President, last year the Internal Revenue Service hit my State like a Category 4 hurricane when it determined that disaster mitigation benefits from the Federal Emergency Management Agency are taxable. We get hurricane warnings when a storm is coming, we can track their paths as they come out of the Caribbean and into the Gulf of Mexico. We didn't get any kind of "tax warning" from the IRS, but the financial toll on many of my constituents was devastating.

Let me explain what happened. In June of last year, the IRS chief counsel issued an advice letter that determined that FEMA disaster mitigation benefits were taxable as a matter of law. This ruling applied to a variety mitigation grant programs, covering a wide range of natural disasters. The main disasters that concern us in Louisiana are hurricanes and flooding. They are as much a part of life as crawfish boils and Mardi Gras. The key to our peace of mind is the National Flood Insurance program administered by FEMA. In Louisiana, 377,000 property owners participate in the National Flood Insurance program. It is a real Godsend to the people of my state.